

# AFGHANISTAN

## ANNUAL REPORT 2011

### PROTECTION OF CIVILIANS IN ARMED CONFLICT



*(Image has been altered) John Wendle ©*



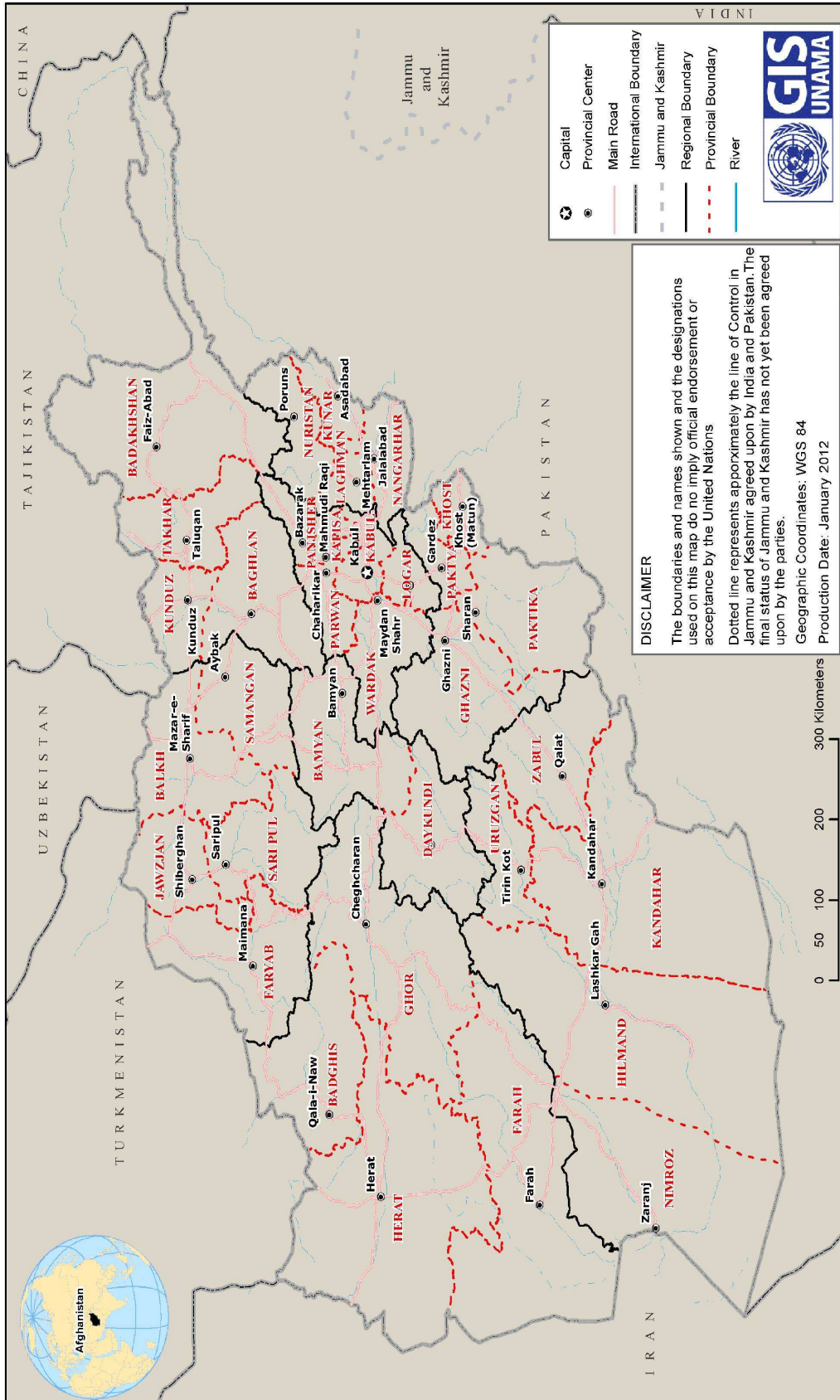
**United Nations Assistance  
Mission in Afghanistan**



**UN Office of the High  
Commissioner for Human Rights**

**Kabul, Afghanistan  
February 2012**

# AFGHANISTAN ADMINISTRATIVE DIVISION



Source: UNAMA GIS January 2012

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## **Mandate**

This annual report on the Protection of Civilians in Armed Conflict in Afghanistan for 2011 was prepared by the Human Rights Unit of the United Nations Assistance Mission in Afghanistan (UNAMA) and covers the period 01 January to 31 December 2011.

This report is compiled in pursuance of UNAMA's mandate under United Nations Security Council Resolution 1974 (2011) "to monitor the situation of civilians, to coordinate efforts to ensure their protection, to promote accountability, and to assist in the full implementation of the fundamental freedoms and human rights provisions of the Afghan Constitution and international treaties to which Afghanistan is a State party, in particular those regarding the full enjoyment by women of their human rights."

UNAMA undertakes a range of activities aimed at minimizing the impact of the armed conflict on civilians including: independent and impartial monitoring of incidents involving loss of life or injury to civilians; advocacy activities to strengthen protection of civilians affected by the armed conflict; and, initiatives to promote compliance with international humanitarian and human rights law, and the Constitution and laws of Afghanistan among all parties to the conflict.

This report has been reviewed and received technical input from the Office of the United Nations High Commissioner for Human Rights (OHCHR).

## Glossary

**Aerial attack or air strike:** Firing ordnance from aircraft, including close air support (CAS) from fixed-wing aircraft, and close combat attack (CCA) from rotary-wing aircraft, and attacks using unmanned combat air vehicles (UCAVs) or drones.

**ANBP:** Afghan National Border Police

**ALP:** Afghan Local Police

**ANA:** Afghan National Army

**ANP:** Afghan National Police

**ANCOP:** Afghan National Civil Order Police

**ANSF:** Afghan National Security Forces; a blanket term that includes ANA, ANP, ALP, ANBP, ANCOP and the National Directorate of Security

**APRP:** Afghanistan Peace and Reintegration Programme

**AXO:** Abandoned Explosive Ordnance

**Casualties:** Killed and injured civilians

Maybe of two classifications:

- **Direct:** Casualties resulting directly from armed conflict – including those arising from military operations by Afghan government forces and/or international military forces such as force protection incidents, aerial attacks, search and seizure operations, counter insurgency or counter-terrorism operations. It includes casualties from the activities of non-State armed groups such as targeted killings (assassinations), improvised explosive devices or direct engagement in hostilities with Pro-Government Forces.
- **Other:** Casualties resulting indirectly from the conflict including casualties caused by explosive remnants of war, deaths in prison, deaths from probable underlying medical conditions that occurred during military operations, or where access to medical care was denied or not available. It also includes deaths from incidents where responsibility cannot be determined with any degree of certainty, such as deaths or injuries arising from cross-fire.

**Children:** The *Convention on the Rights of the Child* defines a “child” as any person under the age of 18 (0-17 inclusive). The Rome Statute of the International Criminal Court ratified by Afghanistan in 2003, establishes as a war crime the conscription or enlisting of children under the age of 15 years into State armed forces or non-State armed groups and using children to participate actively in hostilities (see Articles 8(2)(b) (xxvi) and 8(2) (e) (vii).

**Civilian/Protected Combatant:** International humanitarian law means under “civilians” those persons who are not combatants (members of military/paramilitary forces) or members of organized armed groups of a party to a conflict or those who are not part of *levée en masse* (*mass uprising*<sup>1</sup>). Civilians may lose their protection against attacks for

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<sup>1</sup> *Levee en masse* is referenced in the Third Geneva Convention: “Inhabitants of a non-occupied territory, who on the approach of the enemy spontaneously take up arms to resist the invading forces,

such time as they take direct part in hostilities. Similar to civilians, a combatant who is *hors de combat* (wounded, sick, shipwrecked, detained or surrendering) or who belongs to the medical or religious personnel of the armed forces must be protected from attack.

**CIP:** Critical Infrastructure Protection Programme

**COMISAF:** Commander of International Security Assistance Force in Afghanistan/ISAF

**EOF Incidents: Escalation of Force incidents also referred to as “force protection” incidents:** Situations where civilians do not pay attention to warnings from military personnel when in the proximity of, approaching or overtaking military convoys or do not follow instructions at check points.

**ERW:** Explosive Remnants of War means unexploded ordnance (UXO) and abandoned explosive ordnance (AXO).

**IHL:** International Humanitarian Law

**IDP:** Internally Displaced Person

**ICRC:** International Committee of the Red Cross

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

**Incidents:** Events where civilian casualties resulted from armed conflict. Reports of casualties from criminal activities are not included in UNAMA’s reports on civilian casualties.

**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 (COMISAF). The term also encompasses those forces not operating under the Commander of ISAF, including certain Special Forces and Special Operations Forces.

**Injuries:** Include physical injuries of varying severity. The degree of severity of injury is not recorded in the databases of UNAMA. Injuries do not include shock or non-physical effects or consequences of incidents, such as psychological trauma.

**ISAF:** International Security Assistance Force in Afghanistan. ISAF operates under a peace enforcement mandate pursuant to Chapter VII of the UN Charter. ISAF is deployed under the authority of the UN Security Council. In August 2003, on the request of the UN and the Government of Afghanistan, NATO took command of ISAF. As at 8 December 2011, the ISAF force comprised approximately 130,313 troops from 49 troop contributing States, organized in six regional commands plus ISAF Headquarters in Kabul. Since November 2008, the Commander of ISAF also serves as Commander of US Forces Afghanistan, although the chains of command remain separate. Security

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without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war (Article 4(1)(6).”

Council Resolution 2011 (2011) reaffirms previous resolutions on ISAF and extends the authorization of ISAF for 12 months until 13 October 2012.

**Mol:** Ministry of Interior

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

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

**NGO:** Non-governmental Organization

**Non-State Armed Groups/Anti-Government Elements:** These encompass all individuals and armed groups currently involved in armed conflict with or armed opposition against the Government of Afghanistan and/or international military forces. They include those who identify as "Taliban" as well as individuals and groups motivated by a range of objectives and assuming a variety of labels including the Haqqani Network, Hezb-e-Islami, Islamic Movement of Uzbekistan, Islamic Jihad Union, Laskhar-e-Taiba and Jaish-e-Mohammed.

**Pro-Government Forces:**

- **Afghan Government Forces.** Forces that act in 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, ANBP, NDS, ALP and other pro-government local defence forces.
- **International Military Forces (IM Forces)** and other government agencies (OGAs).

**SOP:** Standard Operating Procedure

**Targeted Killing:** The intentional, premeditated and deliberate use of lethal force by States or their agents acting under color of law, (or by an organized armed group in armed conflict), against a specific individual who is not in the perpetrator's physical custody. Although in most circumstances targeted killings violate the right to life, in the exceptional circumstance of armed conflict, they may be legal. See United Nations General Assembly, Human Rights Council 14th Session, Agenda Item 3, Report of the Special Rapporteur on Extra-Judicial, Summary or Arbitrary Executions, Philip Alston, Addendum 'Study on Targeted Killings'. A/HRC/14/24/Add.6. 10 May 2010.

**UNDSS:** United Nations Department of Safety and Security

**UNAMA:** United Nations Assistance Mission in Afghanistan

**UNHCR:** United Nations High Commissioner for Refugees

**UXO:** Unexploded Ordnance



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*Cover photograph: Suicide attack, Kabul, 6 December 2011, John Wendle ©*

## Methodology

UNAMA investigates reports of civilian casualties by conducting on-site investigations wherever possible and consulting a broad range of sources and types of information that are evaluated for their credibility and reliability. In undertaking investigation and analysis of each incident, UNAMA uses best efforts to corroborate and cross-check information from as wide a range of sources as possible including accounts of eyewitnesses and directly affected persons, military actors (including Government of Afghanistan and international military forces), local village/district and provincial authorities, and religious and community leaders. Corroboration and cross-checking of information is further obtained through direct site visits, physical examination of items and evidence gathered at sites of incidents, visits to hospitals and medical facilities, still and video images, reports of the UN Department of Safety and Security and other UN agencies, secondary source accounts, media reports, and information gathered 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 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 is not satisfied with information concerning an incident, it will not be reported. In some instances, investigations may take several weeks before conclusions can be drawn. This may mean that conclusions on civilian casualties from an incident may be revised as more information becomes available and is incorporated into the analysis. Where information is unclear, conclusions will not be drawn until more satisfactory evidence is obtained, or the case will be closed without conclusion and will not be included in the statistical reporting.

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

UNAMA established an electronic database in 2009 to support its analysis and reporting on protection of civilians in armed conflict. The database is designed to facilitate the systematic, uniform and effective collection and analysis of information, including disaggregation by age, gender, perpetrator, tactic, weapon, and other categories.

UNAMA makes every effort to identify as precisely as possible the party responsible for a particular civilian casualty. However, due to limitations associated with the operating environment, such as the joint nature of some military operations and the inability of primary sources in many incidents to identify clearly or distinguish between diverse military actors or insurgents or where no party claims responsibility for an incident, UNAMA attributes responsibility for the particular incident to either Pro-Government Forces or Anti-Government Elements.

UNAMA notes that obtaining accurate data on night search operations is difficult given the lack of transparency, frequency and wide scale of such operations conducted by ISAF, ANA, international and national special forces and special operations forces, other government agencies and the ANBP, both independently and jointly. According to ISAF, information on numbers of night search operations and any civilian casualties from these operations is generally classified. Given both limitations associated with the operating environment and limited access to information, UNAMA may be under-reporting night search operations involving civilian casualties.

### ***Different Definitions of Civilian Casualties***

UNAMA notes that civilian casualty figures may vary among organizations gathering and analyzing such information. Variations between ISAF and UNAMA in numbers of civilians killed and injured in the conflict arise from the use of different methodologies, different levels of access to locations and incidents of civilian casualties and different geographical coverage of the country.

ISAF notes this divergence may be attributed to the following factors:

*Figures for Afghan National Security Forces (ANSF) caused civilian casualties are not monitored by ISAF, and reporting of insurgent-caused civilian casualties is based on what is observed or on reports that can be confirmed by ISAF; it therefore presents an incomplete picture.<sup>2</sup>*

ISAF further notes that UNAMA and ISAF use different definitions for civilian casualties regarding the categorization and entities that cause civilian casualties and differ on how civilian casualty events and numbers are confirmed. ISAF states that it includes only Afghan civilians in its statistics and not every noncombatant (armed and unarmed internationals, unarmed Afghans such as interpreters and international civilians such as tourists). ISAF's statistics also include all civilians casualties identified as ISAF-caused and ANSF-caused civilian casualties when an ANSF unit is partnered with ISAF. Additional ANSF-caused civilian casualties reported or not reported to ISAF are excluded from ISAF's figures. ISAF states it confirms civilian casualty incidents and numbers through ISAF HQ SOP 302 Edition 3 further to verification by a Joint Incident Assessment Team (JIAT).<sup>3</sup>

UNAMA tracks and includes in its statistics civilian deaths and injuries resulting from the operations of ISAF, ANSF and Anti-Government Elements. UNAMA also proactively monitors, verifies and reports conflict-related killings of civilians including targeted killings by parties to the conflict. UNAMA relies on a wide range of sources to verify and confirm civilian casualties as noted above.

UNAMA does not claim the statistics presented in this report are complete; it may be that UNAMA is under-reporting civilian casualties given limitations associated with the operating environment.<sup>4</sup>

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<sup>2</sup> International Security Assistance Force, HQ ISAF, CIVCAS Quarterly Report, Third Quarter 2011 Fact Sheet. See also the section in this report on ISAF and ANSF investigations into civilian casualties.

<sup>3</sup> HQ ISAF Information Paper, Comparison of July 2011 ISAF and UNAMA Air-Strike Civilian Casualties, Afghan Assessment Group and Civilian Casualty Mitigation Team, 19 October 2011.

<sup>4</sup> Due to the temporary closure of UNAMA's office in Mazar-i-Sharif from April 1-June 19, 2011 this report does not include data for the northern region for the period March-June 2011.

## Legal Responsibilities of Parties to the Armed Conflict

UNAMA/OHCHR takes the position that the armed conflict in Afghanistan is a non-international armed conflict between the Government of Afghanistan and its armed forces supported by international military forces (referred to in this report and within Afghanistan as “Pro-Government Forces”) and non-State armed groups (referred to in this report and within Afghanistan as “Anti-Government Elements” including the Taliban, Haqqani Network, Hezb-e Islami and others).

As the UN Security Council underlined in various resolutions, it is critical for all States to fully apply the relevant norms of international humanitarian and human rights law to women and girls, and to take special measures to protect women and girls from gender-based violence during armed conflict.<sup>5</sup>

All parties to the armed conflict – Afghan armed forces, international military forces and non-State armed groups – have clear obligations under international law to protect civilians.

### *(i) Obligations under International Humanitarian Law*

Article 3 common to the four *Geneva Conventions of 1949* establishes minimum standards that parties, including State and non-State actors shall respect in non-international armed conflict.

Afghanistan is a party to the four *Geneva Conventions of 1949* and to *Additional Protocol II 1977*<sup>6</sup> which addresses the protection of civilians in a non-international armed conflict. The Protocol prohibits attacks against civilians and objects indispensable to the survival of the civilian population.

Several rules of the four *Geneva Conventions of 1949* and their *Additional Protocols* have become part of customary international law,<sup>7</sup> and the most relevant principles that apply to the conduct of Afghan armed forces and international military forces, and non-State armed groups as parties to Afghanistan’s non-international armed conflict are the following:

- Distinction: The civilian population as such, as well as individual civilians, shall not be the object of attack.<sup>8</sup> “[The Parties]...shall at all times distinguish between the civilian population and combatants” and “between civilian objects and military objectives.”<sup>9</sup>
- Proportionality: “an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated is prohibited.”<sup>10</sup>

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<sup>5</sup> S/RES/1325 (2000), S/RES/1820 (2008), S/RES/1888 (2009), S/RES/1889 (2009), and S/RES/1960 (2010).

<sup>6</sup> Afghanistan ratified *Additional Protocol II 1977* on 10 November 2009 which entered into force on 24 December 2009.

<sup>7</sup> See ICRC, *Customary International Humanitarian Law*, ed. Jean-Marie Henckaerts and Louise Doswald-Beck (CU P/ICRC, Cambridge 2005) {ICRC Study}.

