

Report on Civilian Casualties in Afghanistan In 1394



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Afghanistan Independent Human Rights Commission

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Introduction

Unfortunately, armed conflicts in human society are a reality and at present, some of the societies, including Afghanistan are suffering from war and armed conflicts. War and the continuation of insecurity have negative economic, political, social and cultural consequences, but the most serious outcome of continuation of armed conflicts is a human rights violation of the civilians. Many civilians deprived of their human rights during wars and insecurity. Some of them lose their lives or become wounded and the others lose their houses and properties and displace from their native areas. They also lose their other rights, including the right to security and freedom, the right to human dignity, freedom of movement, the rights to work, health, education, access to justice etc.

To decrease the severity of pain and calamities, expansion and severity of violence and more destruction during armed conflicts, the laws of war have been devised. These laws oblige the conflicting parties to observe a series of laws to reduce damages and harms of war, which usually targets the civilians. In other words, the conflicting parties are not allowed to do anything they want under the pretext of war.

Unfortunately, armed conflicts have been going on for many decades in the Afghan society and seriously affected a large number of civilians. The conflicting parties are heedless about the lives and properties of the civilians and they are very careless in this regard. The common expression in our country says, “War is war”. It means that killing, violence and destruction are inevitable in war and their consequences are normal things and acceptable. Probably one reason of civilian casualties in our country is rooted in such way of thinking.

It is worth mentioning that the scope and severity of violence emanating from the war have been intensified during the recent years. The conflicting parties, especially the anti-state armed groups resort to the most violent methods, which are unprecedented in the recent years. For example, beheading of men, women and children in 1394 is unprecedented. For this reason, the AIHRC as a monitoring institution of the human rights situation is very concerned about severity of violence and war as well as increased in civilian casualties.

Civilian casualties would decrease if perpetrators of violation of the International Humanitarian Laws are legally prosecuted and punished according to the enforced laws of our country. Unfortunately, the sufficient capability for the punishment of perpetrators of human rights violation is not witnessed in the government. Impunity from punishment does not help the process, but encourages the perpetrators in resorting to more crimes and even encourages the others to join the terroristic groups. In addition, impunity from punishment causes reduction of public trust on the rule of laws and justice and widens the gap between the State and people.

The AIHRC believes that peace is an urgent need and only in the light of peace, human rights can be respected and observed, but there are some conditions in the peace process, which should

be observed seriously. Justice is one of the preconditions for a permanent peace and the State authorities in Afghanistan should not trespass it as a red line. Maintenance and preserving of 15 years' achievements, fundamental freedoms and human rights, especially women's rights should be the basic preconditions for peace. Justice should not be sacrificed for peace. There is no peace without justice. Experience has proved that peace without justices is a pause between two wars.

The present report is an outcome of consistent monitoring conducted by the AIHRC on the human rights situation and international humanitarian laws situation in Afghanistan. Due to the importance of the international humanitarian laws and taking into consideration the spread of insecurity and armed conflicts, the AIHRC has established the Special Investigation Team. This team monitors the observance of the international humanitarian laws, investigates and documents its related cases. This team also monitors civilian casualties and dealing with perpetrators of national and international crimes in the detention centers.

This report evaluates and discusses civilian casualties occurred in 1394. The information in this report is collected and analyzed by the AIHRC's monitors from all over the country. Although some information in this report may be different from the information collected by other institutions, the AIHRC has confidence in the precision of the information in this report. The AIHRC has documented in detail all cases of civilian casualties and verified their accuracy through interviews with relatives of the victims, hospitals, witnesses and other institutions, including security organs in the country.

In order to evaluate the situation of International Humanitarian Laws during armed conflicts and attract attention of the conflicting parties to observe these laws and the law of war as well, the government of Afghanistan and its international supporters, related organizations and the people, this report has been published. It is hoped that the conflicting sides, including the government of Afghanistan pay attention to the findings of this report and design their policies regarding armed conflicts in a way to minimize civilian casualties and material damages.

Chapter One

General Informaton

About the AIHRC

The AIHRC as a national human rights institution was established based on the Presidential Decree and the provisions of the Bonn Agreement and started its work on 16.03.1381. After the adoption of the Constitution and enshrining of Article 58 in it in 1382, the AIHRC found a strong legal base. In 1384, the Law on the Structure, Duties and Mandates of the AIHRC, based on Article 58 of the Constitution, was approved by the President, and the structure, mandate and the basis of action of the AIHRC was defined. Based on Article two of this Law, "the AIHRC is established in the framework of the Islamic Republic of Afghanistan and operates independently. The AIHRC carries out its activities and duties under the provision of the Constitution, the above-mentioned law and other effective laws of the country"¹

Monitoring the observance, promotion and protection of human rights and monitoring the situation of people's access to human rights and freedoms, investigation of violations of human rights and adoption of measures to improve the human rights situation in the country, constitute the four objectives of the AIHRC.² Article 21 of the Law on the Structure, Duties and Mandates of the AIHRC has defined and formalized the main duties and mandates of the AIHRC within 35 paragraphs. The AIHRC has a central office, eight regional offices and six Provincial Offices.

Based on Article 58 of the Constitution and Article 21 of the Law on the Structure, Duties and Mandates of the AIHRC, the AIHRC shall monitor the human rights situation in Afghanistan. Monitoring the situation of human rights is one of the main programs of the AIHRC. And hence a special units have been established for this purpose. The Monitoring and Investigation Unit monitor the general situation of human rights. This Unit received complaints and investigate cases of human rights violations and tries to address them. Also, this Unit, in addition to monitoring the situation of the economic, social, civil and political rights, particularly, monitors the human rights situation in detention centers and prisons.

Likewise, The AIHRC monitors the situation of International Humanitarian Law. For this purpose, a special group called "The special investigation team" is active. This Unit monitors the civilian casualties and the situation of detainees who have been arrested in relation to crimes against internal and external security. In this Unit, the AIHRC monitors record and document all cases of international humanitarian law and, if necessary, follows up the cases. One of the main activities of the Unit is to record cases of civilian casualties.

Methodology

The AIHRC tries to record and document all cases and incidents which cause civilian casualties, with the necessary accuracy. To the possible extent allowed by the security and logistic facilities,

¹ .Ministry of Justice, The Law on Structure, Duties and Mandates of the AIHRC, Official Gazette No.: 855, Publication date: 1384, Article II (2)

² .Ibid Article (Δ)

the AIHRC has tried to dispatch its monitors to the site to record the cases by detail through holding interviews with the victims and eyewitnesses. If it was not possible from the security points of view to visit the site of incidents, the AIHRC has tried to collect details of the cases from many local sources, including the victims, hospitals, state officials and other organs such as media. After assessing and comparing the information obtained from multiple sources and getting assured of the accuracy of the information the AIHRC registers it insert it to its database.

The Database of the AIHRC locates in the HQ and most of the information is collected by the monitors at the regional and provincial offices. The AIHRC's monitors are stationed in 8 regional and 6 provincial offices. They cover almost all provinces of the country and monitor the situation of international humanitarian laws and also record civilian casualties. The AIHRC takes pictures or films of the incidents to any possible extent.

Regarding the statistic of civilian casualties, the AIHRC's monitors refer to hospitals where the victims are probably transferred and take the list of victims. They compare this list with the list from the security organs or other sources for verification. In addition, the interviews were conducted with the people wounded in the incident. In addition to hospitals, interviews are conducted with eyewitnesses, and relatives of the victims. Even in some cases and for more accuracy, if necessary, they visit the graves of those killed.

Note: In this report pseudonyms is used instead of the names of victims and their family members, or mentioned as blank (.....)

Legal Framework; Legal Obligations of the Conflicting Parties to the Armed Conflicts

Based on International Human Rights, International Humanitarian Laws, International Customary Laws and Resolutions of the UN Security Council, all parties to armed conflict in Afghanistan are obliged to refrain from inflicting damages and casualties on civilians and on their properties. During armed conflicts, the parties are obliged to consider international human rights norms regarding the protection of civilians, especially women and children and undertake necessary measures for their safeguarding.

Afghanistan is a member of the Four Geneva Conventions 1949 as well as the Second Additional Protocol 1977. These Conventions and protocol emphasize on the protection of civilians during armed conflicts. Based on these documents, attacks on civilians, residential areas and public establishments necessary for civilian populations are prohibited. In Common Article Three of the Four Geneva Conventions, it has been asked of all parties involved in the conflict, including government forces and NGOs to observe specified criteria.

Article 3 Common to the Four Geneva Conventions reads:

"In the cases of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of the armed forces who have laid down their arms and those placed ' hors de combat ' by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons :

- a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture,
- b) Taking of hostages,
- c) Outrages upon personal dignity, in particular humiliating and degrading treatment,
- d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2. The wounded and sick shall be collected and cared for

The Afghan government's accession to the International Criminal Court took place in 2003. Based on the Rome Statute that explains about the formation of this court, serious cases of violation of Geneva Four Conventions are considered as a war crime. The government of Afghanistan and anti-government armed elements are obliged to observe all provisions of the Rome Statute.

Definition of some Important Terms:

Civilians

Civilians are those people who do not associate with any of the following groups: A) Members of the organized armed forces, even if the forces belong to the government or other authority, not recognized officially by the opposite government; B) Members of volunteer groups and resistant movements; C) Individuals who form part of the resistance forces; D) Combatants in general. Based on the International Humanitarian Laws, civilians should be protected during international and non-international armed conflicts .³

Civilian Population

Nonmilitary individuals form civilian population. The civilian population and nonmilitary individuals enjoy full protection against dangers emanating from military operations.⁴

³ - The International Committee of the Red Cross, the culture of international law of the armed conflict, Pietro, Page 32

⁴ Ibid, p. 33
Ibid, p. 34

Combatant

Based on the international humanitarian laws, all members of the armed forces of the conflicting parties, except health and religious staff are counted as combatants. It means that they have the right to participate in armed conflicts directly. The combatants are obliged to make themselves distinguished from the civilian population and observe the international humanitarian laws.⁵

Provisions of the Geneva Four Conventions 1949 and other similar regulations, including additional protocols are considered international customary laws and the state members, including the opponent-armed groups who fight against the government are obliged to observe these laws. Based on these commitments and international customs, many principles are applicable to wars in Afghanistan and the conflicting parties are obliged to observe these principles:

A- The Principle of Distinction

Based on the principle of distinction in the International Humanitarian Law, the conflicting parties should always make a distinction between civilians and combatants. Only combatants can be a target of attacks. Attacks should not target the civilians.

