

Executive Summary

The human cost of the armed conflict in Afghanistan grew in 2010. The Afghanistan Independent Human Rights Commission and UNAMA Human Rights recorded 2,777 civilian deaths in 2010, an increase of 15 per cent compared to 2009. Over the past four years, 8,832 civilians have been killed in the conflict, with civilian deaths increasing each year.¹ The worsening human impact of the conflict reinforces the urgent need for parties to the conflict to do more to protect Afghan civilians, who, in 2010, were killed and injured in their homes and communities in even greater numbers. UNAMA Human Rights and the Afghanistan Independent Human Rights Commission urge the Anti-Government Elements and Pro-Government Forces to strengthen civilian protection and fully comply with their legal obligations to minimize civilian casualties.

Civilian Deaths

Of the total number of 2,777 civilians killed in 2010, 2,080 deaths (75 per cent of total civilian deaths) were attributed to Anti-Government Elements², up 28 per cent from 2009. Suicide attacks and improvised explosive devices (IEDs) caused the most civilian deaths, totaling 1,141 deaths (55 per cent of civilian deaths attributed to Anti-Government Elements). The most alarming trend in 2010 was the huge number of civilians assassinated by Anti-Government Elements. Four hundred and sixty two civilians were assassinated representing an increase of more than 105 per cent compared to 2009. Half of all civilian assassinations occurred in southern Afghanistan. Helmand province saw a 588 per cent increase in the number of civilians assassinated by Anti-Government Elements and Kandahar province experienced a 248 per cent increase compared to 2009.

Afghan national security and international military forces (Pro-Government Forces) were linked to 440 deaths or 16 per cent of total civilian deaths, a reduction of 26 per cent from 2009. Aerial attacks claimed the largest percentage of civilian deaths caused by Pro-Government Forces in 2010, causing 171 deaths (39 per cent of the total number of civilian deaths attributed to Pro-Government Forces). Notably, there was a 52 per cent decline in civilian deaths from air attacks compared to 2009.³ Nine per cent of civilian deaths in 2010 could not be attributed to any party to the conflict.

¹ UNAMA Human Rights and the AIHRC documented and included in their analysis and reporting on civilian casualties for the period 01 January to 31 December, 2010 only those incidents of civilian death and injury that their field offices reported and investigated including through on-site visits, interviews with a wide range of affected persons and physical examination of evidence, thoroughly cross checked with a diverse range of credible sources, and verified. UNAMA Human Rights and the AIHRC do not claim that the statistics presented in this report are complete; given limitations in methodology and the operating environment, UNAMA Human Rights and the AIHRC may be under-reporting civilian casualties (see the Methodology section of this report).

² Anti-Government Elements (AGEs) includes armed opposition groups and individuals of diverse backgrounds, motivations and command structures characterized as the Taliban, the Haqqani network, Hezb-e-Islami, and al-Qaeda affiliates such as the Islamic Movement of Uzbekistan, Islamic Jihad Union, Lashkari Tayyiba and Jaysh Muhammad engaged in hostilities with the Government of Afghanistan and its international military partners.

³ Although overall civilian deaths from air attacks by Pro-Government Forces decreased in 2010, the number of civilians killed in air strikes increased over the course of 2010: in the first half of 2010, 69 civilians were killed in air attacks while in the second half of 2010, 102 civilians died from air strikes. This is a 48 per cent increase in civilian deaths from air strikes in the second half as compared to the first half of 2010. This is linked to significant increases in the use of air assets in combat in the last half of 2010.

The overall rise in civilian deaths in 2010 can be attributed to the increased use of IEDs and targeted assassinations by Anti-Government Elements and intensified military operations particularly in southern Afghanistan. Although the majority of fighting in 2010 occurred in the southern and southeastern regions, the insecurity and volatility of the conflict continued to spread to the northern, eastern and western regions.⁴ All regions, apart from the eastern region experienced major increases in the number of civilians killed compared to 2009. The northern region saw an intensification of fighting throughout year with the number of civilians killed increasing by 76 per cent compared to 2009. Both the southeastern and the southern regions saw a rise in civilian deaths compared to 2009, with a 40 per cent and 21 per cent increase respectively.