<sup>8</sup> Additional Protocol II, article 13(2).

<sup>9</sup> Additional Protocol 1, article 48. See further article 51 (2) where civilians “shall not be the object of attack,” and article 52 (2) where “attacks shall be limited strictly to military objectives.”

<sup>10</sup> Additional Protocol 1, article 51(5)(b). See further article 57 on Precautions in Attacks.

- Precautions in attack: "...civilians shall enjoy general protection against the dangers arising from military operations"<sup>11</sup>. In the conduct of military operations, constant care shall be taken to spare the civilian population, civilians and civilian objects" and that all feasible precautions must be taken with the "view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects."<sup>12</sup>

All States contributing to the international military forces in Afghanistan, including contingents of ISAF, US Special Forces Afghanistan, members of the Operation Enduring Freedom coalition, or Special Operations Forces that fall outside these chains of command are signatories to the four *Geneva Conventions of 1949*. While not all troop-contributing States are signatories to *Additional Protocol I* and *Additional Protocol II 1977*, they are still bound by those relevant rules that have become part of customary international law.

### ***(ii) Obligations under International Human Rights Law***

International human rights law applies both in peace and during armed conflict. International human rights law applies together with international humanitarian law in a complementary and mutually reinforcing manner.

Afghanistan is a signatory to several international human rights treaties,<sup>13</sup> including the *International Convention on Civil and Political Rights* (ICCPR) which obligates the Government of Afghanistan to provide basic human rights protection to all persons within the territory or jurisdiction of the State.

Members of Pro-Government Forces are also accountable for violations of international human rights norms, in particular regarding any incidents of the use of lethal force against civilians during law enforcement operations such as search and seizure operations and escalation of force incidents.

While non-State actors in Afghanistan, including non-State armed groups, cannot formally become parties to international human rights treaties, international human rights law increasingly recognizes that where non-State actors, such as the Taliban, exercise *de facto* control over territory, they are bound by international human rights obligations.<sup>14</sup>

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<sup>11</sup> Additional Protocol II, article 13(1).

<sup>12</sup> Additional Protocol 1, article 57 (1) and 2(a)(ii).

<sup>13</sup> Afghanistan is a party to the following human rights treaties and conventions: International Covenant on Civil and Political Rights, ratified on 24 April, 1983; International Covenant on Economic, Social and Cultural Rights, ratified on 24 April, 1983; International Convention on the Elimination of all Forms of Racial Discrimination, ratified on 5 August, 1983; Convention on the Elimination of all Forms of Discrimination against Women, ratified on 5 March, 1983; Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, ratified on 26 June, 1987; Convention on the Rights of the Child, ratified on 27 April, 1994; Optional Protocol of the Convention of the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, ratified on 19 October, 2002; and Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, ratified on 24 September 2003.

<sup>14</sup> See UN Secretary-General, Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka, 31 March 2011, para. 188. Also see Report of the International Commission of Inquiry to investigate all Alleged Violations of International Human Rights Law in the Libyan Arab Jamahiriya A/HRC/17/44, 1 June 2011.

**(iii) Obligations under International Criminal Law**

Afghanistan ratified and acceded to the Rome Statute of the International Criminal Court (ICC) in 2003. As such, Afghanistan has the primary responsibility to investigate and prosecute international crimes, i.e. war crimes, crimes against humanity and genocide, within the Court's jurisdiction. If Afghanistan is unable or unwilling to do so, the Court can exercise its jurisdiction over Afghanistan.

States whose military forces are among the International military forces party to the conflict in Afghanistan, and which ratified the Rome Statute of the ICC, also have a responsibility to investigate and prosecute alleged crimes within the Court's jurisdiction that may have been committed by their nationals in Afghanistan. In particular, States have an obligation to investigate and prosecute violations of Article 8(2) (e)(i) of the ICC Statute which stipulates that "Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities" constitutes a war crime in non-international conflict.

**(iv) Obligations under National Laws**

Members of Anti-Government Elements are subject to prosecution under the criminal laws of Afghanistan. Members of Afghan and international military forces are accountable for violations of the national laws of their home States.

**(v) Definition of Civilian/Protected Combatant**

UNAMA uses and applies a definition of "civilian" that accords with international law. Other actors and parties to the armed conflict in Afghanistan have been developing their definitions of the term "civilian" as outlined in the following section.

**UNAMA**

UNAMA uses a definition of "civilian" that reflects the standards of international humanitarian law and considers "civilians" to be persons who are not combatants (members of military/paramilitary forces) or members of organized armed groups of a party to the armed conflict, and those who are not part of *levée en masse*.<sup>15</sup> A civilian may lose his or her protected status for such time as they take a direct part in hostilities.

International humanitarian law requires parties to a conflict to always make a distinction in the conduct of military operations between combatants and civilians. Persons who are not or no longer taking part in hostilities are protected and must not be attacked. As with civilians, combatants who are *hors de combat* (wounded, sick, shipwrecked, detained or surrendering) or who belong to the medical and religious personnel of the armed forces are protected from attack.

In the context of the armed conflict in Afghanistan, this report documents attacks against categories of people not taking a direct part in hostilities including public servants, teachers, health clinic workers and others involved in public service delivery, political

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<sup>15</sup> Compare Article 50 Paragraph 1, Additional Protocol 1 to the Geneva Conventions. Also see Nils Melzer, "Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law," 1 July 2009.

figures and office holders, and employees of NGOs; and, civilian police personnel who do not function as combatants and are not involved in counter insurgency operations.<sup>16</sup>

### **Anti-Government Elements/Taliban**

The Taliban has stated publicly that certain persons who under international law fall within the definition of “civilian” may be the subject of attack; this is inconsistent with international humanitarian law.

In 2011, the Taliban claimed responsibility for numerous targeted killings of civilian government officials, tribal elders, government workers, contractors, drivers, translators and other civilians and included such civilians in their public lists of targets to kill or capture.<sup>17</sup> In an October 2011 statement responding to the Government’s convening of a *Loya Jirga*, the Taliban identified as lawful targets a broad range of civilians participating in the *Jirga* or associated with the Government:

*Islamic Emirate wants to warn every person who wants to participate in this so-called Loya Jirga that such traitors will be pursued by Mujahideen of Islamic Emirate in every corner of the country and will face severe repercussions. The country’s trustworthy scholars have passed a decree in this regard and every participant of this convention shall be charged with treason if caught. Islamic Emirate also calls on its brave and courageous Mujahideen to target every security guard, person with intention, participant and every caller of this convention.*<sup>18</sup>

The deliberate targeting and killing of these and other civilians is a violation of international humanitarian law which stipulates that only military objectives are lawful objects of attack. Civilians are not lawful military targets unless they are taking a direct part in hostilities.

### **ISAF**

At UNAMA’s request, ISAF provided the following definition of civilian:

*International humanitarian law refers to civilians as those persons who are not combatants (members of military/paramilitary forces) or members of organized armed groups of a party to a conflict or part of a levee en mass (mass uprising). Civilians may lose their protection against attacks for such time as they take direct part in hostilities, but retain (or regain) such protection if hors de combat (ie. wounded, sick, detained or surrendering) and thereby no longer actively participating on hostilities. Civilians will be further differentiated by their affiliation for purposes of analysis by the Civilian Casualty Mitigation Team.*<sup>19</sup>

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<sup>16</sup> UNAMA considers as combatants police officers taking a direct part in hostilities. This includes members of the Afghan National Police, the Afghan Local Police and the Afghan National Border Police that routinely conduct counter-insurgency operations unless there is evidence to the contrary. UNAMA considers as non-combatants traffic police and other police officers carrying out solely civilian policing roles.

<sup>17</sup> See UNAMA 2011 Mid Year Report on Protection of Civilians, pp. iv-vi; the Taliban’s 2010 Code of Conduct and Taliban statement of 30 April 2011 announcing their spring offensive expanded the list of civilian targets to members of the (Afghan) cabinet, parliament and peace councils.

<sup>18</sup> Remarks of the Taliban’s spokesperson regarding the upcoming supposed *Loya Jirga* of 26 October 2011. [http://shahamat-english.com/index.php?option=com\\_content&view=article&id=12222:remarks-of-the-spokesman-of-islamic-emirate-regarding-the-upcoming-supposed-loe-jirga&catid=4:statements&Itemid=4](http://shahamat-english.com/index.php?option=com_content&view=article&id=12222:remarks-of-the-spokesman-of-islamic-emirate-regarding-the-upcoming-supposed-loe-jirga&catid=4:statements&Itemid=4).

<sup>19</sup> UNAMA email correspondence with ISAF Civilian Casualty Mitigation Team, 9 January 2012.

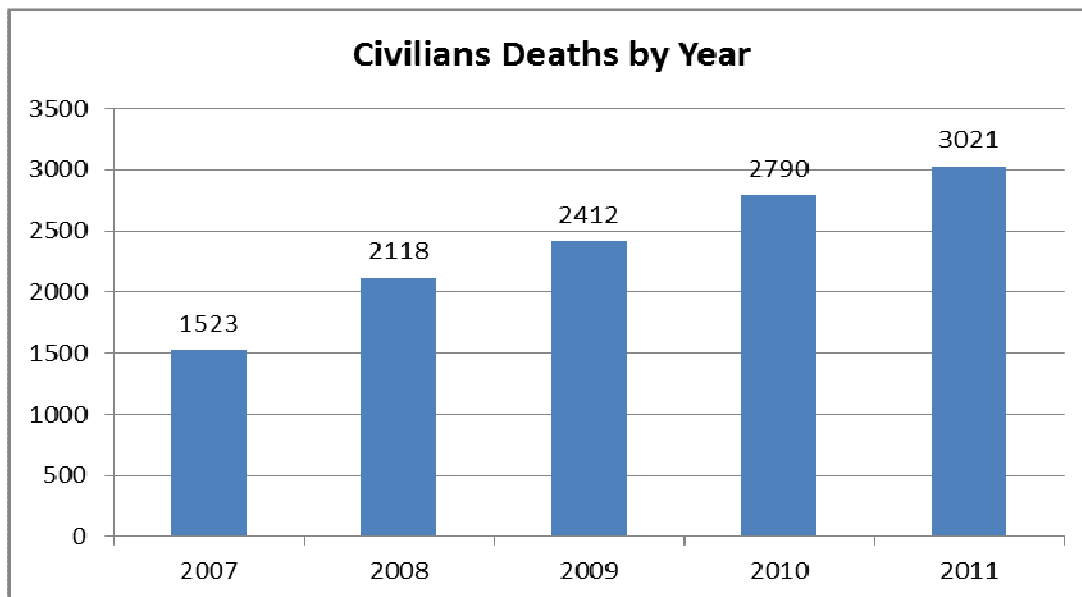
## Executive Summary

*I heard the explosion at around 11.45 in the morning. A few minutes later my wife called my mobile phone. She was very upset and difficult to understand. She told me that my 14-year old son had been buying ice at the scene when the detonation occurred. She told me she could see his blood on the road but did not know where he was. I went to the hospital. After some time searching among the injured and the dead I found his body. A piece of shrapnel had gone through his head. I passed out and was taken home by friends. My son is dead and his loss is killing me and my wife. He was the only son I had.*

—Father of a victim of an IED attack in the Dasht-i-Shor area of Mazar-i-Sharif, Balkh province, 20 July 2011<sup>20</sup>

A decade after it began, the armed conflict in Afghanistan again incurred a greater human cost in 2011 than in previous years. The United Nations Assistance Mission in Afghanistan (UNAMA) documented 3,021 civilian deaths in 2011, an increase of eight percent over 2010 (2,790 civilian deaths) and a 25 percent increase from 2009 (2,412 civilian deaths).<sup>21</sup>

In 2012, UNAMA re-asserts the imperative for all parties to the conflict – Anti-Government Elements, and Afghan national and international military forces – to increase their commitment and efforts to protect civilians, and to comply fully with their legal obligations to minimize loss of life and injury among civilians.



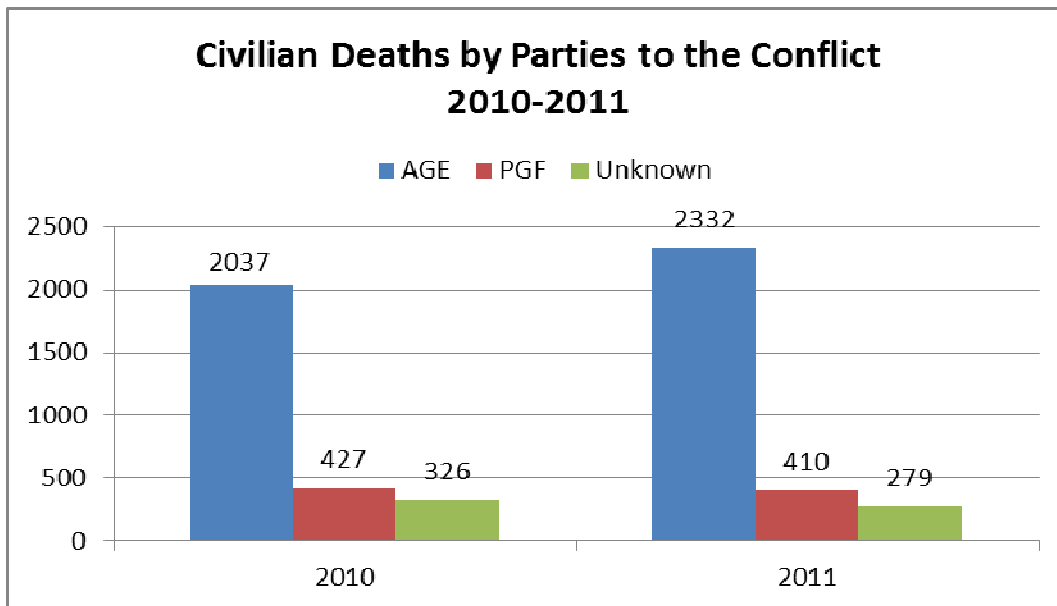
Anti-Government Elements caused 2,332 conflict-related deaths of Afghan civilians in 2011, up 14 percent from 2010. 77 percent of all conflict-related civilian deaths in 2011 were attributed to Anti-Government Elements.

<sup>20</sup>UNAMA interview with 55-year old father of a victim of an IED attack on 20 July 2011 in Mazar-i-Sharif, Balkh province that killed four civilians and injured 14 others.

<sup>21</sup> 2011 marked the fifth consecutive year in which UNAMA documented an increase in civilian casualties in Afghanistan. 11,864 civilians have been killed in the conflict since 2007.



410 civilian deaths resulted from the operations of Pro-Government Forces, down four percent from 2010.<sup>22</sup> 14 percent of all conflict-related civilian deaths were attributed to Pro-Government Forces in 2011. A further 279 civilian deaths, or nine percent of the total, could not be attributed to a particular party to the conflict.



The record loss of the lives of Afghan children, women and men resulted from changes in the tactics of Anti-Government Elements and changes in the effects of tactics of parties to the conflict. Anti-Government Elements used improvised explosive devices more frequently and more widely across the country, conducted deadlier suicide attacks yielding greater numbers of victims, and increased the unlawful and targeted killing of civilians. Civilian deaths from aerial attacks by Pro-Government Forces increased in 2011, in spite of a decrease in the number of aerial attacks and an overall decline in civilian deaths attributed to Pro-Government Forces.<sup>23</sup>

At the same time, the geographic distribution of civilian casualties shifted significantly particularly in the second half of 2011. As the armed conflict lessened in severity in the south and intensified in provinces in the southeast, east and north of the country, rising numbers of Afghan civilians in these areas were killed and injured, accounting for an increasing proportion of all civilian casualties nationally.<sup>24</sup> For example, in the second

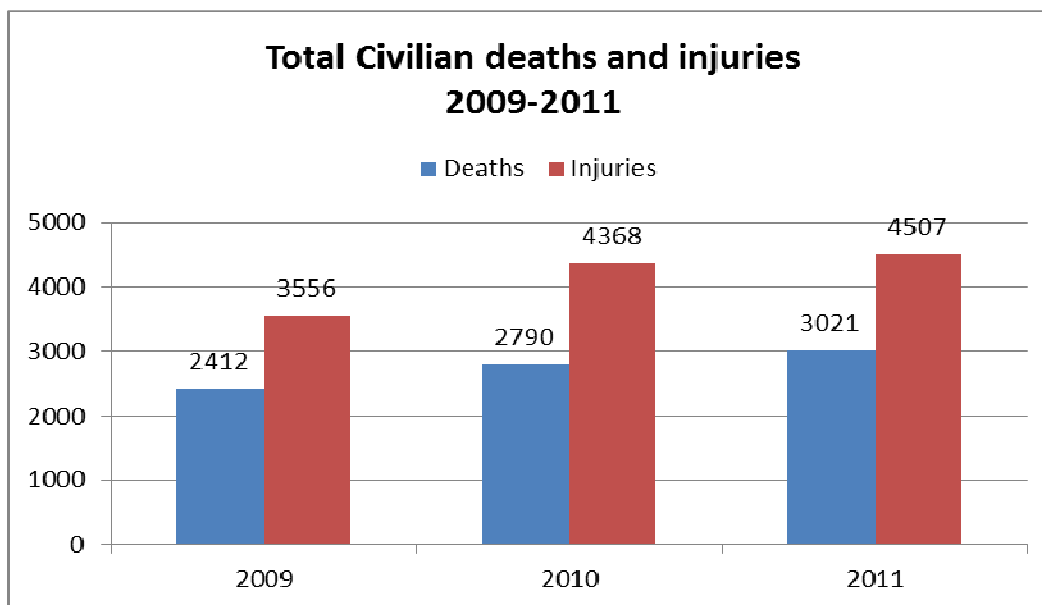
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<sup>22</sup> Pro-Government Forces include the Afghan National Security Forces and international military forces operating in Afghanistan.

<sup>23</sup> Close air support missions (CAS) with weapons conducted by fixed and rotary-wing aircraft in Afghanistan numbered 1,675 that included 4,896 sorties with weapons releases in 2011 down from 1,816 CAS missions entailing 5,101 sorties with weapons releases in 2010. See US Air Forces Central Public Affairs News Release, 'Combined Forces Air Component Commander 2008 – 2011 Statistics', 2 January 2012.