Article 13 (2) Additional Protocol- II, prohibits attacks on non-military population or individuals. Prohibition of attack on non-military individuals are mentioned in the armament protocol to the Convention on certain Conventional Weapons. This prohibition mentioned in Protocol III to the Convention on certain Conventional Weapons, in accordance with Article 1 of the Amendment of the Convention in 2001 was adopted through consensus, it is also applicable to non-international armed conflict..⁶

According to the International Criminal Court's Statute (Rome Statute), " Intentional attack against civilians or non-military individuals who have no direct participation in the conflicts" is considered a war crime⁷.

Article 13 (2) second Additional Protocol prohibits, any activity or violent threat aimed primarily at spreading of fear among the civilian population. This prohibition is also included in other documents ruling on non-international armed conflicts.

Another norm of the Principle of Distinction is that civilians are protected against attack, unless they participate directly in the conflict.⁸ It is worth mentioning that based on documents ruling on international and non-international conflicts, non-combatants are those who are not members of the armed forces. Civilian population includes all non-combatants⁹. Based on Four Geneva

⁵ Ibid., Page 34

The ICRC, International Humanitarian Costomary Law, first volume, Zhan Mary Hunkertez and Luis Due Soldik, Majed Academic and Cultural Association p. 65, 1391

⁷ Rome Statute, article 8, paragraph B, adopted in 2002

⁸ Additional Protocol II, Article 13 (3) 1977.

⁹ The International Committee of the Red Cross, Customary International Humanitarian Law, Volume I, Jean-Marie Hankartz and Lewis, 2 Svaldik, Scientific and Cultural Association Majd, 83, 1391

Conventions, the armed forces of each conflicting parties include all armed forces, groups and organized units under the command of a commander who is responsible for the personnel.¹⁰

Another norm of the Principle of Distinction is that the conflicting sides should make distinction between military and non-military targets under any condition. Only military targets can be attacked. Attacks should not target non-military properties.¹¹ Based on this principle, the conflicting sides should not target non-military properties and establishments.

For more explanation and taking into consideration the principles of international humanitarian laws, it can be said that indiscriminate attacks are:

- Not focusing on specific military target;
- Using of military tactics and weapons that do not achieve the aims of a specific military target.
- Using of military tactics or weapons that the possibility of limiting their effects does not exist as the rules of international humanitarian laws indicate.¹²

Ultimately, in any case, they are the types that hit military and non-military targets without any distinction.

All countries involved in Afghanistan conflict in the framework of the international forces are members of the Four Geneva Conventions. Although all countries involved in Afghanistan and have military forces, or render military assistance are not members of the second additional protocol 1977, they are obliged to observe the laws of war which are part of the international customary laws.

B. The Principle of Proportionality

Based on the Principle of Proportionality, launching of attacks which may cause civilian casualties, affect civilians or damage non-military properties or combination of the two or the destruction is more than its objective military advantage are prohibited. According to this principle, the conflicting sides should not resort to such methods or weapons that cause more civilian casualties than military damages

Additional Protocol II, Article 25, 1977.¹⁰

¹¹ - The International Committee of the Red Cross, Customary International Humanitarian Law, Volume I, Jean-Marie Hankartz and Lewis, 2 Svaldik, Scientific and Cultural Association Majd, 83, 1391

*distinction between military and non-military properties was included in the draft of the Second Additional Protocol, but in the last moments of ratification, it was omitted. As a result, the second additional protocol lacks this principle and prohibition of guiding attacks to non-military targets was not addressed. But it is said that the concept of general protection in article 13 (1) of the second additional protocol is so wide that cover this issue too.

Prohibition of directing attacks on non-military targets have been included in other later treaty, amended protocol attached to the Convention of some conventional weapons that are applicable in non-international armed clashes

¹² The ICRC, Customary Humanitarian International Law, first volume, Zhan Mary, Henkertz and Luis Due Soldik, Majed Academic and Cultural Association Majd, 114, 1391

The Principle of Proportionality in attacks is clarified in article 51 of the first additional protocol, but it is not pointed out in the second additional protocol related to national armed conflicts. It is mentioned that observance of the principle of proportion is a basic humanitarian principle and the preamble of this protocol considers it applicable. Consequently, in the application of this protocol the principle of proportion cannot be ignored. It is worth mentioning that the principle of proportion in the modified protocol 2 attached to this convention includes some conventional armaments.¹³

Precautionary Principle

In launching military operations, special attention should be paid to distinguish non-military population, civilians, and non-military properties. All predictable precautionary measures for the prevention and minimizing of civilian casualties under any condition and avoiding damaging non-military properties, should be taken. Another norm of the Precautionary Principle of is that the conflicting parties should take any possible measure to assure that the target is a military target.

Based on Article 13 (1) of the second addition protocol, “ All civilian populations and non-military people enjoy full protection against dangers arising from military operations”. Therefore, all conflicting sides should make all efforts not to harm civilians during their military operations. The conflicting sides are obliged to protect and safeguard civilian populations.

Each conflicting parties should take any possible precautionary measures in choosing of war, tactics and using armaments under any condition to prevent civilian casualties and minimize destruction of civilians’ properties. The conflicting parties should consider all possible measures to assess the issue and make sure that the attacks do not result in greater civilian casualties than objective and direct military advantages.¹⁴

Finally, it should be mentioned that all conflicting parties, including the international forces, Afghan security forces, all groups related to the Taliban, Haqani network, Hezb-e-Islami, ISIS and other armed groups involved in armed conflicts are obliged to observe and respect the international humanitarian laws, especially the three principles of ”distinction”, “proportionality” and precautionary under any condition. They have a responsibility to choose military tactics and armaments in a way to prevent civilian casualties and minimize damage to civilians’ properties.

¹³ Amendment Protocol 2 to the Convention on Certain Conventional Weapons 2, Article 3 (c).

¹⁴ The ICRC, Customary International Humanitarian Law, first volume, Zhan Mary Hatzgats and Luis Due Soldik, Majed Academic and Cultural Association, p. 137, year 1391

Part 2

Civilian Casualties During the Armed Conflicts

Armed conflicts intensified and expanded more than ever in 1394. Most provinces in the country witnessed severe fights during this year as a result of which civilians were affected. Some of them were killed or injured and a large number of them left their homes and moved to other provinces. Because of these armed conflicts during the recent years, more than 1.2 million people were displaced from their localities. Wars and insecurity are considered as the main cause of displacements. Evaluations indicate that war and ground engagements have caused around 97 percent of displacements in 2014. Similarly, civilians' properties and public buildings have been damaged too. Insecurity spread along the highways, and many civilians were taken hostages while passing the highways. Some others lost their lives or severely injured as a result of land mines planted along the roads.

Civilian Casualties

The AIHRC monitored the observance of international humanitarian laws and registered and documented civilian casualties in 1394. The AIHRC tried to precisely discuss and evaluate cases of civilian casualties in cooperation with eyewitnesses, relatives of the victims, hospital and other related organizations.

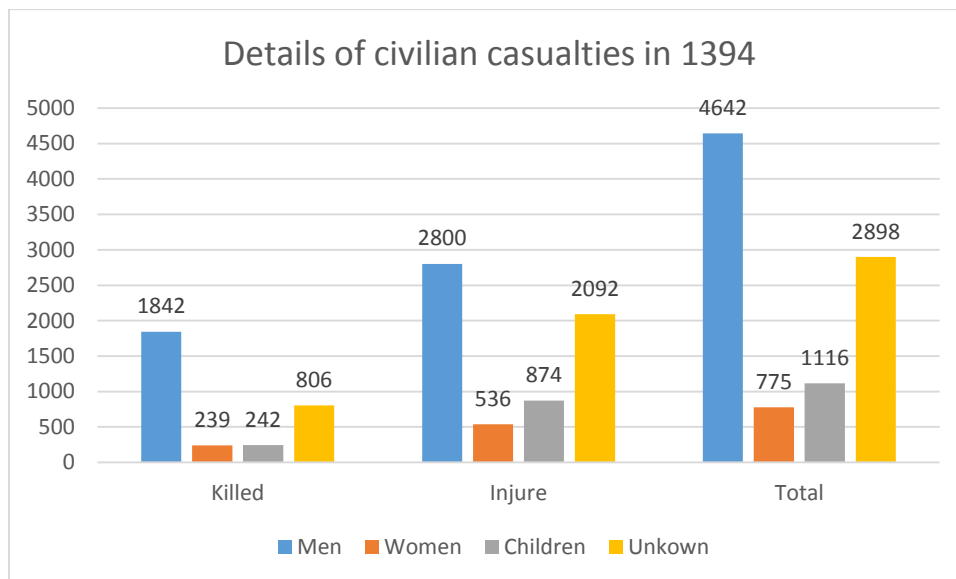
Armed conflicts in Afghanistan intensified and expanded more than previous years in 1394. Insecurity spread in most parts of the country and affected the life of the majority of the civilians directly or indirectly. During this period civilian suffered severe casualties. Based on the findings by the AIHRC, the highest level of civilian casualties was recorded in the year 1394.

The total number of civilian casualties exceeded 9431 people (3192 deaths and 6302 injured) which shows 17.8 percent increase compared to that in 1393. Based on findings by the AIHRC, 8005 people were killed or injured in 1393. Out of them 3071 people were killed and 4934 people got injured. In this way civilian casualties had a spiraling trend. Since anti-government armed groups have caused most of the civilian casualties, it implies that they have intensified their attacks in the country.