Impact on Women and Children

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

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

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

Civilian Injuries

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

Responsibility for Attacks

In 2010, the Afghanistan Independent Human Rights Commission (AIHRC) and UNAMA Human Rights tracked admissions of responsibility by a party to the conflict for attacks that caused civilian deaths and injuries. These efforts are aimed at improving determinations of

⁴ Each region is comprised of the following provinces. Central Region includes Kabul, Panjsher, Kapisa, Logar, Parwan and Wardak. Eastern Region includes Kunar, Laghman, Nangarhar and Nuristan. Western Region includes Badghis, Farah, Ghor and Herat. Northern Region includes Balkh, Faryab, Jawzjan, Samangan and Sari Pul. North East Region includes Badakhshan, Baghlan, Kunduz and Takhar. South East Region includes Ghazni, Khost, Paktika and Paktya. South Region includes Helmand, Kandahar, Nimroz, Uruzgan and Zabul. Central Highland includes Bamyán and Daykundi.

accountability for civilian casualties to particular parties and armed groups, and at targeting advocacy on civilian casualties with specific parties. By tracking admissions of responsibility for attacks, the AIHRC and UNAMA Human Rights also highlight the large number of civilian casualties in 2010 for which no party or armed group took responsibility.

Anti-Government Elements

In 2010, Anti-Government Elements used unlawful means of warfare including asymmetric tactics, in particular IEDs and suicide attacks that appeared to target military objects but violated Afghans' basic right to life, Islamic principles and the international humanitarian law principles of distinction, proportionality and precaution.⁵ These tactics caused increased numbers of civilian deaths and injuries, systematically terrorized the civilian population and restricted access to essential services in many areas affected by the conflict. The greatly increased use of larger and more sophisticated IEDs disproportionately harmed civilians. Countrywide, 21 per cent of IED detonations and 46 per cent of suicide attacks resulted in civilian deaths and injuries.

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

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

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

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

development efforts. Neither Afghan national security nor international military forces have been able to protect civilians from assassinations.

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

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

Pro-Government Forces

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

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

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

Night raids do not cause a large number of civilian casualties but these operations continue to generate anger and resentment across Afghan society. Many communities view Pro-Government Forces as acting with impunity through lack of effective and transparent investigation and prosecution for abuses that occur during night raids. Other concerns include lack of information regarding the location of persons detained and the inability to receive compensation for loss of life, injury and property destruction. Another side-effect of night raids is the stigmatization of the affected family or clan head in local society as *"not being in control of his own house."*

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

Afghan Local Police Program

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

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

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

Military Operations in Southern Afghanistan

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

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

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

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

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

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

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

Humanitarian Access

Civilians were severely affected by the conflict, not only through deaths, injuries and the pervasive atmosphere of intimidation but also through displacement, damage and destruction to property, loss of livelihood, lack of freedom of movement and lack of access to essential

services such as health care, food and education. According to the United Nations High Commissioner for Refugees, 102,658 persons were displaced due to the conflict in 2010.

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

Conclusion

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

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

RECOMMENDATIONS

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

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

To the International Military Forces

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

conducting investigations and offering amends in the form of compensation, apologies, condolences and other dignifying gestures.

- Implement the Standard Operating Procedure that outlines standard rules and regulations for the treatment of evidence gathered at the point of capture and procedures for handing over evidence to Afghan authorities.
- Comprehensively review all ISAF/US-Forces decisions to destroy civilian property during all operations to ensure compliance with international humanitarian law, and explore and use alternative means and methods that minimize destruction of civilian property and livelihoods.
- Support the establishment of an appropriate mechanism to monitor the creation, recruitment and activities of Afghan Local Police units to prevent misconduct and unlawful actions outside the ALP mandate, and to ensure that ALP units comply with Afghan and international law including human rights and humanitarian law.

To the Government of Afghanistan

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