<sup>24</sup> The United Nations Department of Safety and Security (UNDSS) in Afghanistan recorded an 18 percent increase in security incidents in 2011 compared to 2010. 22,903 incidents were reported compared with 19,403 in 2010 and 11,524 in 2009. The southern and southeastern regions accounted for 64 percent of all incidents (32 per cent each). The average monthly growth rate of incidents was highest in these regions each recording a 38 per cent growth compared to 2010. However, the southern region recorded a steep decrease after September 2011 with incident levels remaining low

half of 2011, ground engagement between Anti-Government Elements and Pro-Government Forces caused 289 civilian deaths, a decline of 33 percent compared to the same period in 2010. Deaths from this tactic decreased in all regions except the eastern region where 72 civilians died in ground combat, up 29 percent from 2010.



### ***Anti-Government Elements and Protection of Civilians***

The tactics of Anti-Government Elements subjected Afghan civilians to death and injury with increasingly lethal results in 2011. Improvised explosive devices (IEDs) were the single largest killer of Afghan children, women and men in 2011, taking the lives of 967 civilians, or nearly one in three (32 percent) of all civilians killed in the conflict. IEDs caused 41 percent of civilian deaths linked to Anti-Government Elements.<sup>25</sup>

During 2011, Anti-Government Elements increased their use of victim-activated pressure plate IEDs that function as anti-personnel landmines detonated by any person, including children, stepping on or any vehicle driving over them. These IEDs cannot discriminate between a military and civilian target and as such are illegal prohibited weapons. Although the Taliban banned the use of anti-personnel landmines in 1998 denouncing such weapons as un-Islamic and anti-human, Anti-Government Elements used these anti-personnel landmine-like IEDs in 2011 with devastating impacts on civilians. UNAMA again urges the Taliban and other Anti-Government Elements to prohibit their members from using pressure-plate IEDs which killed and injured the most Afghan civilians in 2011.

The civilian death toll from suicide attacks in Afghanistan rose dramatically in 2011. In total, 431 civilians were killed in suicide attacks, an increase of 80 percent over 2010. Suicide attacks accounted for 14 percent of all civilian deaths, and 18 percent of civilian deaths attributed to Anti-Government Elements. While the number of suicide attacks did

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throughout December in line with military operations of Pro-Government Forces that focused on the southeastern and eastern regions since September.

<sup>25</sup> The United Nations Department of Safety and Security (UNDSS) recorded an average of 23 IEDs detonated or discovered every day in 2011, twice the daily average in 2010.

not increase over 2010, the nature of these attacks changed, becoming more complex, sometimes involving multiple suicide bombers, and designed to yield greater numbers of dead and injured civilians.

Targeted killings of civilians by Anti-Government Elements persisted in 2011, exceeding the high rate recorded in 2010. UNAMA documented 495 targeted killings across the country, up three percent from 2010. Provincial and district governors, local government officials and workers, provincial and peace council members and local community and tribal elders were deliberately targeted.

In 2011, the Taliban released several public statements on issues related to protection of civilians.<sup>26</sup> UNAMA welcomes any public pronouncement of Taliban policy on reducing civilian casualties but asserts that such rules are only meaningful if implemented on the ground. Despite the Taliban's improved messaging on protection of civilians in 2011, UNAMA did not document improved compliance with international humanitarian law by the Taliban or a reduction in civilian casualties caused by them. The Taliban continued to directly target civilians and use indiscriminate weapons such as pressure-plate IEDs.

UNAMA calls on the Taliban's leadership to incorporate rules of engagement aimed at civilian protection – as expressed in several Taliban statements in 2011 – into its Code of Conduct (*Layha*), bring provisions on reducing civilian casualties into line with international humanitarian law and ensure such rules are implemented fully by all Taliban fighters with sanctions for non-compliance.

### ***Pro-Government Forces and Protection of Civilians***

Among the tactics of Pro-Government Forces, aerial attacks caused the greatest number of Afghan civilian deaths in 2011.<sup>27</sup> In total, 187 civilian deaths were attributed to aerial attacks, an increase of nine percent over 2010.

The number of civilian deaths during night search operations by Pro-Government Forces dropped to 63 in 2011, down 22 percent from 2010.<sup>28</sup>

Between July and December 2011, UNAMA documented 41 civilians killed by operations and actions of the Afghan National Security Forces. This represents a 192 percent increase in civilian deaths attributed to these forces compared to the last six months of 2010. UNAMA recorded minimal increases or decreases in civilian casualties caused directly by Afghan National Security Forces in transitioned areas.

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<sup>26</sup>Statement of the Leadership Council of the Taliban regarding the Inception of the Spring Operations,” 30 April 2011, paragraph 4; Message of the Taliban's leader on the occasion of *Eid-ul Fitr*, 28 August 2011, and Message of the Taliban's leader on the Occasion of *Eid- al-Adha*, 5 November 2011. [http://www.shahamatenglish.com/index.php?option=com\\_content&view=article&id=6780:statement-of-the-leadership-council-of-the-islamic-emirate-regarding-the-inception-of-the-spring-ope&catid=4:statements&Itemid=4](http://www.shahamatenglish.com/index.php?option=com_content&view=article&id=6780:statement-of-the-leadership-council-of-the-islamic-emirate-regarding-the-inception-of-the-spring-ope&catid=4:statements&Itemid=4).

<sup>27</sup> 'Aerial attacks' encompasses attacks or air strikes from military aircraft, including munitions dropped or fired from airplanes, helicopters and drones.

<sup>28</sup> Accurate data on numbers of night search operations or “night raids” and civilian casualties is difficult to obtain as such information is generally classified. Data on the total numbers of night operations carried out by a range of Afghan and international military forces, special forces, special operations forces and other government agencies and any civilian casualties resulting from all such operations is not publicly available. Given both limitations associated with the operating environment and limited access to information, UNAMA may be under-reporting the number of civilian casualties from night search operations.

UNAMA calls on all national and international military forces to take further measures to prevent incidental loss of civilian life and injury in the planning and implementation of all military operations.

### ***Impact of the Armed Conflict on Women and Children***

In 2011, women and children again increasingly bore the brunt of the armed conflict. The number of Afghan women and children killed in 2011 increased from 2010, particularly in the second half of the year. UNAMA documented the deaths of 166 women and 306 children, representing 30 percent of all civilian deaths between July and December 2011. Compared with the same span in 2010, the number of women killed grew by 29 percent and the number of children killed by 51 percent in the last half of 2011.

Improvised explosive devices remained the leading cause of conflict-related deaths of women and children. In the second half of 2011, 112 children (36 percent of all child deaths for the period) were killed by IEDs up 45 percent from the last half of 2010. IEDs caused the deaths of 69 women (41 percent of all female deaths in the second half of 2011) up 30 percent compared with the last half of 2010. Suicide attacks killed five women and 30 children from July to December 2011, more than twice the number of deaths from this tactic compared to the same period in 2010.

Aerial attacks by Pro-Government Forces caused the deaths of more women and children than in 2010, particularly in the second half of 2011. Between July and December 2011, the number of women and children killed by air attacks tripled (66 deaths including 45 children and 21 women) compared with in the same period in 2010. In the last half of 2011, aerial attacks caused 14 percent of the total number of deaths of women and children.

### ***Geographic Shift in the Conflict***

As the year progressed, the conflict gathered intensity outside those southern provinces where fighting has historically been concentrated and worsened in several provinces in the southeastern and eastern regions. In the last half of 2011, although Kandahar and Helmand remained the provinces with the highest number of civilian deaths with 290 civilians killed; this number is a 39 percent decrease compared to the same period in 2010.

In contrast, the southeastern provinces of Khost, Paktika and Ghazni and eastern provinces of Kunar and Nangarhar saw a combined total of 446 deaths, a 34 percent increase compared with the same period in 2010. Between July and December 2011, civilian deaths in the central region jumped from 128 to 230, an 80 percent increase from the previous year. This rise was prominent in Kabul province, where civilian deaths increased from 23 in the last half of 2010 to 71 in 2011. 67 of the 71 civilian deaths in Kabul during this period occurred as a result of six suicide attacks.

Although targeted killings by AGEs decreased in the southern, central and northeastern regions in 2011, country-wide such killings rose by six percent, with huge increases in the western region (255 percent), the southeastern region (114 percent) and the eastern region (107 percent). This shift was particularly evident in the second half of the year.

In 2011, UNAMA documented 54 Afghan civilian casualties (18 killed and 36 injured) as a result of shelling from counter-insurgency operations carried out by Pakistani military forces in the Federally Administered Tribal Areas (FATA) bordering Kunar, Nangarhar

and Nuristan provinces in Afghanistan.<sup>29</sup> The shelling also displaced hundreds of families in Kunar and Nangarhar provinces and destroyed civilian property including homes and livestock.

### ***Afghan Local Police and Protection of Civilians***

With the start of transition in 2011, Afghan and international military forces relied increasingly on the Afghan Local Police (ALP) to fill gaps in securing rural and remote areas of the country.<sup>30</sup> ALP units have been formed in specific districts where the Afghan National Police or Afghan National Army were not present in sufficient numbers to adequately secure local communities and comprise individuals recruited locally to provide security within a limited geographic area. Costing considerably less to train and maintain than Afghan National Police or Afghan National Army recruits, the ALP numbers 11,066 in 57 districts with the Ministry of Interior authorized to recruit up to 30,000 in 99 districts.<sup>31</sup> According to the International Security Assistance Force in Afghanistan (ISAF), the ALP provides an “enduring physical security presence that operates with local support and national approval and oversight,” is a “key piece in the comprehensive joint Afghan-ISAF counter-insurgency effort”, and “part of the wider Afghan-ISAF security network.”<sup>32</sup>

Throughout 2011, UNAMA received mixed reports on the performance of the ALP and their impact on civilian protection. At year’s end, most interlocutors reported improved security in areas where the ALP operated. Concerns persisted however regarding recruitment of known human rights abusers into the ALP in some areas and inadequate vetting, training, command and control, accountability and oversight.<sup>33</sup> UNAMA documented inappropriate influence by local power brokers in the recruitment and conduct of ALP members in some areas, ALP commanders imposing illegal taxes on some communities in Paktika and Kunduz provinces, and forced recruitment of local residents including children in some districts in Paktika, Farah and Uruzgan provinces. UNAMA received reports of murder, rape, violence and intimidation by ALP forces in

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<sup>29</sup> UNAMA excluded in its total number of civilian casualties for 2011 those deaths and injuries of Afghan civilians caused by shelling from Pakistan. Pakistan’s Ambassador to Afghanistan, Mr. Sadeq was reported to have told Afghanistan’s foreign minister “*I told them that the Pakistani forces targeted militants from the Tehreek-e-Taliban Pakistan (TTP), not Afghan civilians. However, the loss of life and property is regrettable*”. See *Express Tribune* at <http://tribune.com.pk/story/261277/cross-border-shelling-kabul-delivers-rebuke-to-pakistan-envoy/>.

<sup>30</sup> In August 2010, ISAF and the Ministry of Interior established the Afghan Local Police as a mechanism in the Ministry of Interior to support unstable districts, protect remote rural areas, deter infiltration of Anti-Government Elements and create an environment for improved governance and development. According to ISAF, the goal of the ALP which operates under the Village Stability Operations Program (VSO) (that embeds US Special Operations Forces USSOF teams in key villages and rural areas to mobilize communities against Anti-Government Elements), is community mobilization through simultaneous focus by USSOF teams and support forces on security improvements with governance and development. The ALP is funded by the US Government through the Afghan Security Forces Fund for all 30,000 members through 2015. ISAF states that currently up to four million Afghans reside in areas partially protected by VSO US Special Operations Forces/ALP sites.

<sup>31</sup> ALP units are required to operate within local ANP command structures with district level units reporting directly to the district ANP commander under the supervision of the provincial chief of police. ALP members receive a 21-day training course supplemented by US Special Operations Forces’ mentoring of ALP units with eventual handover of mentoring functions to Afghan National Security Forces. ALP units also receive logistics support from US Special Operations Forces.

<sup>32</sup> UNAMA meetings with Deputy DCOS Operations HQ ISAF and staff, Kabul, January 2012.

Kunduz, Baghlan and Sari-Pul provinces and displacement of civilians in Uruzgan and Sari-Pul provinces caused by ALP abuses.

To improve the conduct, accountability and oversight of the ALP, in December 2011 ISAF stated it would work with the Ministry of Interior to train ALP members on practical methods to prevent human rights violations, define force jurisdiction, position a senior ANP officer in ISAF to ensure Afghan involvement in oversight and accountability, and develop local response, reporting and policy procedures for misconduct by ALP members. UNAMA welcomes these measures and this report's findings support the need for their prompt and full implementation before the ALP programme is expanded.<sup>34</sup>

### ***Impact of the Armed Conflict on Afghans***

As 2011 unfolded, ordinary Afghan people experienced growing intrusion into and disruption of their daily lives by the armed conflict in their country. Conflict and insecurity displaced 185,632 Afghans in 2011, an increase of 45 percent from 2010.<sup>35</sup>

Thousands more Afghans lost their livelihoods and property, were denied access to justice, had their right to freedom of movement restricted or taken away, and had their access to food, health care and education compromised. The unremitting toll of civilian casualties coupled with pervasive intimidation affected many civilians directly, and many more indirectly, by fueling uncertainty, tension and fear.

Tracking the geographic shifts in the conflict, communities in conflict-affected and remote regions became even more vulnerable through the proliferation of pro- and anti-Government armed groups, roads increasingly blocked by checkpoints or lined with IEDs, restricted humanitarian assistance and increased harassment and intimidation by parties to the conflict.

At the beginning of 2012, proposals and ideas that could contribute toward peace negotiations occurred. UNAMA urges that any such negotiations place the highest priority on protection of civilians in the ongoing armed conflict and in any outcome that leads to resolution of the conflict, with an emphasis on concrete and effective measures to reduce civilian deaths and injuries.

UNAMA stresses at this potentially critical juncture that, to the Afghan people, the credibility and value of a negotiation process and progress toward peace will be measured by reduced civilian casualties and improved security particularly in conflict-affected areas.

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<sup>34</sup> HQ US Forces-Afghanistan, Memorandum for Record, Findings and Recommendations (AR 15-6-Credibility Assessment of Allegations of Human Rights Violations in a Human Rights Watch Report), 6 December 2011.

<sup>35</sup> United Nations High Commissioner for Refugees Afghanistan, Statistical Summary on Conflict-Induced Internal Displacement for 2011.

## **Recommendations**

UNAMA makes the following recommendations to improve civilian protection.

### **Anti-Government Elements**

- Comply with international humanitarian law, uphold the principles of distinction, proportionality and precautionary measures, and protect the right to life.
- Stop using victim-activated pressure-plate IEDs, prohibit members from using them and publicly commit to banning the use of these indiscriminate and illegal weapons.
- Stop targeting civilians and carrying out indiscriminate and deliberate suicide attacks that harm civilians including women and children, withdraw orders that permit attacks and killings of civilians and use the definition of 'civilian' consistent with obligations under international humanitarian law.
- Stop attacking places of worship such as mosques which are protected places under international humanitarian law.
- Enforce codes of conduct and directives that instruct members to prevent civilian casualties and hold accountable those members who kill and injure civilians.

### **Government of Afghanistan**

- Create a civilian casualty team in the Afghan National Army similar to the ISAF Civilian Casualty Mitigation Team to ensure accurate, professional and timely investigation and documentation of all incidents of civilian casualties caused by ANSF to improve civilian protection, accountability, remedial measures and compensation.
- Ensure all troops are trained adequately in escalation of force tactics, techniques, and procedures in particular on alternatives to lethal force. Implement public service announcements to increase awareness by Afghan civilians of proper checkpoint and convoy procedures.
- Train all Afghan security forces (ANA, ANP, ANBP, ALP, ANCOP and others) in all elements of international humanitarian and human rights law and ensure such training is mandatory and integrated into all Afghan National Security Forces' training programmes.
- Improve recruitment, vetting, oversight and accountability mechanisms for the Afghan Local Police to prevent and respond to reported human rights abuses and criminality by the Afghan Local Police and other local defence forces under the Government's control.

### **International Military Forces**

- Further review procedures and directives aimed at preventing incidental loss of civilian life and injury and damage to civilian objects in the planning and implementation of all military operations, in particular aerial attacks.
- Implement fully the "Night Operations Tactical Directive" of 1 December 2011 to operationalize Commander ISAF's intent to prevent civilian casualties, minimize disruption to Afghan civilians and protect their property, share the maximum information possible with local leadership and civilians before, during and after night operations, and encourage Afghan National Security Forces to lead such operations.

- Promote transparency, accountability, improved compensation procedures and better relations with affected Afghan civilians and communities through the prompt and public release of all Joint Incident Assessment Team (JIAT) findings on incidents involving civilian casualties.
- With the Government of Afghanistan, promptly implement measures to improve the conduct, oversight, accountability and field-level monitoring and mentoring of the Afghan Local Police, and disband all local defence forces operating outside the Government of Afghanistan's control.