According to the report, out of 9431 deaths and wounded, 4642 of them are men, 775 are women and 1116 of them are children, while the age and gender of 2898 of them are not specified. These figures show that the number of male victims is more than women and children during the armed conflicts. Children are on the second and women are on the third row of victims. It is worth mentioning that the number of those victims' whose age and gender are not specified is very high. If their figure was identified by the AIHRC, naturally the figure of war victims would have changed.

Similarly, out of 3129 people who were killed, 1842 of them were men, 239 of them were women and 242 of them were children, while the age and gender of 806 of them were not identified. Out of 6302 wounded, 2800 of them were men, 536 of them were women and 874 of them were children, while the age and gender of 2092 of the victims were not identified.

Comparison of casualties in 1394 and 1393 shows that the number of female victims increased 36.8 percent and more women lost their lives or injured. However, the statistic presented by the UNAMA shows a different figure, due to different calendars used in these two reports, the report by the UNAMA shows that the number of female casualties increased 37 percent in 2014 compared to that in 2013.¹⁵



Based on the information reflected in the UNAMA report, the number of civilian casualties exceeded 11002 people in 2015, out of them 3545 deaths and 7457 others injured.¹⁶ According to the statistic presented by the National Security Council 12134 civilians were killed or injured in 1394. The report by the National Security Council indicates that 4380 civilians were killed and 7754 others were injured in 1394.¹⁷ Although there is some difference among the figures of civilian casualties presented by various organizations, the general situation indicates that the year

¹⁵ The United Nations Assistance Mission in Afghanistan, 2015 Annual Report on Protection of Civilians in Armed Conflict, page 16.

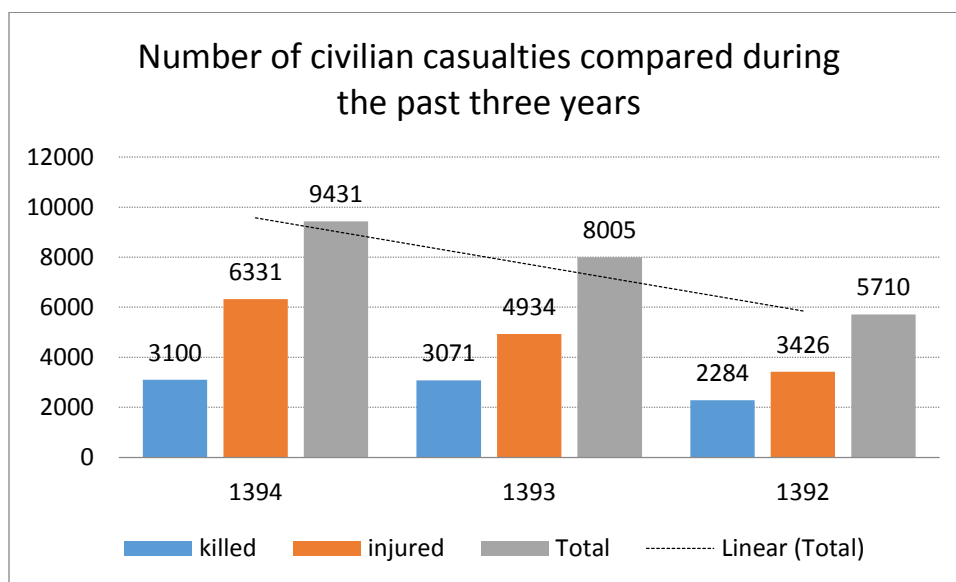
¹⁶ - ibid page 1

¹⁷ - Office of the National Security Council deputy supreme command of the armed forces, to investigate reports of civilian casualties, Page 2, Year 1394

1394 was the bloodiest year for civilians in Afghanistan, and it has been the highest level of civilian casualties so far recorded by the AIHRC.

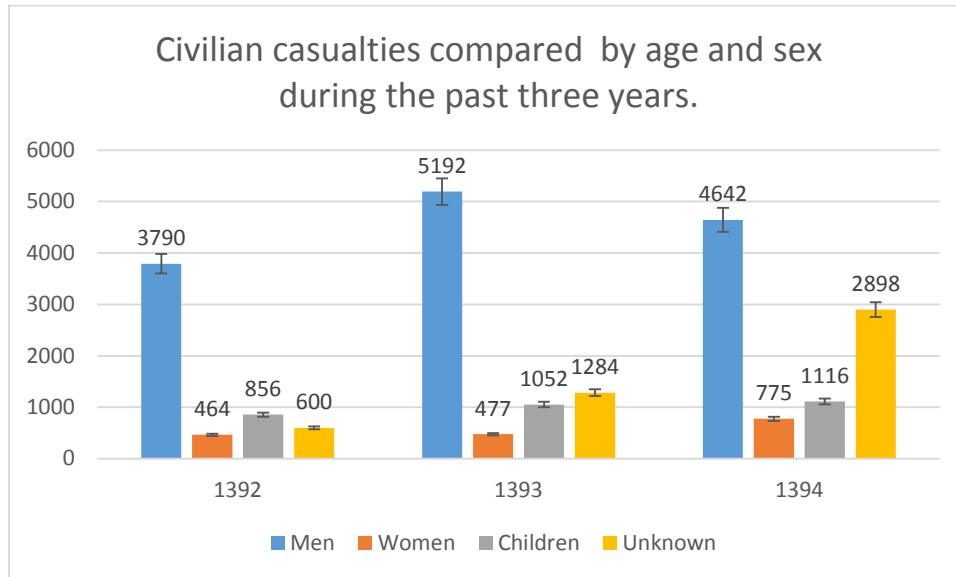
Findings by the AIHRC also indicate that the year 1394 witnessed the highest level of civilian casualties compared to the that in 1393 and 1392 in Afghanistan. The number of civilians killed and wounded in 1392 exceeded 5710 people, out of which 2284 were killed and 3426 others were injured. In 1393 the total number of civilian casualties reached 8005 people, which shows 40 percent increase compared to the 1392. In 1393, around 3071 people were killed and 4934 others were injured.

Comparison of the figures killed and wounded in the past two years shows that the number of deaths in 1394 compared to 1393, have not changed much. In other words, only 29 more civilians were killed in 1394 compared to the year 1393, but the number of civilians injured increased tremendously. The figure of civilians injured in 1394 increased 28 percent compared to that in 1393.



In terms of age and gender, the findings show that the figure of casualties of men in 1394 decreased compared to the year 1393. The casualty figure of men reached 5192 deaths in 1393, while this figure decreased to 4642 deaths. It means that the level of casualties of men decreased by 10.5 percent in 1394 compared to previous years. In the contrary, the level of female casualties in 1394 increased compared to previous years. In 1394 around 775 women were killed or injured, while this figure reached 477 women in the previous year. Comparison of these figures shows that during this reporting period the level of female casualties increased 38 percent

compared to the previous year. Similarly, the level of casualties among children increased by 5.7 percent. In 1394, around 1116 children were killed or injured, while in 1393 around 1052 children were killed or injured.



Life Casualties of Civilians Base on Types of the Incidence.

War tactics and methods have direct effects on the increase or decrease of civilian casualties. As the International Humanitarian Laws emphasizes, the conflicting sides should observe the principles of “distinction”, “proportionality” and “precautionary” and should not use methods and tactics that cause civilian casualties. The parties to the conflict are obliged to take all necessary measures for the prevention of harms and damages to civilians during military operations.

During the several past years that armed conflicts have intensified in Afghanistan, the conflicting sides without paying any attention to life and properties of civilians resort to tactics and methods which cause heavy civilian casualties. As a result of these tactics and methods, the civilians, including women and children who have not been directly involved in fighting, have lost their lives or got wounded. A large number of families have lost one or many members of their families during these years, while the Constitution of our country and Four Geneva Conventions consider the right to life as the fundamental human right and emphasize that no one’s right to life be violated illegally. Based on Four Geneva Conventions, the conflicting sides are obliged to make a distinction between civilians and armed forces and to protect the lives and properties of civilians.

Suicide Attacks:

Findings by the AIHRC since several years show that suicide attacks have caused more civilian casualties. In 1394 also, suicide attacks have caused the highest civilian casualties. During this year, suicide attacks claim for 34 percent of civilian casualties, that totally resulted in the killing or wounding of 3214 civilians. Out of this figure, 781 people were killed and 2433 people were injured due to suicide attacks in Afghanistan. It is worth mentioning that as a result of these suicide attacks 471 men, 43 women, 59 children and 207 people whose age and gender is not known were killed. These figures indicate that men constitute the highest number of victims of these suicide attacks. Out of the injured people, 1211 of them were men, 136 women, 117 children and the age and gender of 897 of them were not identified.

The figure of civilian casualties due to suicide attacks increased 55.69 percent compared to the year 1393. It means that the number of civilian casualties in 1394 has double compared to the year 1393. A total of 3124 civilians were killed or wounded due to suicide attacks in 1394, while in 1393 around 1424 civilians were killed or injured as a result of suicide attacks. Findings by the AIHRC show that the incidents of suicide attacks increased in 1394 compared to previous years. In addition to the increase in the number of suicide attacks, their time and place also have played an important role in the increase of civilian casualties.

Suicide attacks usually take place where and when more civilians are present in the area. For this reason, the number of civilian casualties increases. The Taliban most often claims the responsibility for such attacks and they declare the number of military casualties higher than civilian casualties, while the reality is vice versa. The AIHRC consistently has demanded the conflicting sides, especially the anti-government armed elements to refrain from suicide attacks and do not target civilians, but it is witnessed that they pay no attention to the lives of civilians and resort to suicide attacks in crowded areas when more civilians are present

For this reason suicide attacks cause heavy civilian casualties in the urban areas. In 1394, suicide attacks usually occurred in Kabul, Jalalabad, Kandahar and Lashkarga cities. Suicide attack in Shah Shaheed area of Kabul in the summer of 1394 can be mentioned as an example. In this attack, the perpetrator drove his vehicle full of explosive in a residential area detonated it during the midnight as a result of which 15 people were killed and 309 others were seriously injured. There were four women among the people who were killed. 214 men, 77 women and 18 children were injured. In addition to civilian casualties, heavy material damage were inflicted on the civilians. Almost all of the houses and shops located near by the incident were totally destroyed.

It was 1:05 pm when I together with my roommate who is an employee of the Ministry of Finance and a university student was sitting in our room located at Ahmadzai Market and decided to go to bed. Suddenly we heard a strong and horrible explosion. The windows shattered and part of the ceiling collapsed. My roommate was caught under the collapsed ceiling and I was unconscious and could not hear. When I became conscious, I could not see anything. The room was filled with smell of gunpowder and dust. Blood was running over my face. I hardly could get out of the room and heard crying of the injured people and saw fire flames. I realized that one side of my face was injured by shattered glasses. Few minutes later the local people came and took me to the hospital, but my roommate was martyred under the rubbles

Statement of an eyewitness wounded in the suicide attack in Shashahid area of Kabul City

In most cases of suicide attack no principle of proportionality and distinction are taken into consideration. The anti-government armed elements should not resort to attacks which cause civilian casualties and damage civilian buildings and properties. Based on Additional Protocol to Four Geneva Conventions civilian communities and individuals should be protected against dangers emanating from military operations. Civilian communities and individuals should not be targeted. Operations and threats of attacks aiming to create panic and horror among civilians are prohibited. Conducting indiscriminate suicide attacks and planting of explosive in civilian communities mean violation of International Humanitarian Law and the conflicting parties should observe it. Otherwise, a violation of these principles would be regarded as war crimes.

The use of children in suicide attacks is totally an inhumane act and contrary to international human rights norms and International Humanitarian Laws. Evidences show that anti-government armed elements in some of their suicide attacks use children under 18 years old, equip them with suicide jackets and send them to fulfill their terroristic plan. Some of the children, who was arrested before carrying out suicide attacks, did not know the purposes behind the attacks. Even some of them did not know that they would lose their lives during these attacks. Deceiving children through religious propaganda and promises is contrary to Islamic principles and considered inhumane.

Suicide attacks in its nature are against human dignity. Suicide attacks in reality are utilizing

It was around 12 o'clock at noon on 19/5/1394 when a corolla car exploded at the gate of Hamed Karzai International Airport in a terroristic attack as a result of which 5 civilians were killed and 16 others including 2 children and a woman were injured.

One of the eyewitnesses who had a shop near the site of this incident stated to the AIHRC, " I was sitting in my shop and wanted to prepare lunch when a heavy explosion occurred. The windows of my shop shattered and injured my head. I thought that the explosion was inside my shop. When I got out of the shop, I saw that flames were rising at the gate of the airport. I witnessed that two civilian cars a Corolla and a Suzoky were in fire. Out of fear, I could not go close to the incident.

Another eyewitness stated that the passengers were checking by the police when this explosion occurred. He added that after the explosion I saw that a civilian was caught in the flame and no one could rescue him.

human life as an explosive for killing other people. Taking advantage of the simplicity and innocence of children and using them in suicide attacks is a shocking and horrible act. The Optional Protocol of Child Rights Convention on the prevention of children's participation in armed conflicts prohibits participation of children in the ranks of national armies as well as other armed group.¹⁸ In addition, the Statute of the International Criminal Court (Rome Statute) also prohibits the recruitment of children under the age of 15 years. According to this statute, recruitment and recall of children under fifteen years to military service in the armed forces or groups or using them to participate actively in the armed conflicts, is considered war crime¹⁹

Ground engagements:

After the suicide attacks, ground fightings also claim for most of the civilian casualties. As a result of ground engagements 1954 civilian people have been killed or injured. This figure shows 20.7 percent of all deaths caused by ground engagements between the armed opposition and pro-government forces occurred. Those conflicts that occur in residential neighborhoods, and into the villages, civilian population are damaged or injured.

The figure of civilian casualties caused by ground fightings in 1394 increased more than 60 percent compared with the previous year. In 1393, 766 civilians were killed or wounded as a result of ground fighting between pro-government forces and anti-government armed groups. But, in 1394, this figure exceeded to 1954 deaths. In the ground engagements in 1394, 514 people were killed and 1440 others injured. These conflicts included the planned operations and other guerrilla attacks conducted by both sides.

One of the noticeable examples of ground fighting is the Taliban attack in Kunduz city from 6 to 20 of Mezan 1394 that resulted in mass casualties of civilians. During the exchange of fire in Kunduz city and surrounding villages more than 700 civilian casualties were recorded. Of these, more than 230 people were killed and about 480 others were injured in the skirmishes. According to an eye witness, an employee of the AIHRC, 15 civilians who were trying to flee from their homes in the area were targeted and killed on the way.²⁰

It seems that this increase in the figure of civilian casualties comes about due to the spread of ground fighting between pro-government forces and anti-government armed elements after the withdrawal of international troops. Another reason can be pushing of war into the residential and densely populated area. Unfortunately, some of the parties to the conflict, especially the anti-government armed elements use the tactics that cause increased civilian casualties. Reports indicate that the anti-government armed groups attack on the pro-government forces, and after the attack, they retreat into residential areas, or open fire on convoys of pro-government forces

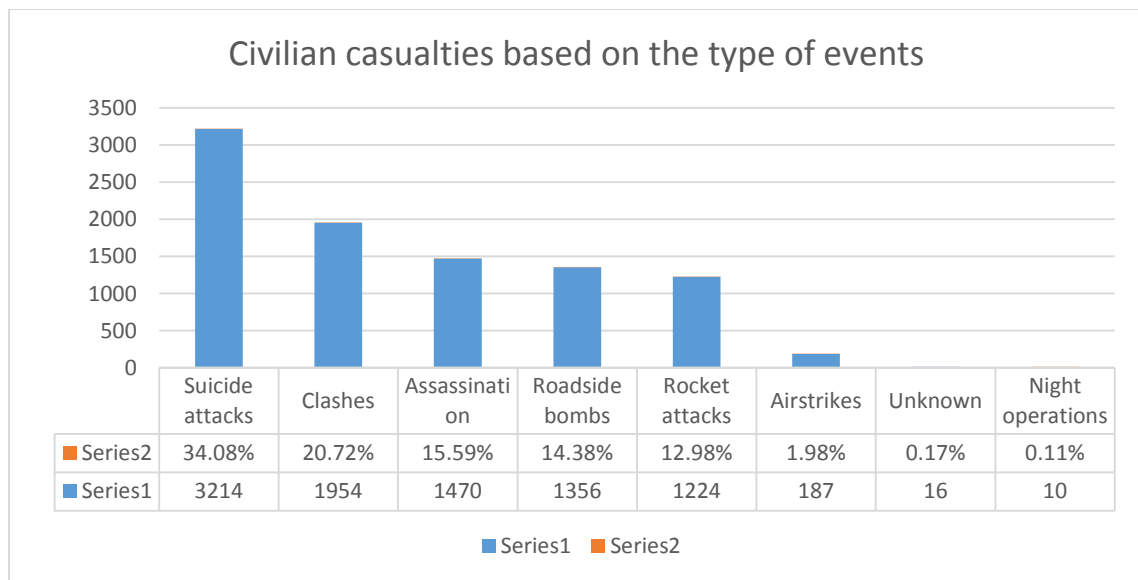
¹⁸ Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts, 25 May, 2000, article 1 and 4.

¹⁹ Rome Statute, Article 8, paragraph 26, adopted in 2002,

²⁰ AIHRC, report on situation of international humanitarian law during the fighting in the city of Kunduz, page 8^

from the residential areas. After that the fighting starts, and resulting in the killing of civilians and civilian property is damaged. This method of war in which civilian population is used as a shield is forbidden and is a violation of International Humanitarian Law. Based on the principles of International Humanitarian Law, each of the parties to the conflict should avoid forming military targets within or near densely populated areas.

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In some provinces the public uprising forces who are fighting against the Taliban have also committed violations of International Humanitarian Law. Public uprising force is mostly supported and equipped by the Afghan government . Public uprising forces set fire to 18 residential houses in Khowaja Getty village of Faryab province, and 8 residential houses and 7 shops in the village of Jastayee . It is said that these houses and shops belonged to the Taliban, and the shops that were burnt up belonged to Mullah Basir, the Head of Taliban in Qaisar district. NDS in Faryab province confirmed the burning of a number of houses and shops by the public uprising forces.

It is also claimed that a girl named ... was raped by public uprising forces in Qaisar district. Police chief of Qaisar district told AIHRC’s monitors that on 29/5/1394 three residents of the Kakarha village of Khowaja Getty valley came to him and reported that a lady had been raped in the house by the public uprising forces. Later on, the district police chief called up a number of

²¹ - The International Committee of the Red Cross, Customary International Humanitarian Law, Volume I, Jean-Marie Hankartz and Lewis, 2 Savald, Scientific and Cultural Association ۱۳۹۱ Majd, page 153, Vol.

public uprising forces, and lined them up in a queue. The girl's father was called to identify the perpetrator. A person named ... was recognized by the girl's father as a perpetrator. ... was arrested by the police chief and transferred to the district. That person was later released. The AIHRC's monitor spoke with Abdul Manan, but he said that it was baseless claim. The AIHRC monitors, because of security issues couldn't meet the victims and other local people to discuss the issue with them. It is said that the accused was again placed under custody for further investigation.

Assassination and terror

About 15 percent of civilian casualties are attributed to the acts of assassination. During this reporting period, 1470 civilians have been killed or injured by terrorist practices. This means that anti-government armed groups or irresponsible armed individuals have targeted and killed civilians who cooperated with the government, or community elders who were believed to be cooperating with the government. In some cases it is reported that anti-government armed groups have assassinated mullahs in the mosques.