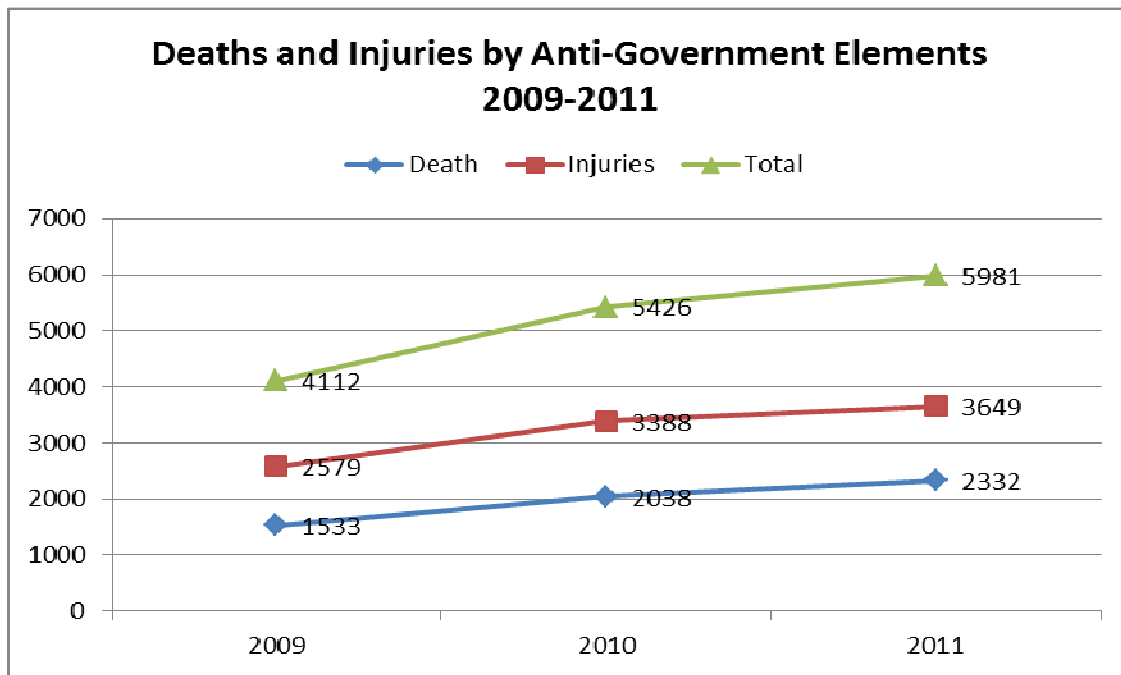


## Anti-Government Elements and Protection of Civilians

*The explosion threw me and some of the passengers out of my taxi. I was bleeding, but not unconscious. Doctors say there is injury in my head, but I am out of danger. I have several cuts throughout my body from pieces of metal. My taxi, the only means of my livelihood, is completely damaged. I do not know what to do. Could anyone help me to repair it? I have eight children, all below 14 years, and a wife to feed. I don't know what I should do now. At the same time I have already spent 20,000 Afghani (\$444) on my medical treatment. I want to say to the insurgents that they must stop killing innocent people. It is against Islamic principles.<sup>36</sup>*

—Victim of a suicide attack Kunduz city, Kunduz province 19 June 2011

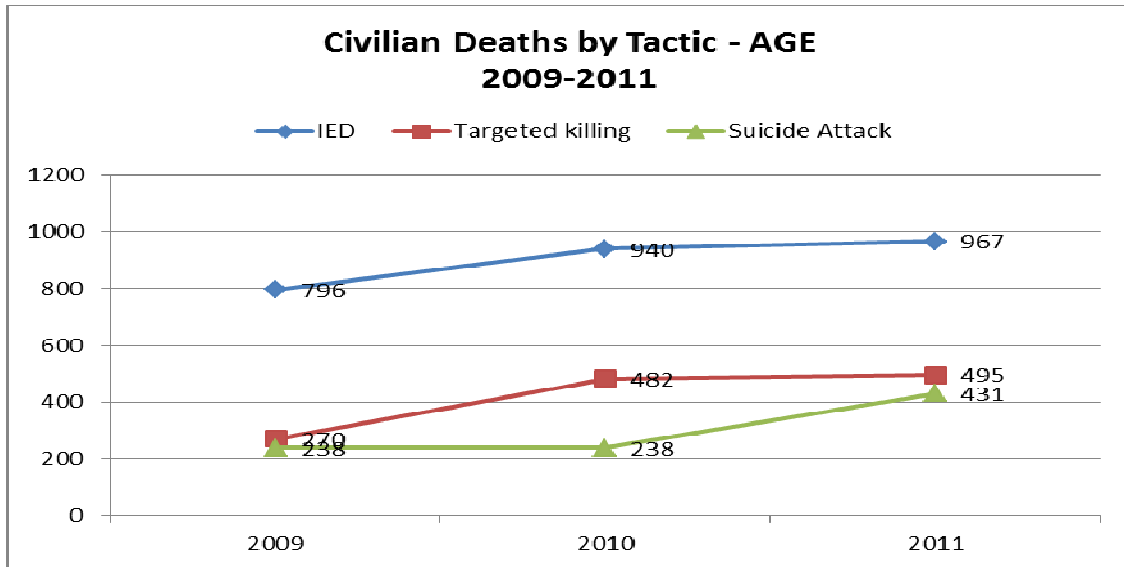
In 2011, UNAMA documented 2,332 civilian deaths and 3,649 injuries by Anti-Government Elements for a total 5,981 civilian casualties, an increase of 10 percent in deaths and injuries attributed to Anti-Government Elements compared to 2010.



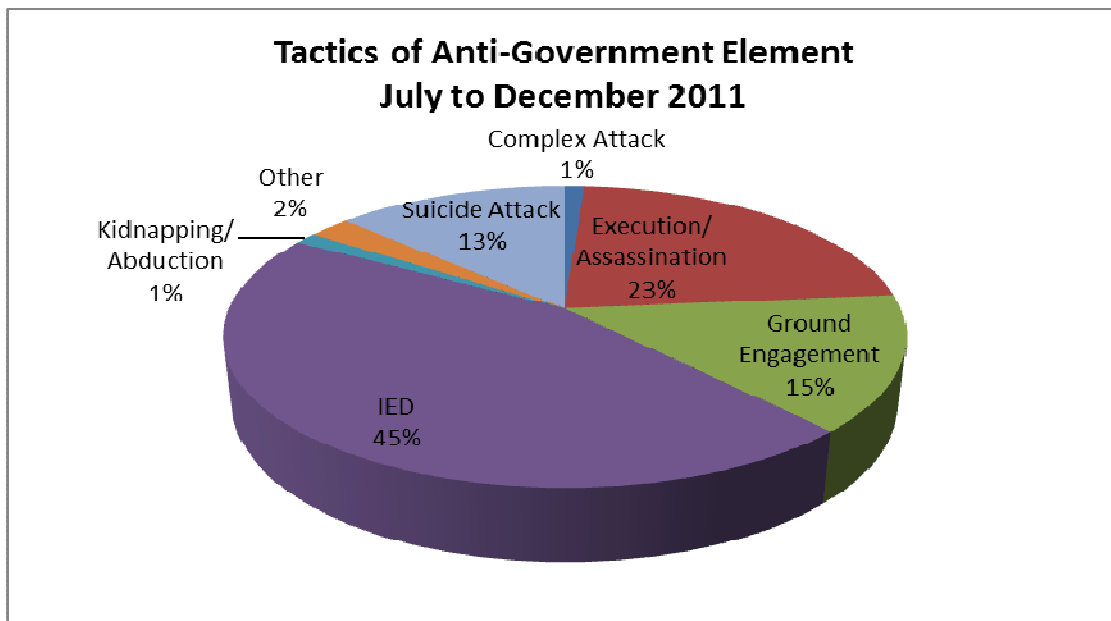
Anti-Government Elements increased their use of IEDs and suicide attacks against obvious civilian targets. In incidents where intended targets appeared to be military, those responsible for placing or detonating IEDs showed no regard for the presence of civilians and no evidence of distinguishing between civilian and military targets in violation of the international humanitarian law principles of distinction, precaution and proportionality.

Anti-Government Elements also deliberately targeted and killed civilians not taking a direct part in hostilities, mainly individuals who supported, or were perceived as supporting the Government of Afghanistan or international military forces.

<sup>36</sup> UNAMA interview with taxi driver, Kunduz city 19 June 2011. The intended target was an ISAF convoy. Two civilians were killed and 12 injured with two ISAF soldiers injured.



In addition to targeted killings, Anti-Government Elements intensified their campaign of intimidation through erection of illegal road blocks, disruption of mobile telephone networks, delivery of threatening “night letters” and public threats to civilians working for or viewed as supportive of the Government or international military forces, organizations and companies. In some cases these threats caused individuals to leave their homes and jobs. Examples of this intimidation included the Taliban’s October 2011 statement concerning the *Loya Jirga* in Kabul in which the Taliban warned Afghans not to attend and to expect severe repercussions if they did. Similarly, at the local level, the Taliban in Kunar province broadcast publicly the names of intended targets by using a mobile radio station.<sup>37</sup>



<sup>37</sup> UNAMA monitoring of radio station *Sharia Ghag* (Voice of Sharia) included threats against individuals and groups. In addition, the district chief of police informed UNAMA that the Taliban had killed a woman whose name had been broadcast. UNAMA confirmed this information with several other sources.

### **Taliban Public Statements on Civilian Casualties**

In 2011, the Taliban issued more than 57 public statements. Several of these statements addressed issues related to the protection of civilians. Along with specific provisions of the *Layha*<sup>38</sup> (Taliban Code of Conduct which outlines rules of engagement for all Taliban fighters) these statements were the clearest articulation of the Taliban's publicly stated comments on minimizing civilian casualties.

The Taliban's 30 April 2011 statement on "Inception of the Spring Operations or Operation Badar" said the Taliban will "focus attacks" on targets of a military nature, take precautions and reiterated "*strict attention must be paid to the protection and safety of civilians during the spring operations by working out a meticulous military plan.*"<sup>39</sup>

In August 2011, on the occasion of *Eid al-Fitr*, the Taliban issued a statement calling on their fighters to implement the Taliban's Code of Conduct and stated "*protection of life and property of the people is one of the main goals of jihad.*"<sup>40</sup>

The August statement also focused on the issue of command responsibility:

*Do not impose bans or issue orders to people by yourselves unless your leadership has instructed you to do so or your provincial chiefs permitted you to do the task. [...] Similarly, you should implement the instructions given to you in consultation with the people of the area and the local religious scholars.*<sup>41</sup>

It notes that the Taliban's Code of Conduct should have been communicated to all fighters and places an obligation on Taliban shadow governors to ensure that all fighters under their command are both aware of the content of the Code and abide by it.<sup>42</sup>

The Taliban issued a further message on 4 November 2011 to coincide with the occasion of *Eid al-Adha*.<sup>43</sup> Representing the clearest public orders to date governing the Taliban's conduct towards civilians, the statement reiterated the message that Taliban fighters should seek to minimize civilian casualties and stated "*all those civilian casualties which are caused or are believed to be caused by Mujahidin should be reported to superiors.*"

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<sup>38</sup> The *Layha* or Code of Conduct of 30 May 2010 is divided into 14 sections; section 7 focuses on "internal issues" including chains of command, the formation of fighting groups, advice on attacking the enemy, rule on suicide attacks, and dispute resolution (Articles 40-58); section 11 on "Issues Concerning the People" focuses on "Protecting the Common People (Articles 62-66).

<sup>39</sup> Statement of Taliban's Leadership regarding the Inception of the Spring Operations, 30 April 2011, paragraph 4 at [http://www.shahamatenglish.com/index.php?option=com\\_content&view=article&id=6780:statement-of-the-leadership-council-of-the-islamic-emirate-regarding-the-inception-of-the-spring-ope&catid=4:statements&Itemid=4](http://www.shahamatenglish.com/index.php?option=com_content&view=article&id=6780:statement-of-the-leadership-council-of-the-islamic-emirate-regarding-the-inception-of-the-spring-ope&catid=4:statements&Itemid=4).

<sup>40</sup> Message of the Taliban's leader on the occasion of *Eid-ul Fitr*, 5 November 2011.

<sup>41</sup> Ibid.

<sup>42</sup> Ibid, "Books of code of conduct of mujahidin have reached every stronghold and province, so all provincial governors should see that mujahidin under their command have fully absorbed the contents of the book and abide by them."

<sup>43</sup> Message of the Taliban's leader on the Occasion of *Eid-al-Adha*, 4 November 2011. [http://shahamat-english.com/index.php?option=com\\_content&view=article&id=12530:message-of-felicitation-of-the-esteemed-amir-ul-momineen-on-the-occasion-of-eid-ul-odha&catid=4:statements&Itemid=4](http://shahamat-english.com/index.php?option=com_content&view=article&id=12530:message-of-felicitation-of-the-esteemed-amir-ul-momineen-on-the-occasion-of-eid-ul-odha&catid=4:statements&Itemid=4).

Taliban leader Mullah Omar is quoted as saying that for civilian casualties caused by IED strikes, “martyrdom attacks” and other operations where Taliban operatives deny involvement but evidence points otherwise, suspects are to be investigated and if deemed negligent are to be punished. In the case of operatives who “*persist in their neglectfulness in relation to civilian casualties*” more penalties are called for – in addition to the perpetrator being relieved of his duties. The statement also asserted that authorities should acquire information from “various sources” where civilian casualties are caused by Taliban fighters.

The November statement called on Taliban shadow governors to carry out routine investigations in their areas of responsibility and called for religious scholars to be employed to preach to fighters on protection of civilian life.

Although the November statement and the other statements emphasizing civilian protection are encouraging, the November statement reflects an admission of Taliban involvement in IED strikes and suicide attacks – attacks that caused the most civilian deaths in 2011.

Moreover, as highlighted in UNAMA’s *2011 Mid-Year Report on Protection of Civilians*, the Taliban’s 30 April statement puts the onus of civilian protection on the civilian population and not on the parties to the conflict. The April statement instructs civilians to stay away from “*gatherings, convoys, and centers of the enemy so that they will not become harmed during attacks by the Mujahidin against the enemy.*”<sup>44</sup>

Similarly, in the November *Eid al-Adha* statement the Taliban state:

*“Common folk must also facilitate mujahidin in averting civilian losses and sufferings. They should avoid moving in close proximity to Americans that patrol in villages and countryside and should actively put to practice the precautionary measures announced by mujahidin so no harm will reach them during the impending attacks of the invaders.”*<sup>45</sup>

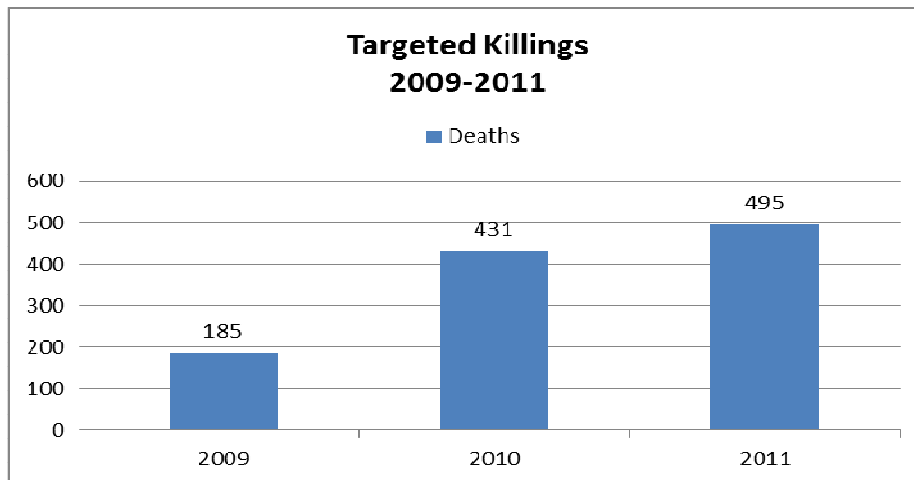
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<sup>44</sup> “Statement of the Leadership Council of the Islamic Emirate Regarding the Inception of the Spring Operations,” 30 April 2011, paragraph 7: “*All Afghan people should bear in mind to keep away from gatherings, convoys and centres of the enemy so that they will not become harmed during attacks of Mujahidin against the enemy or, as usual, the enemy may not avenge itself on them, following the operations of the Mujahidin.*”

[http://www.shahamatenglish.com/index.php?option=com\\_content&view=article&id=6780:statement-of-the-leadership-council-of-the-islamic-emirate-regarding-the-inception-of-the-spring-ope&catid=4:statements&Itemid=4](http://www.shahamatenglish.com/index.php?option=com_content&view=article&id=6780:statement-of-the-leadership-council-of-the-islamic-emirate-regarding-the-inception-of-the-spring-ope&catid=4:statements&Itemid=4).

<sup>45</sup> Message of the Taliban’s Leader on the Occasion of *Eid al-Fitr*, 5 September 2011.

[http://shahamatenglish.com/index.php?option=com\\_content&view=article&id=10604:message-of-felicitation-of-the-esteemed-amir-ul-momineen-on-the-occasion-of-eid-ul-fitre&catid=4:statements&Itemid=4](http://shahamatenglish.com/index.php?option=com_content&view=article&id=10604:message-of-felicitation-of-the-esteemed-amir-ul-momineen-on-the-occasion-of-eid-ul-fitre&catid=4:statements&Itemid=4).



UNAMA notes that protecting the civilian population is an active responsibility of all parties to a conflict which have the legal responsibility to proactively ensure civilians are not harmed during military operations. It is not the responsibility of Afghan civilians to protect themselves from the effects of war. Both the April and November statements place the responsibility of protection on the civilian population which runs counter to the spirit and principles of international humanitarian law.

#### *Conduct of Anti-Government Elements and Taliban*

The continued high rate of civilian casualties by Anti-Government Elements suggests that statements and proclamations alone neither resulted in improved protection of civilians nor minimized civilian casualties. The apparent disregard for the protected status of civilians resulted in an even greater number of civilian casualties attributed to the Taliban and other Anti-Government Elements in 2011 than in previous years.

For example, UNAMA's human rights monitoring indicates that following the 4 November Taliban statement, civilian casualties attributed to Anti-Government Elements in November and December 2011 amounted to 332 civilians killed and 684 injured – similar to previous months.

Two days after the Taliban's November statement, on 6 November a suicide attacker blew himself up among worshippers leaving a mosque in a village in Baghlan province during *Eid-al-Adha*, resulting in 21 casualties (three killed and 18 injured).<sup>46</sup> Although the Taliban did not claim responsibility for this attack, UNAMA's monitoring indicates that it was consistent with previous patterns of Taliban attacks. The Taliban leadership also did not publicly condemn this attack against civilians in a protected place of worship despite the attack occurring very soon after the November statement (the Taliban's strongest yet on protection of civilians). UNAMA notes however that the Taliban publicly condemned the 6 December suicide attack on a Kabul mosque which killed 56 civilians and injured 195 people. A Pakistani insurgent group with historic links to the Taliban claimed responsibility for this attack and then distanced themselves from the attack.<sup>47</sup>

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<sup>46</sup>UNAMA monitoring; the incident took place on 6 November – two police officers were killed.

<sup>47</sup>The Taliban statement denied involvement in this attack, condemned it and "gives guidance to all of its mujahidin to pay attention to preventing such acts from taking place alongside their other duties." A Pakistan-based terrorist group *Laskhar-e-Jhangvi* with historic ties to the Taliban claimed responsibility for the attack in an 8 December statement.