In 1394, the anti-government armed groups attacked civil servants, including judges, prosecutors, other staff of state institutions. Taliban has claimed responsibility for most of these attacks. It seems that the attack on civil servants is part of the war policy of the Taliban and these attacks are carried out systematically. Taliban issued a statement on 22 April 2015, and announced the start of an operation called "Azm". As part of this Statement read that "officials of the puppet regime and other harmful people will be targeted during the war in 2015."²²

AIHRC's findings show that the anti-government armed groups after the capture of Kunduz City, killed a number of civilians. At least the murder of three civilians was established by the AIHRC's monitors. These people were initially arrested from their homes and then killed in a cruel way. The reason for this killing was said to be associated with the government agencies..²³

In the spring of 1394 Attorney General's staff were attacked twice. On 4 May, the Attorney General's staff car was targeted by a suicide attack in which two people were killed and 15 others were wounded. Also on 10 May, a suicide attack was carried out on a bus carrying employees of the Attorney General in which, five civilians were killed and 20 others were wounded. Similarly, anti-government armed groups carried out a suicide attack in the Parking of the Ministry of Justice in 1394, in which five civilians were killed. The Taliban also targeted some elders and mullahs of mosques, including the assassination of a member of the Oloma's council while returning home from the mosque in Lashkar Gah.

According to the four Geneva Conventions, civilians are those people who have not participated actively in the war. Civilian population should not be targeted. Acts and attacks for the purpose

²² Declaration of the Supreme Council of the Islamic Emirate of Afghanistan with regard to the beginning of the spring offensive operations called Azm ,

²³ AIHRC, the report on the situation of international humanitarian law during armed conflicts in the city of Kunduz, page 8

of creating fear and panic among the civilian population is prohibited. Civilians shall enjoy the protection afforded..²⁴

Roadside mines

After the assassination, roadside mines has lead to more civilian casualties. During 1394 a large number of civilians have lost their lives due to roadside mine explosion, or have lost some organ or limbs and have become disabled. During this year, 1356 civilians have been killed or wounded, which makes up 14.38 percent of all civilian casualties.

The comparison of previous year's figure with that in 1394 shows that the number of civilian casualties caused by the explosion of roadside mines has fallen. In 1393, 3140 people were killed and wounded, but , in 1394, 1356 people were killed or wounded due to roadside mine and other improvised explosive devices. In other words, the number of civilian casualties caused by roadside mines in 1394 compared to previous year has dropped nearly three times.

It is worth mentioning that the roadside mines are pressure sensitive mines that is generally used by the anti-government armed elements. This type of mine come off when a person or vehicle mount on it. The use of mines are illegal, because they are weapons that kill or disable people indiscriminately.

Anti-government armed groups also use the explosives that can be controlled remotely. These types of explosives are actually guided explosives that make it possible for the perpetrators to detonate them any time they want. It should be said that most of such bombs are homemade, and in some cases they come off without control. Continued use of it, and in some cases technical problems, cause these types of bombs to come off spontaneously which is very dangerous for the civilians. In many cases civilians have been killed or disabled by these kind of bombs

The use of magnetic bomb also has increased in recent years among the anti-government armed elements. This type of bombs is fixed to vehicles. However, in most cases magnetic mines are fixed in the vehicles of Afghan security forces, but in some cases it has been seen that some civil servants have also been the targets of such bombs. Anyway, civilians will also be killed and wounded, even if the vehicle of security forces is targeted.

Rocket attacks

In 1394, 1224 people were killed and wounded in rocket attacks. In total these make up 13 percent of all civilian casualties. Rocket attacks mean that the parties to the conflict use heavy weapons such as mortars against each other. In many cases rockets fired by any parties don't hit military targets, instead they land in residential areas or places frequented by civilians, and result in casualties. Error in setting aims or target is the main cause of civilian casualties. Both anti-government armed groups and pro-government forces are The perpetrators of rocket attacks.

During this reporting period, 270 people were killed and 954 others were wounded as a result of rocket attacks. Among those killed, there were 121 men, 38 women, 55 children and 55 people

²⁴ Second Additional Protocol to the Geneva Conventions relating to the Protection of Victims of Non-International Armed Conflict, 12 August 1949, Article 13.

whose age and gender was unknown. Similarly, among the wounded, there were 328 men, 191 women, 387 children and 46 unidentified people. Viewing the last year's figures, one can say that the number of civilian casualties caused by rocket attacks has relatively increased. In 1393, 1018 people were killed and wounded, while in 1394, 1224 people were killed and wounded.

Airstrikes

Air attacks in recent years due to causing civilian casualties is discussed to be one of the most controversial political issues in the country. Airstrikes that have often carried out by international forces, and in some cases have resulted in civilian casualties have even caused infuriation of the government's relations with the United States of America. But in the recent years, with the reduction in the number of international forces and their changing roles it has also reduced.

In 1394 a total of 187 people were killed and wounded in an air strike, that constituted nearly 2 percent of all civilian casualties. Of these, 72 people were killed and 115 others injured. It seems that the civilian casualties caused by air strikes in 1394 compared to the previous year has slightly increased. in 1393, 114 people were killed and wounded, while in 1394 this number reached to 187 people. It is worth mentioning that sometimes international force called the “strong support” also conduct air strikes and cause civilian casualties.

Last year when retaking the city of Kunduz from the Taliban, the international forces came to help the Afghan security forces, and Taliban forces in some centers were bombed from the air. During this operation, Doctors Without Borders Hospital was targeted as a result of which 37 hospital staff members and patients who were treated there were killed. 18 those killed were the staff of the hospital and 19 others were the clients to the hospital. 42 others were wounded in this attack.

Erfanullah, a 12 year old boy was injured during bombardment on the Hospital without Boarder in Kundoz province stated in interview with the IHURC,

During the fights in Kundoze, many heavy shells hit our house and injured me and some other local residents. We were taken to the hospital for treatment. After operation I together with some other wounded persons were in bed in a container. It was around one o'clock at night when a heavy explosion occurred. It made me deaf and I thought that all of us were dead. After few seconds another explosion was heard and I became unconscious. After sometimes, I become conscious and realized that the hospital was under air attack. The next day around 6 or 7 o'clock in the morning the forces of the NA came and collected the wounded and dead bodies. I was taken out by my relative and they transferred me to Kabul City. Now I am in bed in the Emergency Hospital. There were no Taliban forces in that hospital during that night. Sometimes during the days, the armed Taliban were bringing their injured fighters and were taking them back very soon.

NATO forces first announced that on the night when airstrike was carried out on the doctors without borders hospital, the Taliban had gathered there. But after a while it issued a press release claiming that the attack was a human error. And NATO commander apologized for the mistake. Doctors Without Borders showed hesitation about the statements of US and stated that it was difficult to imagine that the attack was a human error. The organization of Doctors Without Borders insisted that the night of the attack, no member of the Taliban was hiding in the hospital area. The organization said that the US planes opened fire on staff members and patients fled the hospital after the first attack. Afghan government officials had said earlier that Taliban forces were entrenched in the courtyard of the hospital and from there were firing on national and international security forces ..²⁵

United States Secretary of Defense announced in May 1395 that after making an investigation into the air strike on the Doctors without Borders Hospital in Kunduz, 16 of its soldiers were identified and sentenced to disciplinary punishment due to negligence on duty. A US official said that the penalty would have a negative impact on the promotion of the 16 soldiers.²⁶

Civilian casualties perpetrators

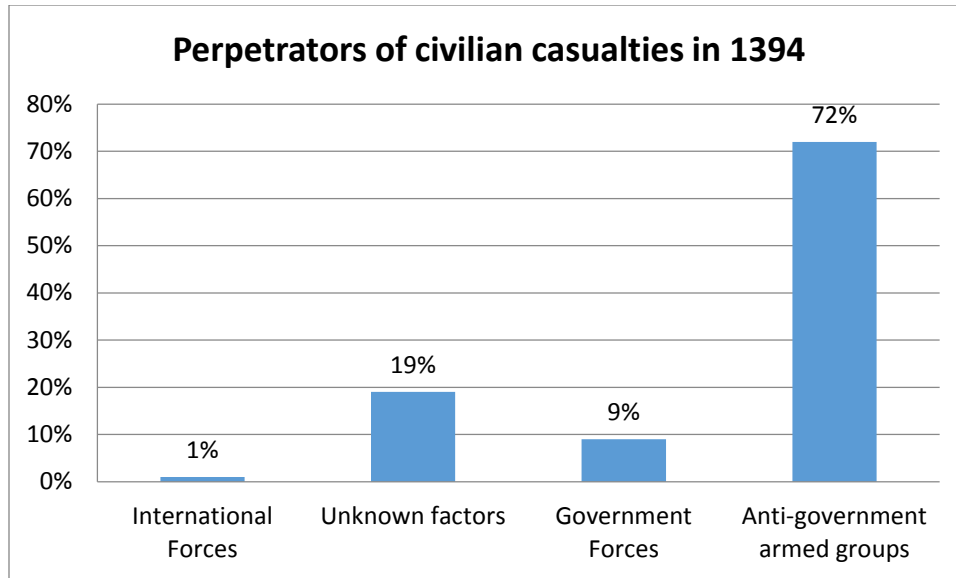
It is important to know who and what teams are the perpetrators of civilian casualties, and what percentage of civilian casualties attributes to each party to the conflict. According to the AIHRC, 72 percent of civilian casualties happen during the 1394 attributes to anti-government armed groups, including the Taliban (both factions of the Taliban) Haqqani network, al-Qaeda and the Islamic State. In total, these groups, have caused 6770 civilians killed and wounded (2294 killed and 4476 wounded) in different ways, such as suicide attacks, roadside bombs, land conflicts, rocket attacks, assassinations and hostage taking.

²⁵ 8 in the morning newspaper, "Doctors Without Borders Hospital, in Kunduz attack it is difficult to imagine being wrong ", 16 Aqrab 1394, more informatio:

<http://8am.af/1394/08/16/doctors-without-borders-myth-is-difficult-to-attack-in-kunduz-hospital/>

²⁶ Deutsche Welle, "America punish 16 soldiers in connection with the attack on the hospital in Kunduz ", more information at the following link

<http://www.dw.com/fa-af/%D8%A7%D9%85%D8%B1%DB%8C%DA%A9%D8%A7-16-%D8%B3%D8%B1%D8%A8%D8%A7%D8%B2%D8%B4-%D8%B1%D8%A7-%D8%AF%D8%B1-%D9%BE%DB%8C%D9%88%D9%86%D8%AF-%D8%A8%D9%87-%D8%AD%D9%85%D9%84%D9%87-%D8%A8%D8%A7%D9%84%D8%A7%DB%8C-%D8%B4%D9%81%D8%A7%D8%AE%D8%A7%D9%86%D9%87-%D8%AF%D8%B1-%D9%82%D9%86%D8%AF%D8%B2-%D9%85%D8%AC%D8%A7%D8%B2%D8%A7%D8%AA-%D9%85%DB%8C-%DA%A9%D9%86%D8%AF/a-19224210>



The comparison of civilian casualties in the years 1393 and 1394 perpetrated by the anti-government armed groups shows that in 1394, it has increased 15.7 percent. This means that the anti-government armed groups in 1394 have been responsible for more than 15 percent of the civilian casualties compared with the previous year. In 1393, the anti-government armed groups have killed and wounded 5705 civilians, while in 1394 this figure increased to 6770 people.