In addition, in many incidents that led to loss of civilian life, the Taliban, contrary to the definition of “civilian” under international humanitarian law<sup>48</sup>, labeled civilians as “lawful” or “legitimate” targets; the killing and targeting of civilians amounts to a war crime under international humanitarian law. During 2011 the Taliban publicly claimed responsibility for killing numerous community leaders and government officials whom it categorized as “puppets” of the Government. Under international humanitarian law such individuals are not considered lawful targets and are civilians with protected status.

#### *Taliban Investigations into Civilian Casualties*

UNAMA is not aware of any cases in which the Taliban conducted an investigation into civilian casualties allegedly caused by Taliban fighters (since the publication of the 4 November statement or previously). Publicizing findings of any investigations with actions taken to punish perpetrators found guilty of misconduct would reinforce public commitments. UNAMA also notes that although the Taliban called for the investigation and punishment of negligent fighters, no mechanism is provided for civilians to make complaints safely without fear of reprisal.

#### *Conclusion*

Despite Taliban statements with improved messaging on civilian protection in 2011, UNAMA has not documented improved compliance with international humanitarian law by the Taliban or a reduction in civilian casualties due to improved targeting practices. The Taliban continued to directly target civilians, carry out indiscriminate suicide attacks and use indiscriminate weapons such as pressure-plate IEDs.

If the Taliban are serious about preventing civilian casualties then the single biggest step the leadership could take would be to ban members from using landmine-like pressure-plate IEDs – weapons that are inherently indiscriminate and illegal under Mullah Omar’s 1998 ban of anti-personnel landmines.<sup>49</sup>

Rules of engagement are only valuable if implemented on the ground. The Taliban’s statements which could represent evolving rules of engagement are not reflected in the Taliban’s *Layha*—so it is unclear how, if at all, the Taliban leadership has communicated the rules and ensured implementation by all Taliban operatives throughout the country.

UNAMA calls on the Taliban’s leadership to incorporate rules of engagement aimed at civilian protection – as expressed in statements issued in 2011 – into its *Layha*, ensure that any provisions aimed at protection of civilians in the *Layha*<sup>50</sup> are consistent with their

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<sup>48</sup> See also the *Legal Responsibilities* section of this report. Under international humanitarian law, a civilian is any person who does not take a direct part in hostilities and is a protected person.

<sup>49</sup> Convention on the Prohibition of the Use, Stockpiling, Production, and Transfer of Anti-Personnel Mines and on their Destruction, September 18, 1997: the use, production, transfers, and stockpiling of victim-activated antipersonnel IEDs is prohibited under the Mine Ban Treaty. Pressure plate IEDs cannot discriminate between a military target and a civilian target and as such are a prohibited or illegal weapon and a prohibited means of warfare. In 1998 the Taliban banned the use, production, trade, and stockpiling of anti-personnel landmines. See *Statement of the Islamic Emirate of Afghanistan on the Problem of Landmines*, 6 October 1998.

<sup>50</sup> Article 65 of the *Layeha* (Taliban Code of Conduct) 30 May 2010, calls on fighters to “*be careful with regard to the lives of the common people and their property*”, however the only mention of the need to avoid civilian casualties is made in reference to “*martyrdom operations*” (Article 57 and states “*The following four things should be kept in mind while carrying out self-sacrificing attacks: First: Self-sacrificing attackers should be properly trained before carrying out attacks. Second: Self-sacrificing attacks should be carried out against high-profile and important targets. These courageous members of the Islamic Ummah should not be used in low-profile and valueless targets. Third: Utmost efforts*

obligations under international humanitarian law, including on the definition of “civilian” and ensure this Code of Conduct is disseminated to fighters on the ground and implemented with sanctions for non-compliance.

### **IED Attacks**

*Do you know what happened? I was late for that day for work and missed the shuttle. A bomb hit their bus and killed them. They were not just colleagues, they were my friends. It is difficult being a female police officer and these women were my friends. We worked together, ate together and supported each other. Now they are dead and I am alone. My daughter is nine-years old and every day before I leave for work she cries and says ‘Mama don’t go to work. I don’t need to eat’.<sup>51</sup>*

— ANBP female searcher at Herat airport, 29 September 2011

The widespread use by Anti-Government Elements of IEDs was the single largest cause of civilian deaths and injuries in Afghanistan in 2011. Between 1 January and 31 December 2011, UNAMA recorded 967 civilian deaths and 1,586 injuries from IEDs constituting 32 percent of the total number of civilian casualties in 2011.

The majority of IEDs that kill civilians in Afghanistan are victim-activated pressure plate IEDs (PPIEDs). UNAMA takes the position that these IEDs function as anti-personnel landmines, and are indiscriminate as they cannot distinguish between a civilian and military objective, making their use illegal under international humanitarian law. According to ISAF, such victim-operated IEDs (VOIEDs) represent approximately two thirds of the total number of devices ISAF deals with in Afghanistan. The VOIED category includes PPIEDs and other types of victim-operated devices and all VOIEDs are indiscriminate.<sup>52</sup>

PPIEDs in Afghanistan are set to explode when they are walked on or driven over with a trigger weight between 10kg and 100kg. The majority of PPIEDs in Afghanistan have approximately 20kg of explosive; more than twice the explosive content of a standard anti-tank mine yet they have the trigger of an anti-personnel mine. This means that every PPIED acts as a massive anti-personnel landmine with the capability of destroying a tank; civilians who step on or drive over these IEDs have no defence against them and little chance of survival.<sup>53</sup>

The use of IEDs by Anti-Government Elements as a tactic of warfare increased in 2011 with six percent more IED explosions than in 2010. The UN Department of Safety and Security recorded an average of 23 IEDs detonated or discovered every day in 2011, twice the daily average in 2010.

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*should be made to avoid civilian casualties in carrying out self-sacrificing attacks. Fourth: Apart from those mujahidin who are entrusted by the chief with a special programme and are allowed by him, all the mujahidin are bound to get permission and instructions from provincial commanders in carrying out self-sacrificing attacks. The Layha therefore does not limit operations to lawful military targets and may permit the targeted killing of civilians.*

<sup>51</sup> UNAMA interview with female security guard at Herat airport, 5 October 2011. On 29 September 2011 in Herat province at Karbar Bridge in Herat city, Anti-Government Elements targeted an ANBP vehicle carrying police personnel to the local airport where they were employed as searchers (performing solely civilian police functions). The attack killed three civilians, including two women and seriously injured ten, including one child, six women and three men.

<sup>52</sup> UNAMA email correspondence with ISAF Counter-IED office, 23 January 2012.

<sup>53</sup> UNAMA interviews with ISAF Counter-IED office, June 2011.

In 2011, IEDs were detonated in public areas commonly used by civilians as gathering places, including bazaars, in and around schools, shops, bus stations and government offices. IEDs, and in particular those equipped with a pressure plate trigger, were placed on transit routes ranging from small footpaths to highways, and killed and injured civilians whether they were on foot, riding a bicycle, in buses, taxis and in private cars. Examples of such incidents in 2011 include:

- On 7 December, an IED detonated against a civilian minibus in Helmand province, killing at least 20 civilians including five children and seven women.
- On 16 August in Uruzgan province, an IED placed on a motorcycle exploded in the main bazaar killed five civilians and injured 17.
- On 23 September in Kandahar province, an IED detonated against a minibus killing seven civilians including two children and injuring four others.
- On 30 May in Herat city an IED exploded at a crowded bus stop, killing four civilians and injured more than 30. A Taliban spokesperson claimed responsibility for the attack.
- On 20 September in Logar province, an IED placed in a primary school in the provincial capital of Pul-e-Alam exploded, killing two boys and injuring two others.
- On 15 November in Faryab province, Ghormach district, a donkey bound IED killed four civilians, including a 15-year old boy and two 60-year old men and injured 17 civilians, including four children.

### ***Suicide Attacks***

The number of civilians killed by suicide attacks increased dramatically in 2011 compared to 2010. 431 civilians were killed, an increase of 81 percent from 2010. For example, in Kunduz province, civilian deaths from suicide attacks increased from 83 in 2010 to 145 in 2011.

Suicide attacks accounted for 14 percent of all civilian deaths, and 18 percent of civilian deaths attributed to Anti-Government Elements. The types of suicide attacks that occurred ranged from those carried out by single individuals either wearing vests or driving vehicles with explosives, to multiple suicide bombers that initiated complex attacks involving large numbers of fighters.

The common thread that united the different types of suicide attacks was the apparent disregard for the presence of civilians in areas where the attackers detonated their explosives. Many of the locations targeted were clearly civilian areas with no military purpose including crowded markets, gatherings of tribal elders and civilian government offices or protected places under international humanitarian law including hospitals and places of religious worship such as shrines and mosques.

On 6 December, a suicide attacker targeted civilians by detonating his explosives at the entrance to the Abulfazl mosque in Kabul killing 56 civilians and 195 wounded. This incident was the single deadliest suicide attack since 2008. A Pakistani-based insurgent group with historic ties to the Taliban claimed responsibility for the attack but later distanced themselves from the attack.<sup>54</sup>

Other representative incidents in 2011 included:

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<sup>54</sup> Statement of *Laskhar-e-Jhangvi* 8 December 2011.



- On 21 February, a suicide bomber detonated his vest inside the Central Census Department in Imam Sahib District killing 28 people and injuring 36.
- On 19 February, members of the Taliban attacked the Kabul Bank in Jalalabad, Nangarhar province. The attack started with small arms fire and once inside the bank, Taliban members opened fire on civilians then detonated their suicide vests. 19 civilians were killed and 91 injured. A Taliban spokesperson claimed responsibility stating “More than 100 policeman and agents of NDS killed or wounded in Jalalabad operation ... when the puppets were going to receive their salary”.<sup>55</sup>
- On 28 July, in Tirinkot, Uruzgan province, an attack by multiple suicide bombers against government offices killed 19 civilians, including ten children and three women, and injured 35 others. The Taliban claimed responsibility.
- On 9 December in Neshagam village, Kunar province, a suicide attacker entered the grounds of a mosque and targeted the district chief of police as he left with other worshippers after Friday prayers. He and two police officers were killed, and three civilians killed and five wounded. One injured civilian told UNAMA “I saw a crowd of the people coming out from the mosque ... I remember a huge explosion and then I found myself wounded and my face was bleeding.”<sup>56</sup> The Taliban claimed responsibility and stated they killed ten police officers.<sup>57</sup>

### **Targeted and Unlawful Killings of Civilians**

*I saw my only son on the bridge. I told him to come home but he was talking to a stranger. I went to them and asked the stranger what he was doing in the area. He told me that he was looking for someone. I went home and 15 minutes later I heard the explosion. I ran to the street and saw a destroyed car. The dead body of my son was lying next to it. The stranger who was talking to my son before the attack was the suicide bomber. He was waiting for the NDS Head in order to kill him.*<sup>58</sup>

—Father of an eight-year old boy killed by a suicide attacker 17 October in Maimana, Faryab province.

The shifting tactics of Anti-Government Elements included targeted killings of civilians aimed at terrorizing the civilian population and weakening the Government’s presence in particular locations. The campaign of targeted killings against civilian government officials and workers that emerged in 2010 continued in 2011 with no sign of decreasing. UNAMA documented 495 targeted killings of civilians, an increase of three percent from 2010.

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<sup>55</sup> Islamic Emirate of Afghanistan, “More than 100 policemen and agents of NDS killed or wounded in Jalalabad operation”, 19 February 2011.

[http://alemara1.com/english/index.php?option=com\\_content&view=article&id=5186:more-than-100-policemen-and-agents-of-nds-killed-or-wounded-in-jalalabad-operation&catid=1:news&Itemid=2](http://alemara1.com/english/index.php?option=com_content&view=article&id=5186:more-than-100-policemen-and-agents-of-nds-killed-or-wounded-in-jalalabad-operation&catid=1:news&Itemid=2).

<sup>56</sup> UNAMA interview with victims, Assababad Public Health Hospital, Kunar province, 10 December 2011.

<sup>57</sup> Several media sources received the claim and publicly reported that the Taliban spokesperson Zabilullah Mujahid claimed responsibility for the attack by SMS message.

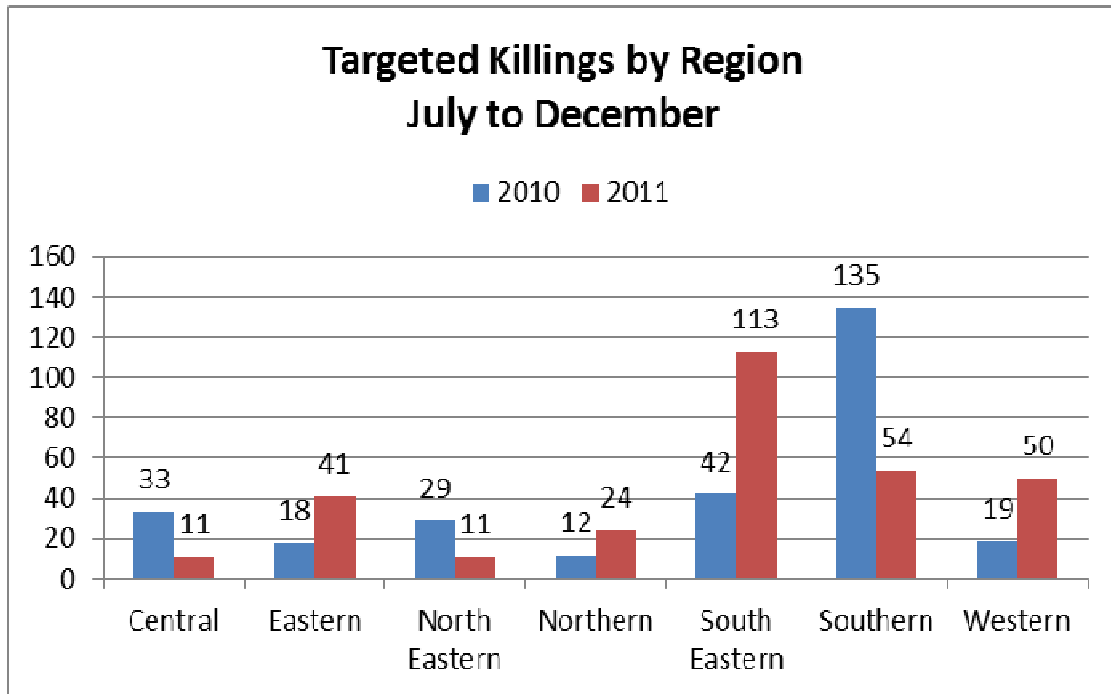
<sup>58</sup> UNAMA interview with father of a victim, 28 October 2011, Maimana Faryab province. The NDS Head died of his injuries one week later. The attacker was killed and seven others were injured in the attack including two children.

Targeted killings decreased in the south, central and northeast regions but increased greatly in other parts of the country: by 255 percent in the western region; 114 percent in the southeastern region; and, 107 percent in the east region.

In the western region, targeted killings tripled from 24 in 2010 to 81 in 2011. Most killings took place in Farah province, and remote districts such as Purchaman, Bakwa and Gulistan, where the Taliban had some degree of access and control. Most victims were associated with NGOs, local elders, private security contractors or were new ANP recruits. The dramatic increase may be attributed to the insurgency's shift from the south to the southeast and east coupled with a significant increase in counter-insurgency operations in those areas.

This surge also shows that unlawful killings remained a key tactic of Anti-Government Elements. Similar to other regions, the majority of killings stemmed from Anti-Government Elements' targeting civilians they accused of supporting or spying for the Government or the Afghan National Security Forces.

The main targets across the country continued to be individuals working for, or perceived to be supportive of the Government of Afghanistan. Targets included civil servants at all levels, tribal and religious elders, civil society members, political figures, and individuals who joined the Afghanistan Peace and Reintegration Program and their relatives, and family members of Anti-Government Elements who sought to re-integrate into Afghan communities.



Targeted killings were carried out by a variety of methods, including assassinations, executions, IEDs and suicide attacks. The highest profile targeted killing took place on 20 September, when former President Burhanuddin Rabbani, the head of the High Peace Council, was killed by a suicide bomber who detonated explosives hidden in his turban. Other representative incidents included:

- On 21 August, in Helmand province, two men on a motorcycle killed the chief prosecutor for Grishk district as he left his home for the office.
- On 11 October, in Mehterlam city of Laghman province, a remote-controlled IED killed an employee of the provincial department of water and power. The Taliban claimed responsibility and said the man was killed because he was spying for international military forces.
- On 19 November, Anti-Government Elements shot and killed a woman in Marawara district, Kunar province after accusing her of spying for international military forces.
- On 28 October, in Qaisar district of Faryab province, four armed men opened fire on two men and a young girl on a motorcycle who were taking the girl to a local hospital. One man and the girl were killed, and the other man was injured. The survivor told UNAMA, *“First they shot at me and I fell. Then they shot and killed the girl. My cousin tried to run away but they fired at him too and managed to kill him. Afterwards our attackers spoke among themselves. Once they had agreed that we were all dead they left the area. My cousin’s daughter was five years old.”*<sup>59</sup> The survivor told UNAMA he believed they were targeted because they were related to a Taliban commander who sought to join the re-integration program.<sup>60</sup>
- On 27 December, in Musa Qala district, Helmand province, two men on motorcycles opened fire on a vehicle carrying a prominent tribal and community elder, killing the elder along with his son and grandson.
- On 8 May, five members of a reconciled group, including the group commander, were shot dead allegedly by the commander’s bodyguard in Kalbad village, Imam Shahib District, Kunduz. The group was reintegrated in December 2010.
- On 2 May, the Taliban reportedly shot dead Abdul Nasir (Khan-e-Zadran) a reconciled commander in Iskamish District, Takhar. He had reportedly received threats from the Taliban and joined the reintegration programme in February 2011 with ten combatants.

*Unlawful Killings in the Western Region: Parallel Justice System Executions*

In the second half of 2011, UNAMA observed an increase in public execution style killings carried out by Anti-Government Elements (particularly affiliated with Taliban) following public court-style hearings.

Communities in these areas told UNAMA they were relying increasingly on Taliban/anti-government justice mechanisms that provided expedited decisions and implementation compared to what they described as the slowness, inefficiency and widespread corruption of Afghan courts.