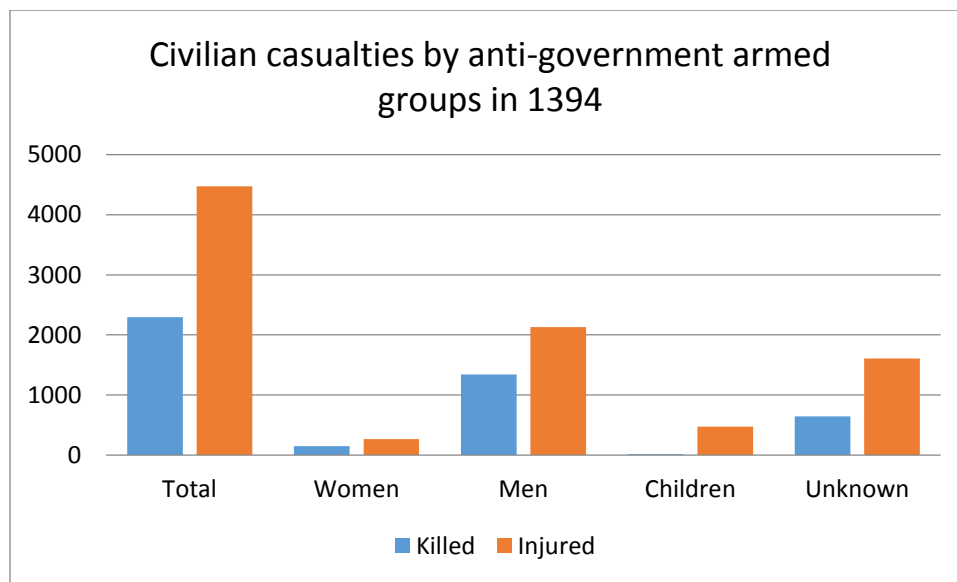
I must be said that almost all years, most civilian casualties have been committed by anti-government armed groups, and it has always been on the rise. A large percentage of civilian casualties have been committed by the anti-government armed groups. The growing number of civilian deaths by Taliban, suggests that they do not have any plans to reduce civilian casualties and have no respect for the lives and property of civilians. Although, human rights organizations, including the AIHRC have repeatedly called and asked all parties involved, especially the anti-government armed groups to comply with the international humanitarian law and avoid targeting civilians during the conflict, but it seems that these suggestions and demands are not respected, instead more civilians are killed or injured by them.

During 1394, the Taliban released more than 80 public statements on the protection of civilians and civilian and public properties during armed conflicts. This public statements were published on their website. The statements stated that the protection of civilians is one of their core objectives. In some of these statements protected categories of people are also listed. But it is clearly seen that the definition of Taliban from civilians is so different from what the documents of international humanitarian law reads. Taliban considers all those who cooperate with the Afghan government, whether civilian or military as their enemy and military targets.

Although, they accept responsibility for a large number of attacks, but do not represent the actual number of civilian casualties. In the majority of their statements Taliban announces civilian

death toll lower than what it actually is. For example, in May the statement of Taliban on the suicide attacks, which took place on the Europe Union Police vehicle and in which three civilians were killed and 30 others injured, while, they said that " a few civilians may be injured with some pieces due to the explosion."²⁷ The statement was removed after a short time from the website.

Although the Taliban has published many statements on the Protection of Civilians and public assets and has called on their men to protect civilians in conflict, but in practice it can be seen that these announcements have not had any practical effect. Not only that the publication of such notices has reduced civilian casualties, but every year more and more civilian casualties happen.



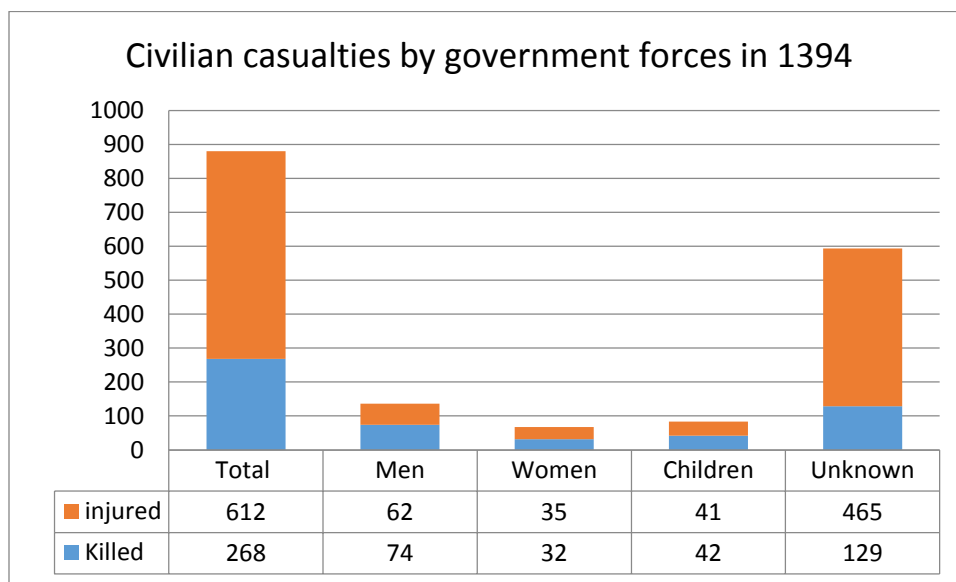
The responsibility for 9% of civilian casualties attributes to the Afghan government forces. In this reporting period, the Afghan government's defense and security forces have killed or injured 880 civilians, (268 people have been killed and 612 others injured). This number of civilians are killed or injured during ground clashes or rocket attacks. Statistics of 1394 compared with the previous year shows 104 % increase in civilian casualties by government forces. According to the AIHRC an increase of 104 percent is shocking and terrible. In 1393, 431 people were killed and injured by government forces, while in 1394 this figure, doubled to 880 people. Most probably, the increase in casualties by the government forces has direct link with their taking more responsibility.

Afghan government forces faced serious challenges in 1394 fighting in dozens of fronts. The security situation this year was worse than in previous years. On the other hand, all security responsibilities were assumed by Afghan forces for the first time, and all military operations

²⁷ United Nations Assistance Mission in Afghanistan Annual Report on Protection of Civilians in Armed Conflict 2015, p. 74

were launched alone by them. It is already anticipated that they will commit more civilian casualties. In the absence of sufficient experience, they have caused civilian casualties either deliberately or by error. However, the Afghan government forces are obliged to protect lives and property of civilians during armed conflict and should not be indifferent to the lives of civilians.

The Afghan government has also taken some measures for protection of civilians during armed conflict. One of these measures is the formation of "a board to prevent and reduce civilian casualties" that was predicted by presidential decree of the Islamic Republic of Afghanistan. The board consists of seven organs to prevent and reduce civilian casualties, including three Defense and Security Organs of the country, including the AIHRC's representative who attend these meetings as a board member. The board has recently been formed and has so far held two preliminary meetings.



The perpetrators whose identity is not known has been the cause of 19 percent of the civilian casualties. In other words, 19 percent of civilian casualties caused by incidents in which no group has claimed responsibility for it. Unknown factors in this reporting period, have been responsible for the deaths of 1750 people (563 death and 1187 injured). During 1394, some events have occurred in which a number of civilians were killed and wounded, but no group claimed responsibility for it. It is possible that some of these events is done by the anti-government armed elements, or it may be committed by pro-government forces during ground clashes happened, but because all the victims have been civilians, so, none of the parties accepted responsibility for it. It is possible that some of these incidents have taken place by irresponsible armed groups that are associated to neither to the government nor the anti-

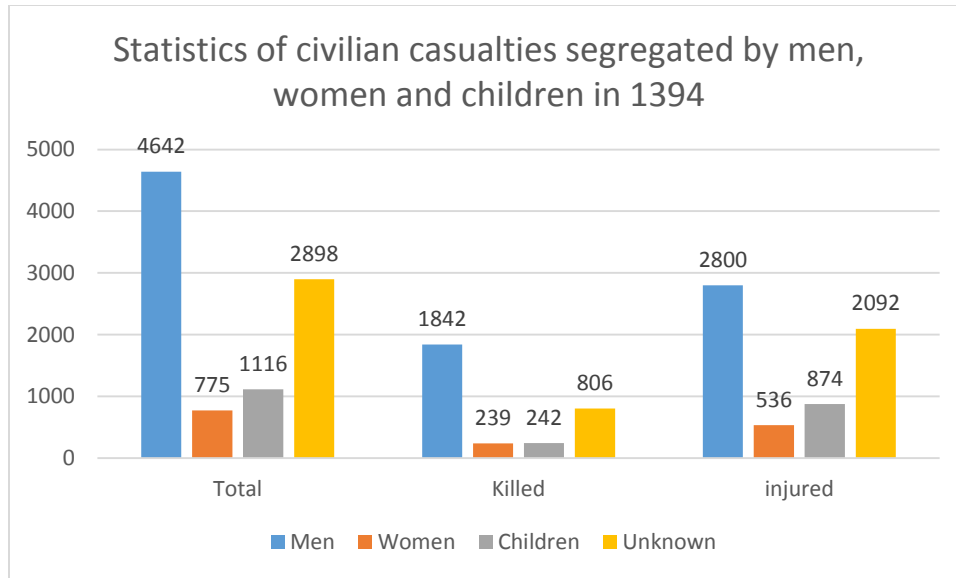
government armed groups. Often irresponsible armed groups do not publicly take responsibility for such incidents.