From August 2011, UNAMA documented five incidents of parallel justice system punishments that violated Afghan and international law.

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<sup>59</sup> UNAMA interview with injured man in Qaisar hospital, Faryab province, 1 November 2011.

<sup>60</sup> Ibid.

- On 7 August, Taliban members beheaded four civilians in Balablook district, Farah province after finding them guilty of robbery and murder.
- On 22 November in Pasaband District, Ghor province Anti-Government Elements publicly executed a civilian they accused of killing his brother.
- On 23 November in Pasaband district, Ghor province, members of Anti-Government Elements amputated two limbs (one leg and one arm) of an individual they accused of robbery.
- On 31 August in Herat, an Anti-Government Element-led *shurah* 'convicted' a man of murder, sentenced him to death and publicly executed him.

Although UNAMA verified more killings of this nature in the western region, UNAMA does not conclude that parallel justice system executions occur at a higher rate in this region compared to other regions. UNAMA's field presence in Ghor, Baghdiz and Farah province enabled a broader scope for monitoring and verification. Cases have been documented elsewhere. For example, UNAMA received numerous and consistent reports from district *shurahs* and community leaders in the Pech Valley in Kunar that Anti-Government Elements forced communities to use Taliban courts.

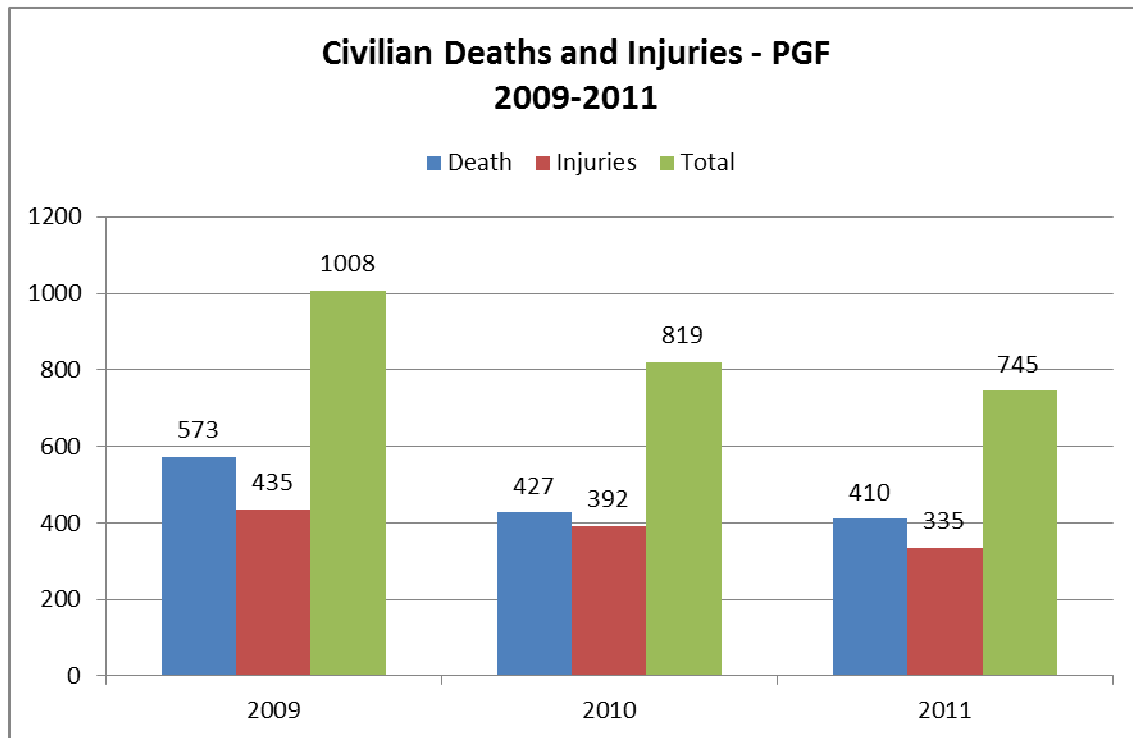
The ability of Anti-Government Elements to carry out these crimes with impunity reflects the power of these groups in some remote areas and an acute gap in the Government's ability to provide protection, rule of law and governance for civilians in these areas.

## Pro-Government Forces and Protection of Civilians

In 2011, 410 civilian deaths were attributed to Pro-Government Forces, a decrease of four percent compared with 2010. 14 percent of all civilians killed in 2011 were attributed to Pro-Government Forces, a one percent decrease from 2010. 335 civilians were injured as a result of operations of Pro-Government Forces in 2011, a decrease of 16 percent from 2010.

Similar to 2009 and 2010, in 2011 aerial attacks accounted for the most civilian deaths by Pro-Government Forces at 187 deaths, or 44 percent of the total civilian deaths attributed to these forces. Kunar province in the eastern region experienced almost a third of all civilian deaths from aerial attacks caused by Pro-Government Forces reflecting the geographical shift in the conflict over 2011.

In 2011, escalation of force incidents contributed to 38 civilian deaths and search operations accounted for 63 deaths. Ground engagements and other tactics also caused some civilian deaths.



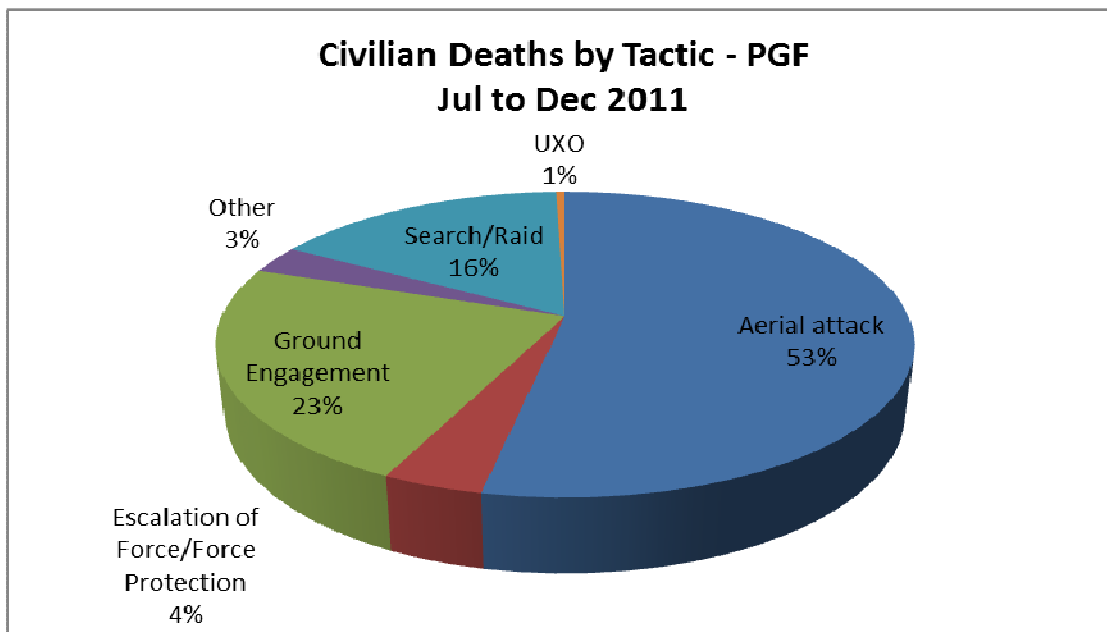
### ***ISAF Statements and Tactical Directives***

UNAMA welcomes the increasing attention ISAF has placed on minimizing civilian casualties through the extensive resources provided to the ISAF civilian casualty mitigation team, and renewed measures to review and update tactical directives and retrain troops on them.

Following Commander ISAF's (COMISAF) issuance of two official statements on civilian casualties in the first six months of 2011,<sup>61</sup> the new COMISAF, General John Allen issued two public tactical directives that concerned civilian casualties (30 November 2011) and the conduct of night search operations on 1 December 2011. ISAF informed UNAMA that it issued two additional internal tactical directives concerning convoy protection and entry into medical facilities.

Consistent with previous tactical directives from COMISAF, the directive of 30 November 2011 on civilian casualties emphasized that COMISAF's "intent is to eliminate ISAF caused civilian casualties across Afghanistan, and minimize civilian casualties throughout the area of operations by reducing their exposure to insurgent operations".

UNAMA stresses that in view of the increased number of civilians killed by aerial attacks in 2011, ISAF should take further measures to reduce civilian casualties caused by air strikes, ensure prompt thorough investigations with appropriate remedial action and publicize findings and actions taken.



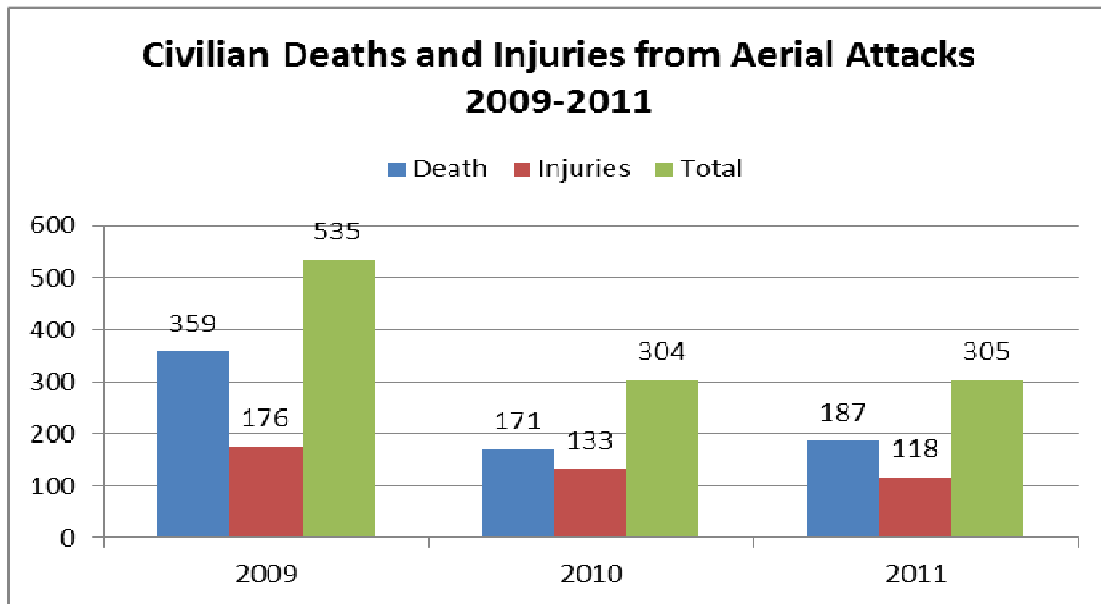
### **Aerial Attacks**

*I am a teacher and I left the village to go to the district headquarters to get my salary. When I returned, there was a fight between the Taliban and the ANA and ISAF. A jet arrived and bombarded the Taliban's position but they also hit two houses. I was wounded while I was close to a house and I saw 13 people wounded inside that house. Some people carried me to the District Headquarter in Asmar and then to the hospital in Assadabad.*

—Civilian, Kunar province, Ghaziabad district, 20 October 2011

<sup>61</sup> On 12 May 2011, then COMISAF General Petraeus sent a letter to all the troop-contributing States to provide recommendations on pre-deployment training to minimize civilian casualties. On 15 May he sent a letter to all ISAF members in Afghanistan titled "COMISAF's Guidance Concerning Civilian Casualties (CIVCAS)". See UNAMA's 2011 *Mid Year Report on Protection of Civilians*.

In 2011, aerial attacks remained the tactic that caused the most civilian deaths by Pro-Government Forces. 187 civilians were killed in aerial attacks, a nine percent increase compared to 2010 (171 civilians died in air strikes in 2010). This rise in civilian deaths from air strikes reverses the decline seen in 2010 and accounts for 44 per cent of the total civilian deaths caused by Pro-Government Forces in 2011. The increase in civilian deaths occurred despite reduced numbers of aerial operations by ISAF/Operation Enduring Freedom using fixed or rotary-wing aircraft (from 1,816 in 2010 to 1,675 in 2011)<sup>62</sup>



Unlike in 2010 and 2009 when the southern region experienced the most casualties from aerial attacks, the eastern region saw the majority of civilian deaths from aerial attacks, particularly in the last half of 2011 with 36 civilians killed. Deaths in the southeastern region from this tactic doubled to 24 in the last half of 2011 compared to the same period in 2010.

The southern region marked a decline in civilian deaths from air strikes in the second half of 2011 with 20 deaths and 14 injuries, down from 38 deaths and 27 injuries in the last half of 2010. In 2010, 86 percent of the 38 airstrike deaths occurred in Helmand province; in 2011, 81 percent of the 11 deaths from air strikes in the southern region also occurred in Helmand province.

The shift from the southern region to the eastern and southeastern regions maybe attributed to increased security in the south due to the military surge there and improved border security forcing Anti-Government Elements into other areas. Kunar in particular became a key crossing point for Anti-Government Element's into Afghanistan in the past year following ISAF's withdrawal from three bases in the province.

<sup>62</sup> Close air support missions (CAS) with weapons of fixed and rotary-wing aircraft in Afghanistan numbered 1,675 that included 4,896 sorties with weapons releases in 2011 down from 1,816 CAS missions entailing 5,101 sorties with weapons releases in 2010. See US Air Forces Central Public Affairs News Release, 'Combined Forces Air Component Commander 2008 – 2011 Statistics', 2 January 2012.

As a result, 2011 saw an increase in civilian deaths from air strikes, particularly in Kunar and Nuristan provinces. Anti-Government Elements' increased focus on these areas and consequently increased operations by ISAF/Operation Enduring Freedom led to more armed clashes where aerial attacks were used causing civilian casualties.

UNAMA is concerned that greater reliance on aerial attacks to control volatile border regions which lack ground forces to engage Anti-Government Elements could result in increased civilian casualties. Representative incidents include:

- An aerial attack on 5 July 2011 in Khost province, Shamal district resulted in the deaths of three women and eight children, one of whom was five days old.
- On 15 August in Kunar province, Narang district, in response to an attack by Anti-Government Elements against an ANA checkpoint with heavy weapons and small arms, ISAF responded with a close air support mission. Some rounds missed the intended target and impacted two civilian residences, wounding 12 civilians, including nine female children and two male children.
- On 25 August in Logar province, Baraki Barak district, ANA requested ISAF close air support during an operation on a *shurah* member's compound hosting a Taliban commander and four Taliban members. The aerial attack caused the deaths of one woman and her four children.

### **Search Operations**

*It was 12 o'clock at night; it was our turn to water the crops. I got ready to go out and help my uncle and his sons doing the work. I took a hand torch and a shovel with me. As soon as I opened the gate of my house I came under attack. I did not know who and why someone fired at me. I did not see anyone's face. I got shot from behind in my thigh. The bullet broke the bone and I fell on the ground. I heard the sound of firing.*

—25-year old farmer, shot on 13 July, during a night operation at a civilian compound in Matun district, Khost province<sup>63</sup>

Civilian deaths from search and seizure night operations or “night raids” documented by UNAMA followed the downward trend seen in 2010 and 2009.<sup>64</sup> In 2011 UNAMA documented 63 civilian deaths from such operations, representing a 22 percent decrease from 2010.

Despite fewer civilian casualties, night raids continued to generate controversy and anger among Afghans countrywide. Although ISAF command has consistently stated that night operations deliver tactical results unachievable by other means, the Government has long expressed concerns that night operations carried out by international military forces in particular violate the sanctity of the home, infringe on Afghanistan's sovereignty and fail to respect cultural practices.

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<sup>63</sup> UNAMA interview with victim, 24 August 2011, Gardez.

<sup>64</sup> Accurate data on numbers of night search operations and civilian casualties from “night raids” is difficult to obtain because such information is generally classified. Data on the total numbers of night raids carried out by a range of Afghan and international military forces, special forces, special operations forces and other government agencies, jointly and independently and any civilian casualties from all such operations is not publicly available. Given both limitations associated with the operating environment and limited access to information, UNAMA maybe under-reporting the number of civilian casualties from night search operations.



UNAMA recognizes that most night operations do not result in civilian casualties. Concerns remain however regarding some night operations carried out based on weak intelligence, failures by forces involved to exercise tactical patience and follow applicable tactical directives and procedures resulting in harm to civilians.

ISAF continued to take steps to minimize the impact of night operations on civilians. Operational procedures outlined in the 1 December 2011 Tactical Directive for ISAF night operations articulate Commander ISAF's intent to ensure that ISAF and ANSF conduct partnered night operations "in a manner which minimizes disruption to Afghan civilians, protects their property, prevents civilian casualties and shares maximum information possible with local leadership and civilians before, during and after an operation". The directive encourages ANSF to take the lead on operations, requires that the provincial governor or his designated representative be notified prior to the commencement of an operation, provide written notification of any individuals detained within 24 hours where possible and that entry is initiated by 'soft-knock' with an Afghan led call-out in local language<sup>65</sup>.

UNAMA received many reports from communities across the country, particularly in the southeastern region indicating that the standard of partnered operations was not often followed in night search operations.<sup>66</sup>

UNAMA also found that ISAF and ANSF communication with affected local communities after night search operations could be improved. Communities' lack of information about the reasons for and results of night search operations fostered mistrust, fear and opposition to Pro-Government Forces and the Government. UNAMA recommends that Afghan elements and/or ISAF promptly brief local communities in full after each night operation, including on disclosure of evidence found in the raid and detention of any individuals.

Examples of night operations resulting in civilian casualties include:

- On 13 July, in Khost Matun district of Khost province six civilians including two children were killed and two others were injured in a night operation.
- On 14 July 2011 four civilians including one child were killed during an ISAF night operation in Sayed Abad area, Nad Ali district, Helmand province.
- On 19 July in Kunar province, Asmar district, Shal village, ISAF Special Forces and ANA commandos conducted a raid on a civilian house that caused the deaths of two students and the wounding of another.

### **Investigations by ISAF and ANSF into Civilian Casualties**

ISAF continued to take steps to minimize civilian casualties caused by coalition troops including through the Civilian Casualty Mitigation Team (CCMT) which tracks all incidents of alleged ISAF-attributed civilian casualties. Within the CCMT, a Civilian Casualty Tracking Cell (CCTC) operates 24 hours a day, seven days a week and tracks the incidents in a database, assists ISAF with investigations of civilian casualties, and provides lessons learned to the ISAF chain of command. COMISAF General John Allen is briefed daily on all civilian casualty incidents.

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<sup>65</sup> General John. R. Allen, Commander ISAF/USF-A, COMISAF Night Operations Tactical Directive, 1 December 2011.

<sup>66</sup> UNAMA interviews July to December 2011.

### *Joint Incident Assessment Teams (JIAT)*

In 2009, ISAF created an investigative body called the Joint Incident Assessment Team (JIAT) that deploys to sites of alleged civilian casualty incidents. It is a combined ISAF-ANSF group with a rapid-response capability. The ANSF component has both Afghan Ministry of Defence and Afghan Ministry of Interior representation.

Allegations of civilian casualties received by ISAF are initially assessed by the local commander on the ground. Following initial assessments, ISAF Joint Command may task a JIAT to visit the area to look into the incident and report their findings. This generally occurs after the local commander on the ground has conducted his own immediate assessment and spoken to local elders.

A JIAT consists of a team leader of at least a one-star general (brigadier) rank, an executive officer, a public affairs (or media operations) officer, a legal officer, a medical adviser, and other subject matter experts such as Apache helicopter pilots, fast jet pilots or other specialists. ISAF notes that JIATs entail comprehensive fact-finding including interviews, analysis of video footage prior to operations and weapons system video from aircraft or helicopters that have been involved in engagements on insurgent positions<sup>67</sup>.

Although the JIAT is a strong step towards improving investigation of civilian casualty incidents, JIATs are fact-finding rather than investigation mechanisms and are only deployed for certain incidents mainly those with a high number of civilian casualties or issues with political resonance. UNAMA notes that JIATs can lack objectivity and appear biased since all fact finders are members of ISAF and ANSF with no oversight or participation of independent individuals or experts. This problem is exacerbated by the lack of transparency regarding JIAT findings and follow up.

UNAMA highlights that neither the JIAT nor other ISAF investigation teams release public reports of investigation results. Prompt and public release of investigation findings would promote transparency, accountability and better relations with affected Afghan civilians and communities. UNAMA recommends that ISAF and the ANSF form a permanent, professional group to focus full-time on civilian casualty incident investigations and follow up.

### *Compensation*

On 11 June 2010, NATO adopted non-binding policy guidelines for addressing cases of civilian combat-related casualties, which focus on: prompt acknowledgement of civilian casualties or damage to property in combat-related cases and a requirement for investigating possible cases of civilian casualties, or damage to civilian property and provision of necessary information to the ISAF Civilian Casualty Mitigation Team. The guidelines stipulated that assistance should be offered in coordination with village elders or alternative tribal structures, as well as district-level government authorities and that systems by which payments are determined and made should be as simple, prompt and transparent as possible and involve the affected civilian at all points feasible<sup>68</sup>.

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<sup>67</sup> Statement by Lieutenant Colonel Mark Wenham, ISAF Joint Command, 'Assessing civilian casualties in Afghanistan', 27 June 2011.

<sup>68</sup> ISAF, Non-Binding Guidelines for Payments in Combat-Related Cases of Civilian Casualties or Damage to Civilian Property, June 2010.

Although the system is in place, many Afghan civilians continued to receive limited information on how to pursue a claim for compensation from the Afghan government and ISAF if troops did not provide the appropriate forms at the scene of an incident that caused civilian casualties. The lack of a uniform compensation mechanism process and limited public information on how the process works compounded civilians' frustration and anger at civilian casualties and property damage by Pro-Government Forces.

### ***Afghan National Security Forces and Protection of Civilians***

*My brother told me that ANA were firing at his vehicle and must have shot more than 200 bullets. Before my brother could drive behind a nearby wall to take cover, a bullet penetrated the car and killed my daughter. She was only five years old. There were only my brother and six children in the car and all the children were below seven years of age. I do not understand why they were shooting at the car, as they just searched it beforehand. There was no reason for that. Then the ANA approached the car, and my brother was outraged. He was unarmed but approached the ANA captain, took him by his jacket and yelled at him why he had done that. Then the captain told one of his soldiers to shoot my brother but that did not happen. We are furious. If these people do not get punished, then something must happen<sup>69</sup>.*

—Father of a five-year old girl shot dead by ANA at a checkpoint, Gardez Paktya province 13 November 2011

Given the joint nature of some military operations and the difficulty to distinguish between forces, particularly in remote areas, UNAMA's civilian casualty figures for Pro-Government Forces include both international military forces and ANSF.

With the transition of security responsibility from international military forces to ANSF<sup>70</sup>, UNAMA's monitoring of civilian casualties caused by Pro-Government Forces, particularly in the second half of 2011, included an enhanced focus on actions by ANSF.

In addition to ANA, ANSF includes, ANP, NDS, ANBP, ANCOP and ALP when they are directly taking part in the hostilities. Between July and December 2011, UNAMA documented 41 civilians killed and 133 injured as a result of ANSF operations and actions. This represents a 192 percent increase in civilian deaths and 55 percent increase in civilian injuries compared with the same period in 2010 (UNAMA recorded 14 civilian deaths and 49 injuries in the last half of 2010).

In 2011, UNAMA documented minimal increases or decreases in civilian casualties caused directly by ANSF in transitioned areas.

#### ***Accountability for ANSF-Caused Civilian Casualties***

Most of the civilian casualties attributed to ANSF in 2011 occurred during ground engagement following attacks on ANSF checkpoints or vehicles by Anti-Government

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<sup>69</sup> UNAMA interview with father of the five-year old girl killed, Gardez, Paktya, 13 November 2011.

<sup>70</sup> The first phase of transition began in July 2011, with the transfer of security responsibilities from international military forces to Afghan forces in two provinces, four municipalities and all districts of Kabul province except Sarobi. The second phase of transition started in November 2011 and includes seven provinces and ten districts with ANSF currently responsible for approximately 50 percent of the country's security.

Elements, or escalation of force incidents. UNAMA monitored the investigation of several cases which *prima facie* amounted to a serious violation of human rights.

For example, on 7 November 2011 in Paktya province, Gardez city area, ANA searched a vehicle driven by a doctor with six children below the age of seven in the vehicle. After the vehicle left the checkpoint, ANA opened fire on the vehicle, killing a five-year old girl sitting in the backseat. The driver reported that during the verbal exchange immediately following the incident, the commander ordered ANA soldiers to shoot the driver (which they did not do). Three soldiers and the commander were arrested. According to the Office of the ANA prosecutor in Paktya, the investigation is finalized and ready for transfer to court.<sup>71</sup> However, the circumstances initiating the shooting remained unknown to the victim's family (and UNAMA) and it is unclear whether the incident prompted any actions such as a procedural review, internal investigation and training to prevent such incidents.

Following are examples of other ANSF cases:

- On July 5 in Nuristan province, Kamdesh district, Anti-Government Elements attacked an Afghan National Border Police (ANBP) check posts with heavy weapons and small arms. As a result of cross firing, 10 civilians, including two women and three children were killed.
- On 3 December in Kunar province, Anti-Government Elements fired on an ANA convoy traveling from Assadabad to Manogay district. ANA responded to the attack and the cross-fire killed a female child and wounded another child.
- On 29 May in Helmand province, Laskargha city, an ANA officer fired at a vehicle after it failed to stop at a check post, killing the civilian driver and wounding another civilian.
- On 14 March in Uruzgan province, Tirinkot district, ANP fired at a civilian vehicle after the driver ignored ANP's signal to stop, killing one civilian male.

Regarding the ANA's investigation procedure for civilian casualty incidents, a permanent unit does not exist in the ANA to track and investigate civilian casualties. The legal chief of the Ministry of Defence is the focal point for civilian casualties and ad hoc investigative teams are established to investigate civilian casualties caused by ANA. Investigation results are generally not public.

The procedure for investigation is within the existing procedures of ANA. The ANA regional corps<sup>72</sup> reports all security incidents daily, including civilian casualties that occurred in their respective regions to the Operations Directorate of the Ministry of Defence (MoD). The Operations Directorate forwards civilian casualty incidents involving ANA to the Legal Directorate, which reviews each case and determines which incidents require investigation. These are returned to the respective regional corps for investigation, which is led by the military prosecutor. If the prosecutor's investigation indicates misconduct the case is referred to the military court and prosecuted in

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<sup>71</sup> UNAMA meeting with ANA Chief Legal Officer, Kabul, 22 January 2012.

<sup>72</sup> ANA maintains seven Regional Corps: 201st Corps Kabul, 203rd Corp Gardez, 205th Corps Kandahar, 207th Corps Herat, 209th Corps Mazari-Sharif and 215 Corps Lashkar-Gar.

accordance with Afghan law<sup>73</sup>. A similar procedure is in place within the Ministry of Interior (Mol).

On 12 December, UNAMA met with the Chief of Legal Defence, Ministry of Defence and requested information on five incidents regarding civilian casualties as a result of ANA actions. The Legal Defence Chief reported the ANA had investigated several of the cases and the perpetrator had been found guilty. UNAMA requested detailed information on investigation results and prosecution of the five cases, and asked whether ANA could provide an annual report of ANSF-caused civilian casualties.<sup>74</sup> The Legal Defence Chief advised UNAMA that for the period March 2010 to August 2011, 1,325 individuals were convicted including 130 ANA officers, 404 captains, 783 ANA soldiers and eight civilian personnel. 66 percent of these cases were absence from duty, 11 percent violations of traffic regulations that resulted in death, injury or property damage, 1.5 percent illegal possession of weapons, 4.5 percent for losses of weapons, two percent for deliberate murder and the remaining 15 percent for other offences.<sup>75</sup> UNAMA notes that it is unclear which of these cases if any involved incidents of civilian casualties.

Although the procedure carried out by MoD and Mol is compliant with relevant laws, specific measures to track civilian casualties could strengthen oversight and accountability, and promote prevention of civilian casualties through better operational practices. UNAMA recommends that the ANA establish an impartial expert body to investigate and document civilian casualties, and ensure lawful recourse and remedial actions as necessary. While some cases of misconduct result in prosecution UNAMA notes that in the immediate stage following an incident, suspects were often arrested but in most cases the outcome was not clear (or the suspect released) and investigative findings were not communicated to victims and/or their families.

In addition to strengthening accountability, establishing a mechanism for tracking civilian casualties in the ANA could enable identification of patterns, areas requiring improvement, focus issues for training and build transparency and credibility.

#### *Compensation*

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

As transition of lead security responsibilities to the ANSF continues in 2012, it is important that ANSF establish a regulatory system for compensation, which involves thorough investigations into all civilian casualties and damage to property. ISAF could give guidance and support to the ANSF on how to practically establish and implement these mechanisms.

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<sup>73</sup> UNAMA meetings with Chief Legal Defence, Ministry of Defence, Kabul, 2 and 12 December 2011.

<sup>74</sup> Ibid.

<sup>75</sup> UNAMA meeting with General Nuristani, Chief of Legal Defence, Ministry of Defence, Kabul, 25 January 2012.

## Shelling in Afghanistan from Pakistan's Military Forces

In 2011, UNAMA documented civilian casualties in Afghanistan from counter-insurgency operations carried out by Pakistani military forces in the Federally Administered Tribal Areas (FATA) bordering Kunar, Nangarhar and Nuristan provinces. Provincial authorities confirmed these operations killed 18 civilians and injured 36 (all inside Afghanistan) and displaced hundreds in Kunar and Nangarhar provinces.

All verified cases occurred between June and December 2011. On 13 December, Pakistani military forces fired approximately 30 artilleries and PK rounds toward suspected positions of Pakistan based insurgents that had reportedly crossed the border into Afghanistan.<sup>76</sup> Two artillery rounds impacted on two residences in the Daba area of Kamdesh, Nuristan. An artillery round hit a civilian residence, killing one woman and wounding another woman and four children. The second round impacted on a civilian residence, destroying the residence and killing 14 livestock. UNAMA received reports of civilian casualties from this second incident but could not confirm them at the time of writing of this report. Pro-Government Forces have also impacted some civilian casualties in Pakistani territory as part of their operations against the insurgency in Afghanistan.

## Afghan Local Police and Protection of Civilians

### Overview

Over the last year, the Government and ISAF have relied increasingly on the recruitment of Afghan Local Police (ALP) and other local defence initiatives to secure remote or rural areas.<sup>77</sup> The ALP was formed in specific regions where the ANP or ANA were not present in sufficient numbers to provide adequate security to local communities.<sup>78</sup>

The ALP comprises individuals recruited locally to provide security within a limited geographic area. They are less expensive to recruit and maintain than either ANA or ANP units as they receive less pay and less training. ALP has no role in or powers of law enforcement (in spite of their name) and lack the authority to arrest although they are allowed to hold individuals temporarily.

According to ISAF, the ALP is different from previous initiatives such as the Afghan National Auxiliary Police (ANAP) and the Afghan Public Protection Program (AP3) which

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<sup>76</sup> UNAMA excluded in its total number of civilian casualties for 2011 those deaths and injuries of Afghan civilians caused by shelling from Pakistan. Pakistan's Ambassador to Afghanistan, Mr. Sadeq was reported to have told Afghanistan's foreign minister "I told them that the Pakistani forces targeted militants from the Tehreek-e-Taliban Pakistan (TTP), not Afghan civilians. However, the loss of life and property is regrettable". See *Express Tribune* at <http://tribune.com.pk/story/261277/cross-border-shelling-kabul-delivers-rebuke-to-pakistan-envoy/>.

<sup>77</sup> According to a 3 January 2012 briefing by the ISAF Deputy Chief of Staff of Operations at ISAF Headquarters in Kabul, ISAF identifies four categories of "local defence forces" that operate outside the Afghan Government's control. These include "Community-Based Security Solutions (CBSS)", the Critical Infrastructure Protection (CIP) Program, Intermediate Security for Critical Infrastructure (ISCI) and the Afghan Public Protection Program (AP3), and Local Security Forces (LSF). This last category, LSF, includes unlicensed private security companies, militias, and *arbakai* forces still in operation. The ISAF briefing stated that all such groups are either in the process of being disbanded, planning to be disbanded, planning to transfer to the Government's control or to transition to ALP.

<sup>78</sup> Throughout Afghanistan, many Afghans use the general term "*arbakai*" for the ALP and other local defence initiatives.

focused only on security. ISAF notes that the goal of ALP which operates under the Village Stability Operations (VSO) Program (that embeds US Special Operations Forces-USSOF teams in key villages and rural areas to mobilize communities against Anti-Government Elements), is community mobilization through simultaneous focus by USSOF teams and support forces on security improvements together with governance and development.<sup>79</sup>

ISAF states that this approach aims to provide improved security at the local level that can translate into stability and improvements in civic and social prosperity. These local effects in rural Afghanistan can then be connected by Afghan government officials such as governors and police chiefs at the district and provincial level to Kabul, improving the Government's reach and influence in rural areas. ISAF states that ALP provides an enduring physical security presence that operates with local support and national approval and oversight, is a key piece in the comprehensive joint Afghan-ISAF counter-insurgency effort and part of the wider Afghan-ISAF security network.<sup>80</sup>

UNAMA has systematically observed developments with the ALP throughout Afghanistan since President Karzai announced its creation in August 2010.<sup>81</sup> At the end of 2011, most interlocutors reported to UNAMA that ALP had improved the security environment in the areas they operated, meaning they kept insurgents out of areas.

Concerns continued to be raised however regarding the mid and long-term impact of the ALP and whether these forces would in the longer-term improve civilian protection or reduce it.

ISAF and Combined Forces Special Operations Component Command–Afghanistan (CFSOCC-A) state that they assess ALP is making significant gains in tactical and technical proficiencies to combat insurgent capabilities and that these gains are sustainable with adequate logistics support and continued US Special Operations Forces or Afghan National Security Forces mentoring.<sup>82</sup> UNAMA notes this raises the question of whether these security gains can be maintained over the longer term and further to a drawdown and eventual withdrawal of international military forces including USSOF support and reduced or inadequate ANSF mentoring.

According to ISAF, the long-term plan for ALP is not yet decided and whether such forces will be integrated into ANP or other government forces or remain as a distinct programme within the ANSF.<sup>83</sup>

Over 2011, UNAMA observed weaknesses in the recruitment, vetting, training and discipline of ALP as local communities in some areas reported ALP involvement in criminality and serious human rights violations, including the displacement of civilians, abduction, physical and sexual abuse and extortion. UNAMA observed that command and control structures could be strengthened, they varied from location to location, and resulted in a lack of accountability and oversight of some ALP operations.

In addition, despite procedures for the vetting of individuals required to be conducted by local *shuras*, UNAMA observed that in some areas local power brokers influenced which individuals were nominated and ratified as ALP members with some individuals with

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<sup>79</sup> UNAMA meetings with Deputy DCOS Operations HQ ISAF and staff, Kabul, January 2012.

<sup>80</sup> UNAMA meetings with Deputy DCOS Operations HQ ISAF and staff, Kabul, January 2012.

<sup>81</sup> See sections on the ALP in UNAMA's *2010 Annual Report on Protection of Civilians*.

<sup>82</sup> UNAMA meetings with Deputy DCOS Operations HQ ISAF and staff, Kabul, January 2012.

<sup>83</sup> Ibid.

documented human rights abuses joining the ALP. In some cases, the ALP did not appear to reflect the ethnic balance in the areas they operated adding to tensions within communities. In some areas, former illegal armed groups were absorbed into ALP raising concerns in local communities that the ALP was used to legitimize such individuals and their activities.

#### *Structure of Afghan Local Police (ALP)*

In August 2010, ISAF and the Government of Afghanistan established the Afghan Local Police (ALP) as a mechanism in the Ministry of Interior (MoI) to support unstable districts, to protect remote rural areas and deter infiltration of armed opposition groups and to create an environment for improved governance and development. As of 26 January 2012, there were 57 validated districts in which approximately 11,066 ALP operate. The MoI approved the recruitment of 30,000 ALP to serve in 99 districts throughout the country. The ALP is funded by the US Government through the Afghan Security Forces Fund for all 30,000 through 2015. ISAF states that currently up to four million Afghans reside in areas partially protected by VSO Special Operations Forces/ALP sites.<sup>84</sup>

ALP units are required to operate within the local ANP command structures, with district level units reporting directly to the district ANP commander under the supervision of the provincial chief of police. ALP members receive 21 days of training required to be supplemented by mentoring schemes. In many areas, US Special Operations Forces play a mentoring role to ALP units prior to handing this role over to conventional ANSF. Other than the general guidelines for the ALP stated in the Afghan Local Police Establishment Procedure of August 2010 and adjusted in January 2012, there is no clear legal framework regulating their particular operations or rules of engagement.