International forces were responsible for 1 percent of civilian casualties. It is worth mentioning that the international forces committed more civilian casualties in the past, but then when security responsibility transferred from international forces to Afghan forces, the number of civilian deaths by international forces, also declined. Reduction in civilian casualties caused by international forces and international troops is quite relevant to the reduction of their troops and roles. It has been for more than three years that the international forces don't have a combating role, but to advise and train the Afghan security forces.

In some cases, if the Afghan security forces are in a desperate need of handling a very serious security risk, they play a combating role and assist Afghan security forces through air operations. One of the deadliest air strikes by international forces in the past, was the Kunduz air strike on Doctors Hospital Without Borders that, in this incident, 37 civilians were killed and 42 others were injured.

The use of drones in international armed conflicts is a serious issue in International Humanitarian Law. However, there is no explicit provision on the use of drones in the international instruments on human rights, but accurately targeting and adhering to the "Principle of Distinction" by this type of aircraft has always been debatable. Although the United States of America speak of precision in targeting of drones, but in practice it has been seen that errors take place in aiming of targets that is causing civilian casualties. In addition, some experts and human rights advocates argue that the use of drones to destroy enemy forces make the conflict carried out by machine than human, and therefore, it is illegal. The bombing by the drone take place hundreds and even thousands of kilometers away from the place and using this technology is the same to play the Video Games..²⁸

²⁸ Leila Nadya Sadat, *America's Drone Wars*, Case Western Reserve Journal of International Law, Page 228, Volume 45, Fall 2012, (File on Author)



Civilian casualties based on geographical divisions

Assessment of civilian casualties has varied in different geographical areas. In 1394 the greatest losses have been registered in the North East zone with 2233 people killed or injured. Similarly, in the second degree, the highest losses were recorded in the South West. Then, the central region has accounted for more casualties that come in the third degree. To continue, the East, South, North and West zones recorded the lowest number of civilian casualties.

In the North East, including the provinces of Kunduz, Takhar and Badakhshan, due to intense ground fighting that took place in 1394 had the most casualties. In 1394 military operations continued in several districts in Takhar, Badakhshan, Kunduz, and these districts were switched several times between insurgents and government forces troops. Including the capture of Kunduz that led to many casualties. During the 15-day conflicts nearly 700 people, civilians were killed or wounded during clashes between the Taliban and government forces .

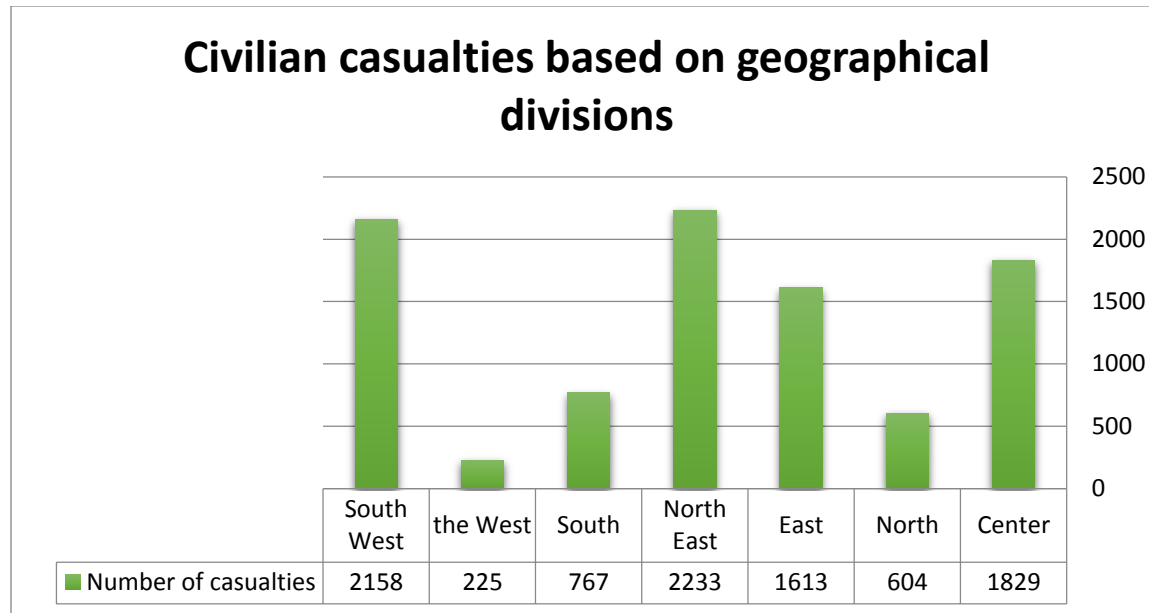
Similarly, in the southwest region, including Kandahar and Helmand, fierce fighting took place in 1394. Especially in several districts of Helmand province, the anti-government armed elements launched fierce attacks and the war continued for several weeks. During the conflict, a large number of civilians were killed and wounded and many were displaced from their homes.

Civilian casualties in the central region, have mostly been as a result of incidents such as suicide attacks, roadside bombs and other explosions. Central region, including Kabul and its neighboring provinces, mostly witnessed suicide attacks, assassinations, bombings and explosions, roadside bombs, mines or remote-controlled magnetic bombs .

In the East of the country as in some provinces such as some districts of Nangarhar, Laghman, Khost, Paktia, Paktika and Nuristan armed conflict was going on. Especially in some districts of Nangarhar, the activity of so-called Islamic State was intensified and spread and resulted in clashes between government forces and ISIS groups in which a number of civilians were killed

or injured. In some cases, conflict between Taliban fighters and ISIS also took place that in addition to the casualties from both sides, a number of civilians killed and injured.

So we can say that except the central parts of the country, the majority of regions witnessed armed clashes, and wars compared to previous years spread in almost all regions of the country. Civilians were affected by the conflict and some of them killed and wounded and many more were displaced from their original location.



Hostage taking

According to Article 3 common to the Four Geneva Conventions, hostages taking in any circumstances and in any place are prohibited and committing such acts is considered as violations of International Humanitarian Law. Serious violations of the Geneva Convention are considered a war crime.²⁹ According to the Rome Statute, hostage-taking is banned and is recognized as war crimes.³⁰

Hostage taking increased unprecedentedly in 1394. The majority of highways and roads became unsafe in the provincial and district centers. The anti-government armed elements have control on the parts of the highway. And every time come on the road and question the passengers. In some cases, some passengers even though they knew that they are civilians, are taken hostage.

During 1394 nearly 90 people were taken hostage. Out of them 22 people were killed and the fate of five others is unknown, but other hostages were released after some time. The kidnapping

²⁹ Rome Statute, Article 8, passed in 2002,

³⁰ Ibid article 8 para 1

of 31 passengers who were traveling from Herat to Kabul in Shah Joy district of Zabul province, was one of the largest hostage taking in the country.

31 passengers were kidnapped on Hoot 4, 1393 and 19 of them were released on Sawr 21, 1394 by the kidnappers and the fate of 12 others remained unknown. On Aqrab 19, 1394 five out of 12 people were released. Those released reported on the death of their 5 fellow hostages. But on Aqrab 17, 1394, media reported on the death (beheaded) of seven hostages, including two women, a 9 year old girl and four men. Their bodies were transferred to Gazni then to Kabul which was accompanied by the massive and unprecedented public protests and demonstrations in Kabul as well as in other provinces of the countries.

On Hamal 28, 1394, local authorities in Ghazni province announced that the Taliban killed four civilians who were taken hostage earlier in the week. Likewise, Ghazni provincial officials also confirmed on Asad 20, that four civilians who were taken hostage by armed men three days earlier were killed. Similarly, on Asad 21, 1394, 12 civilians were taken hostage by armed men in Qarabagh district of Ghazni province.

Hostage-taking also occurred in other provinces too. On Hamal 5, 1394 it was reported that 20 people were taken hostage by unknown armed men in the Kijran district of Daikundi province. After a while, they were released from the hands of kidnappers. Before that, other five passengers were taken off the cars as hostage in Bablok district of Farah province by gunmen .

On Hamal 22, 1394 media reported that the bodies of five employees of (Save the Children) taken hostage had been found in Tarin Kowt City of Uruzgan province. Four of the victims were the residents of Uruzgan province and one of them from Nangarhar province. It is said that these five people had been kidnapped by the Taliban 40 days before their death, for unknown reasons, and there was no news about their fate during this period of time. After the news of the murder of Save the Children's employees was aired, this organization suspended its activities in Uruzgan province.³¹ .

Attacks on human rights defenders

On Monday morning, Aqrab 4, 1394 two employees of the AIHRC in Jalalabad who were heading to their office were killed as a result of a roadside bomb explosion, and 6 other employees were injured. Omran Aziz was the assistant of Child Rights Unit and Saifullah Naseri responsible for reception of the AIHRC in Jalal Abad. They were the committed employees of AIHRC and were working for the ensuring and improving of human rights.

No group claimed the responsibility for the attack through media, website or social networking sites. But after several days of this event, a local radio station said that the group known as the Islamic State sent a message to the office of the said radio and through that has claimed responsibility for the attack.

³¹ The Etelaat Roz Newspaper, the bodies of five employees of the "Save the Children" were found in Uruzgan, Hamal 22, 1394, for details click: <http://www.etilaatroz.com/22152>

AIHRC is a completely independent and impartial human rights organization and does not work for the interests of any particular group or individual. All employees of the AIHRC are counted as civilian, and are not involved in any armed conflict. Thus, the AIHRC's staff enjoys the right to protection during armed conflict. Therefore, targeting employees of the AIHRC is an anti human rights act and the International Humanitarian Law is violated .