ALP units are required to operate only within their limited area of operation. They are not permitted to travel across districts, take their weapons outside their area of operation or take part in offensive military operations. Unless specifically requested by ANP, the ALP are not authorized to perform law enforcement tasks, including the arrest of criminal suspects; they have the authority to detain ('temporarily hold persons of interest') individuals captured during combat or suspected members of Anti-Government Elements.<sup>85</sup> This role in the detention of combatants and suspected insurgents is not clearly defined and there are no instructions on how to handover detained individuals to ANP, ANA or NDS, to ensure adequate conditions of detention, awareness of detainee rights or proper treatment of individuals in their custody.

#### *Vetting and recruitment*

Under the prescribed procedure, district *shuras* are required to nominate potential ALP recruits paying close attention to ensure local tribal and ethnic groups are equitably represented. The Ministry of Interior has teams that biometrically enroll all ALP into the MoI national databases, impose an age bracket (18-54 years) and require a urine analysis test with disqualification for opiates. District and provincial authorities, including ANP through local chiefs of police and NDS, are responsible for determining the suitability of candidates to serve in the ALP, but they are under no obligation to remove potential recruits suspected of criminality or conflict-related abuses.

UNAMA observed that in practice, this recruitment framework has been applied unevenly with some district *shuras* deferring to local power brokers in recruiting

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<sup>84</sup> Ibid.

<sup>85</sup> Afghan Local Police Establishment Procedure adopted August 2010 and adjusted January 2012.



candidates. In the vast majority of districts, UNAMA noted that no individuals were excluded from serving in ALP through the recruitment process.<sup>86</sup> In numerous districts, communities reported that the recruitment process resulted in former militia groups, loyal to local power brokers, being rearmed and remobilized.

For example, UNAMA observed that district authorities converted local pro-government militias into ALP units in Shindand district (Herat province), Qaisar district (Faryab province), and Sayyad district (Sari Pul province). In all three cases, local communities in these districts alleged that these militia groups were involved in criminality or human rights abuses. Yet no members of these militias appeared to have been excluded during the recruitment process.

In other districts, such as Ghoshta district of Nangahar province and Sayyad district in Sari Pul province, UNAMA found that some ALP recruits were former combatants that had previously been disarmed and demobilized under the DDR (Disarmament, Demobilization and Reintegration) and DIAG (Disbandment of Illegal Armed Groups) schemes.

UNAMA received reports of ALP commanders pressuring local community members to join their ALP forces. UNAMA received allegations that ALP commanders in Khas Uruzgan and some other districts of Uruzgan province attempted to force local villagers into service. In Shah-Wali-Kot district, residents of three villages told UNAMA that a local ALP commander known as “Bad Shah” asked each family for a son to join his ALP unit.<sup>87</sup> This resulted in displacement as numerous families fled their homes to avoid recruitment into the ALP.

UNAMA also observed attempts to forcibly recruit children into the ALP. Tribal elders in Paktika province contacted UNAMA to report that a local ALP commander had been forcibly recruiting school children in Urgan, Barmal and KhairKot districts. After the interventions of district and provincial level officials, all children were returned to their schools and no child is presently serving in ALP units in Paktika. UNAMA received similar reports of forced recruitment of children in Shindand and Qadis districts of Farah province, although in most districts Ministry of Interior officials excluded children during the vetting process.

### *Command and Control*

Although the district ANP commander through the provincial chiefs of police maintain overall responsibility for the command of district ALP, in practice command and control varies widely. As ALP are usually deployed to areas in which regular security forces are absent or in low concentration, ALP units routinely operate with limited oversight, management and command from centralized security structures. Given the overall brevity of training for ALP, the quality of commanders has a greater influence on the effectiveness of ALP units and the overall discipline of the force. UNAMA has found that in rare instances district or provincial ANP commanders exercise some effective command and control over ALP units. In some districts, such as Kunduz district, Kunduz province, US Special Forces used their mentoring role either to provide effective leadership or to reinforce ANP’s chain of command over ALP. In most cases, however, the ALP commander maintains full control of the units in his district with little ANP involvement.

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<sup>86</sup> UNAMA documented that only in Khak-e-Safid and Qala-e-Kah districts of Farah province did it appear that provincial and district authorities excluded individuals who failed the drug test from ALP enrollment.

<sup>87</sup> UNAMA interviews with community elders and *shura* members November 2011 and January 2012.

In some areas, the ANP has tried to reinforce its chain of command in a variety of ways in an effort to maintain operational control of ALP. For example, in the northeast region, ANP second officers to work within the ALP units working in districts on the outskirts of provincial capitals. These ANP officers ensure that the lines of communication remain open between the ALP in those districts and the ANP provincial chiefs of police and their deputies. In more remote districts in the region, ALP report through the usual chain of command to the district police chiefs. US Special Forces actively worked to reinforce this chain of command in Kunduz district to ensure that decisions, allocations of resources, operations, etc. were channeled through the ANP. Police commanders responsible for oversight of the ALP have also maintained this chain of command through regular visits to every ALP post, manual distribution of salaries and attendance in ALP meetings.

UNAMA observed instances in which the lack of effective command has led to breakdowns in the cohesiveness of ALP forces, particularly those comprised of former Anti-Government Elements or illegally armed groups recently demobilized and reconciled through the APRP or DIAG processes. In some areas, local residents alleged that ALP members maintained close contacts with Anti-Government Elements and at times, assisted them or even switched their allegiances.<sup>88</sup> In August 2011 in KhasUruzgan district of Uruzgan province several ALP defected to the Taliban after killing their commander, who had formerly been an insurgent until reconciling with the Government. UNAMA received allegations that the killed commander had forcibly recruited many of these ALP defectors and most were of Pashtun ethnicity. Such circumstances raise concerns not only about ALP command structures, but also vetting and recruitment processes and the weakness of ANP oversight of ALP forces.

#### *Oversight and Accountability*

UNAMA observed that ALP reinforced the existing power dynamics in many local communities. This power dynamic, combined with the absence of functioning government structures and effective oversight and accountability mechanisms in some areas where the ALP operate created a *de facto* environment of impunity. UNAMA received some reports of serious misconduct by ALP including allegations of murder, rape, assault, abduction, forced marriage, threats, extortion and theft.<sup>89</sup>

UNAMA received reports that the ALP was abusing its authority and operating illegal vehicle check posts to extort money, forcing communities to pay 'taxes' to their commanders, and other abuses of power.<sup>90</sup> In late 2011, in Urgan district of Paktika province, UNAMA received numerous reports of a local ALP commander demanding that local residents pay a 10 percent tax to him. Residents refused and brought their complaints to UNAMA. When made aware of these complaints, the district chief of police denied the villagers' claims. The chief of police in Baghlan province noted that his officers received many verbal complaints that ALP were charging local residents *ushar*, or taxes, but the ANP said they had problems in proving such cases.

According to ISAF, oversight mechanisms for the ALP comprise the Ministry of Interior through district and provincial chiefs of police, local elders and *shuras* (traditional Afghan

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<sup>88</sup> In Shindand district of Herat province, UNAMA received complaints of local ALP assisting Anti-Government Elements in transporting improvised explosive devices (IEDs).

<sup>89</sup> UNAMA received allegations of abuses by ALP members in nearly every part of the country where the ALP operate.

<sup>90</sup> Complaints of the ALP actively trying to levy taxes or extort payments from local communities have been particularly prominent in areas where former pro-Government militias were absorbed into the ALP.

governance mechanisms) and US Special Operations Forces through the VSO.<sup>91</sup> UNAMA notes that existing oversight procedures do not include formal legal mechanisms to investigate, discipline or dismiss ALP. In spite of its oversight responsibilities, ANP, in many districts, has been unable or reluctant to address human rights abuses or crimes committed by ALP due to the influence of local power brokers, the perception that certain ALP groups are 'ISAF protected' or MoI institution-wide weaknesses in accountability for alleged abuses by any Afghan police or security forces.<sup>92</sup> In most cases, it appears that investigation and oversight of ALP members and units is on a case by case basis and only if complaints are filed against an individual.<sup>93</sup>

In some serious cases, such as rape and murder, authorities initiated criminal proceedings against ALP members, but these cases have rarely led to convictions and punishment. For example, in Kunduz district, Government authorities arrested and prosecuted an ALP commander accused of the attempted rape of a child in June 2011. The primary court eventually dropped the case for lack of evidence.

In Baghlan province, the ANP headquarters received complaints concerning ALP misconduct or criminal behavior, including murder, abduction and illegal seizures of land. These complaints have usually been viewed as politically or ethnically motivated leading ISAF and provincial authorities to mediate between ALP and local ANP commanders or residents. In some instances of the ALP seizing private property in Pul-i-Khumri district in the summer of 2011, the local ANP chief told UNAMA that the Criminal Investigation Division could not investigate the ALP commanders because they had the support of US Special Operations Forces.<sup>94</sup>

In late 2011, ISAF conducted an inquiry to assess the credibility of reported abuses by ALP units and concluded that a small number of the allegations were credible.<sup>95</sup> As a result, ISAF stated it would address concerns with the ALP programme including *inter alia*, the need for the Ministry of Interior to train ALP units on practical methods to prevent human rights violations, better define force jurisdiction, position a senior ANP official within ISAF to improve and ensure Afghan involvement in oversight and accountability, and develop local response, reporting and policy procedures for violations committed by ALP members.

UNAMA welcomes these measures to improve ALP conduct, oversight and accountability. ISAF informed UNAMA that many of these measures were underway.<sup>96</sup> UNAMA recommends that all measures and procedures to improve the ALP be implemented fully before the programme is expanded.

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<sup>91</sup> UNAMA meetings with Deputy DCOS Operations HQ ISAF and staff, Kabul, January 2012.

<sup>92</sup> UNAMA observed that the ANP has also been reluctant to exercise oversight in districts where they are outnumbered by the ALP.

<sup>93</sup> In some provinces, such as Qaisar district of Kunduz province and in Shindand district of Herat province, the provincial authorities attempted to mediate between ALP and local communities or refer matters to local *shuras* to resolve when complaints of human rights violations or criminality are made. Provincial officials rarely asked MoI's Criminal Investigative Division to investigate such cases or complaints.

<sup>94</sup> On 7 July 2011, a US Special Forces representative in Pul-i-Khumri told UNAMA that complaints against three ALP commanders would be referred to the Criminal Investigation Division for investigation, but as yet, no legal action has been taken to pursue these claims.

<sup>95</sup> HQ US Forces-Afghanistan, Memorandum for Record, Findings and Recommendations (AR 15-6-Credibility Assessment of Allegations of Human Rights Violations in a Human Rights Watch Report), 6 December 2011.

<sup>96</sup> UNAMA meetings with Deputy DCOS Operations HQ ISAF and staff, Kabul, January 2012.

### ***Overview of the Critical Infrastructure Protection (CIP) Programme***

In the north and northeast regions of Afghanistan, ISAF Regional Command established the Critical Infrastructure Protection (CIP) Program -- a local security initiative designed to protect areas where neither the ALP nor the regular ANSF have been deployed. ISAF tasked CIP forces with protecting 'strategic villages' from Anti-Government Elements. There are 1500 CIP 'defenders' deployed in nine districts in Regional Command North.

Although CIP forces report ostensibly to the district chief of police in their area of operations, there is no legal or policy basis for this hierarchy or relationship. CIP units received only the most basic, if any, training, and its forces do not register their weapons. They also lack any legal mandate or standards for the use of lethal force.

It is unclear what criteria was used in the recruitment of these individuals, but many CIP recruits appear to have been former members of pro-Government militia groups. The CIP forces in Jawzjan, Faryab, and Balkh provinces were almost entirely taken from the ranks of unofficial pro-Government militias that had been demobilized through the APRP or DIAG processes. CIP forces in many districts did not reflect the ethnic balance of the areas they serve. For example, UNAMA observed that despite the Aliabad district of Kunduz province being a majority ethnic Pashtun district, the CIP force there is comprised of many individuals of Tajik ethnicity with only five Pashtuns represented.<sup>97</sup> Similar dynamics prevailed in the CIP forces in Chardara and Qala-e-Zal districts of Kunduz province.

The ability of ANP district commanders to exercise effective command and control over CIP forces is limited. In many cases the reputation of CIP commanders carries far more weight, respect or fear than ANP police chiefs from the districts or provincial levels. Given that CIP operate in areas with minimal ANA and ANP presence, CIP forces often outnumbered district police forces making it difficult for district police commanders to maintain effective command and control. For example, the CIP commander of Qala-e-zal district, Kunduz province commands 150 CIPs while the District ANP chief supervises 22 ANP officers.

On 25 December 2011, President Karzai ordered the disbandment of CIP and other ISAF-inspired local defence initiatives such as the Intermediate Security for Critical Infrastructure (ISCI) and Community-Based Security Solutions (CBSS). ISAF stated it would comply with that order and on 24 January 2012 the International Joint Command (IJC), issued an order focused on the removal and transition of Community Based Security Solutions, including CIP entitled "Amendment to Community-Based Security Solutions and Critical Infrastructure Contracts." ISAF informed UNAMA that joint ISAF-Afghan planning is underway to try and implement the order in a way that does not cause negative security outcomes or consequences for local communities.<sup>98</sup>

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<sup>97</sup> According to unofficial demographic estimates, Aliabad district is composed of 55 per cent Pashtuns, 33 per cent Tajiks, seven per cent Uzbeks and five per cent Hazara.

<sup>98</sup> UNAMA meetings with Deputy DCOS Operations HQ ISAF and staff, Kabul, January 2012.

## Impact of the Armed Conflict on Children

### *Recruitment, Training and Use of Children by Parties to the Conflict*

UNAMA remains gravely concerned about recruitment of under 18-year olds into armed forces and armed groups. In 2011, a total of 212 incidents of child recruitment were reported by parties to the conflict, including ANP, ALP and Anti-Government Element.<sup>99</sup> Of the 212 cases of underage recruitment, verified and unverified, 173 (81 percent) were attributed to Anti-Government Element, 23 by ALP and 16 by ANP. Eleven children, including one eight-year old girl who was asked by unidentified men to carry a package to an IMF base, were killed when executing suicide attacks and a 14-year old boy was killed when planting an IED that prematurely exploded.

In the last half of 2011, UNAMA interviewed 67 boys, in 13 provinces, who were detained in Juvenile Rehabilitation Centres on accusation of association with armed groups. Of these children, ranging in age from 9 to 17, about a quarter had been recruited by Anti-Government Elements to conduct military activities, plant IEDs or plan suicide attacks.<sup>100</sup>

In 2011, Afghan security forces arrested 204 boys under the age of 18 on charges relating to endangerment of national security<sup>101</sup>.

### *Attacks on Schools*

According to verified data from the Country Task Force on Children and Armed Conflict Anti-Government Elements were responsible 28 direct attacks in 2011. This is a decrease from 2010 and 2009. Incidents included burning or attempted burning of school buildings and equipment, intimidation, injury and killing of teachers and students, armed attacks and two incidents of (attempted) suicide attacks in educational school premises.<sup>102</sup>

In addition the Ministry of Education reported another 71 incidents of direct attacks on schools, including one incident in which six teachers were allegedly killed, and one abducted by Anti-Government Elements.<sup>103</sup> Thirty school closures due to Anti-Government Element threat were recorded, as well as 16 incidents of intimidation and extortion. A third of the incidents were confirmed to directly impact girls' education and co-education facilities. In more than half of the incidents the nature of the school (for boys or for girls) was unidentified.

Twelve verified incidents of school occupation by Pro-Government Forces were reported, of which seven occurred in the central region, two in the southern and northern regions and one in the eastern region (Nangarhar). UN Advocacy against the use of schools for military purposes was successful in the central region, where Pro-Government Forces vacated two schools in 2011.

The UN verified 24 incidents of collateral damage to educational facilities during military operations in the vicinity of schools such as RPG and rocket attacks, crossfires and IED

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<sup>99</sup> Country Task Force on Children and Armed Conflict (CAAC), database 2011.

<sup>100</sup> Ministry of Education Monthly Reports to the Country Task Force on incidents affecting schools, students and educational staff, January to December 2011.

<sup>101</sup> Ministry of Justice. Report to Country Task Force for Children and Armed Conflict, January to December 2011.

<sup>102</sup> Ministry of Education. Monthly Reports to the Country Task Force on incidents affecting schools, students and educational staff, January to December 2011.

<sup>103</sup> Ibid.

found near schools, causing damage to buildings in 2011. The Ministry of Education recorded an additional 48 incidents in which schools, students or teachers were affected by collateral damage. The central region (28 percent of all incidents) and eastern region (one percent) were most affected by incidents affecting education.<sup>104</sup>

General insecurity, as well as direct and indirect incidents affecting schools greatly impacted access to education of children, as parents were reluctant to send their children, especially girls, to school. There is no data on how many children who were enrolled discontinued their education in the course of the school year in 2011 from insecurity.

*Children killed and injured by mines and UXOs*

In 2011, out of a total of 561 casualties caused by mines and unexploded ordnance (UXO), 431 were under 18 (76 percent). These figures are consistent with 2010, when 459 child victims were recorded. The eastern region was the most affected (154 victims, 35 percent) followed by the northern and southeastern regions (respectively 17 percent and 10 percent of all child victims). 316 children were injured, and 115 children were killed.<sup>105</sup>

Boys were four times more likely to be injured or killed than girls (82 percent – 18 percent), and boys between the ages of 8 to 15 formed the most vulnerable group, making up more than half of all deaths and injuries. Most accidents claiming child victims occurred while they were playing (30 percent of all incidents), followed by tending animals (15 percent) and collecting firewood (12 percent). Twenty five of the victims were under six years of age, including three babies.



*A child injured in an aerial attack in Marja, Helmand province who died in hospital. Mirwais Hospital, Kandahar, Jacob Simkin©*

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<sup>104</sup> Ibid.

<sup>105</sup> Ibid.