Attack on Media

During the capture of the city of Kunduz by the Taliban some private television reported that during the war, and after the takeover of the city, a number of girls and women have been raped by the Taliban. This TV also reported the deaths of civilians by the Taliban. After the publication of these reports, the Taliban aired a statement on their website on 16 October. According to this statement private televisions, Channel -1 and Tolo TV were accused by Taliban Military Commission of siding the government and international forces, and for this reason the said TV Channels were mentioned as the military target of the Taliban. The statement read that "the two networks are Taliban's military target and their employees are seen as the enemy". The Taliban statement claimed that these tow media and journalists were working for West or they were sponsored by Western countries. They stressed in their statement that the said TV networks would be as military targets for them and would be destroyed.

After some time of publication of this Notice dated Jadi 30, 1394 vehicle of Moby Group employees belonged to Tolo TV in Kabul was targeted by a suicide attack. In which, eight civilians, including three women, were killed and 30 civilians were wounded. Seven of those killed were employees of Moby Group. The Taliban claimed responsibility for the attack through publication of a press release. And jotted down in the press release that they targeted this TV due to severe fighting of this median against Islam, and that Tolo TV is working as America's propaganda machine, and due to the disrespect for the citizens of Kunduz and false accusation of death, looting, abductions and other abuses that have been attributed to the Taliban.

According to the norms of International Humanitarian Law, journalists and media workers are among people under the protection and considered civilian population. According to international standards of human rights, journalists, like all other people enjoy of the right to life and liberty and freedom of expression, and in accordance with the four Geneva Conventions, civilians must not be targeted by the military parties. Not only journalists are protected as civilians, but any threat against them is counted as a serious violation of human rights and war crimes. According to the Rome Statute, deliberate attacks against civilians with the intention to attack them or civilians who are not directly involved in the fighting, is prohibited and counted as a war crime.³² .

Preventive Measures

As mentioned before, based on the national and international commitments of Afghanistan the conflicting parties are obliged to protect the lives and properties of the civilians. The Constitution of Afghanistan, Four Geneva Conventions 1949, their additional protocols and

Rome Statute, Article 8, except B, passed in 2002, ³²

humanitarian customary law oblige the conflicting parties not to harm civilians and damage their properties.

In 1394, the Taliban issued 80 press releases on the protection of civilians. These press releases, which were published through their internet site, ordered the armed Taliban not to harm civilian or damage public properties. The Taliban group in their numerous press releases has considered civilian protection and safeguarding of public properties as their pivotal goals. But, in practice, they did not only ignore civilian protection, but increased the level of civilian casualties during the recent years.

Of course, it is worth mentioning that the civilians definition presented by the Taliban is completely different from what is mentioned in the humanitarian law. The Taliban in some of their press release consider almost all pro-government individuals either military or civilian as their enemies and part of their military targets. The Taliban in their press releases not only present a wrong definition of civilians, but in practice they attack a number of civilian targets. For example, in a press release the Taliban warned attack on the staff of Tolo TV and 1TV and considered these channels as their military targets. After sometimes, they carried out a suicide attack on a vehicle was carrying staff of the Tolo TV as a result of which seven staff of this network were killed. Therefore, the Taliban should necessarily change their definition of civilians and act according to the definition presented in the human rights international documents.

To reduce the number of civilian casualties, the government of Afghanistan has recently taken some measures. Although it is early to judge about the results and effectiveness of these activities, but, in general it can be concluded that through serious follow up of these activities, good results would be achieved.

One of these activities is the memorandum of understanding signed among the Ministries of Defense and Interior Affairs, General Department of Security and the AIHRC on the second of Jawza 1395. A good cooperation in the implementation of this memorandum of understanding can be effective on the observance of human rights and reduction of civilian casualties in the country. Based on this memorandum of understanding, the AIHRC can monitor all activities of the defense and security forces in the country and address the related complaints at the soonest possible time. The AIHRC assess and documents all cases of human rights and humanitarian laws violation. Similarly monitors of the AIHRC monitor activities and behaviors of the Defense and Security personnel in various facilities including military bases, centers, military establishments and custodies related to the Police and National Security forces.

Based on this memorandum of understanding, the Defense and Security organs in the country are obliged to prepare necessary grounds and facilities to consistent and effective monitoring of human rights situation, and have cooperation and coordination with the AIHRC monitors in comprehensive assessment of complaints and cases of human rights violations and applicable laws . Similarly, this MoU makes the Defense and Security organs responsible to follow up the

cases of human rights violation presented to the Security and Defense organs by the AIHRC and assure about their effective measures.

In addition, the AIHRC signed a separate memorandum of understanding with the National Defense Ministry to teach human rights issues and the international humanitarian laws for the officials of security organs. In continuation of the pervious memorandums of understanding, this MoU was signed with the Defense Ministry on 31 Hamal 1395. Based on this MoU, the AIHRC teach 1000 officers of the NA annually. As a result of these trainings, they will understand the law of war and know how to observe it, and specially to protect civilian lives and properties during armed conflicts.

The government of Afghanistan has recently established a special board to prevent and reduce civilian casualties. This board consisting of the Defense and Security Organs in the country has been established based on a Presidential Decree. All security organs are obliged to present the reports of civilian casualties to the Office of the National Security Council, so that the Office of the National Security Council will formulate, through the said board, a comprehensive policy to prevent and reduce civilian casualties.

The Board for the Prevention and Reduction of Civilian Casualties in which the AIHRC is a member, has already conducted several meetings, including the devising of a comprehensive policy to prevent and reduce civilian casualties. The policy has been cofirmed in the National Security Council Leadership Meeting. It should be noted that this policy is not finalized yet. AIHRC expects that the signing of the above agreement and creation of a board to prevent and reduce civilian casualties be practically helpful and effective to avoid civilian casualties.

Chapter III

Conclusion and Recommendations

Conclusion

According to the report, civilian casualties in 1394 increased 17.8 percent compared to the previous year. During 1394, the figure of civilian casualties exceeded 9431 people (3129 deaths and 6302 injured), out of them 4642 are men, 775 women and 1116 are children.

In 1394, 72 percent of civilian casualties were committed by the anti-government armed groups. The Afghan government forces are responsible for 9 percent of the civilian casualties.

Unidentified elements have caused 19 percent of the civilian casualties. Suicide attacks have caused the most of the casualties. This year, Suicide attacks have caused 34 percent of the civilian casualties. As a result of these attacks, 3214 people were killed or injured. Ground fighting, terror and killing, roadside mines and rocket attacks have respectively caused most of the casualties in the country.

Although the anti-government armed groups and the government have taken a series of action to reduce the casualties, but the death toll is still rising. The Afghan government has formed a board to prevent and reduce civilian casualties. And the Taliban has released more than 80 press releases to protect civilians. These measures have not decreased the number of civilian casualties, instead the figures have been increasing even faster than in the previous years. So 1394 was one of the bloodiest years in the country's conflicts.

During the conflicts, parties involved in the conflict, especially anti-government armed elements do not care for human rights and humanitarian law, and continue to violate the right of civilians to life, and inflict harm and damage to peoples' property and assets. Parties involved in the armed conflict, especially anti-government armed groups have grossly violated the principle of distinction, the principle of proportionality and precautionary principles, engaging in tactics and practices that are causing civilian casualties. The parties are required to avoid the application of methods and tactics that are causing civilian casualties, and should avoid targeting civilian persons and populations.

During 1394 the scope of insecurity and armed conflicts have not only expanded, but also more violence related to the war has been intensified. Afghanistan, during these years, witnessed numerous beheadings and even innocent women and children were slaughtered. Most of this violence has been carried out by a group called the Islamic State, the Taliban and some groups of public uprisings or irresponsible armed groups. AIHRC is gravely concerned over the spread of insecurity and the escalation of violence. Therefore, the Commission wants all parties to conflict to respect International Humanitarian Law and people's lives and property and protect the civilian population.

Recommendations:

AIHRC based on findings of this report present the following recommendations to the Afghan government, international forces, anti-government armed groups. The AIHRC wants all parties to the conflict to pay serious attention to the AIHRC's recommendations and try to implement these recommendations in their practices.

- 1) All parties to the conflict, including anti-government armed groups under the provisions of the 1949 Geneva Convention and its Additional Protocols and Customary International Humanitarian Law, are obliged to comply with the International Humanitarian Laws during armed conflicts. Therefore, the offending party shall be held responsible for any violation of these rules.

- 2) All parties involved should know that killing civilians and damaging civilian persons' and property is prohibited and perpetrators of of human rights and International Humanitarian Law violation, in all circumstances, conditions and time, shall be prosecuted.
- 3) Anti- government armed elements are once again recommended to avoid targeting civilians and refrain the methods and tactics that cause civilian casualties.
- 4) We recommend for anti- government armed groups to stop taking hostages, assassinations and killing passengers, influential civilian and Clergymen and engaging in extra-judicial killing.
- 5) We demand the Afghan government to investigate armed conflict-related violations of international humanitarian law, and try to identify and prosecute all those who have committed violations of international humanitarian law.
- 6) We demand the Afghan government to stop the arbitrary practices by a number of irresponsible armed forces committing a violation of human rights and international humanitarian law under the name of "People uprising forces", and to take legal and effective action for the disarmament of such armed groups.
- 7) We recommend the Afghan government and pro-government international forces to seriously respect the principles and rules of International Humanitarian Law and by complying with the principle of distinction, the precautionary principle and the principle of proportionality, protect the lives, dignity and property of the civilian population.
- 8) We demand the Afghan government to investigate cases of violations of International Humanitarian Law and cooperate with the International Criminal Court, collect all cases, documents and evidences related to war crime, and hand them over to the above mentioned Court.
- 9) We demand the Afghan government to teach human rights and International Humanitarian Law to all the staff and officials of the defense and security forces.
- 10) We demand the Afghan government and international organizations to coordinate the national and international humanitarian assistance, and try to support individuals and families who have been displaced due to conflicts.
- 11) The Afghan government must pass the Law on Compensation to individuals and families affected by the armed conflict, in order to regularize the law and guarantee the affected people's right to compensation and payment.

12) We demand the defense and security agencies of the country to make endeavor for the proper implementation of the MoU recently signed with the AIHRC, and provide necessary facilities for effective monitoring of the AIHRC's monitors.