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United Nations Assistance Mission to Afghanistan, Human Rights Unit

# **A F G H A N I S T A N**

## **Mid Year Bulletin on Protection of Civilians in Armed Conflict, 2009**



**July 2009**  
**UNAMA, HUMAN RIGHTS**



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## **Introduction**

1. This *Mid Year Bulletin on the Protection of Civilians in Armed Conflict in Afghanistan*, prepared by the Human Rights Unit of UNAMA (UNAMA Human Rights), covers the period 01 January to 30 June 2009. The Bulletin focuses on two main areas of concern, namely Improvised Explosive Devices (IED)/suicide attacks carried out by Anti-Government Elements (AGEs), and airstrikes conducted by pro-government forces (PGF). These two tactics continue to claim the largest number of civilian lives in the ongoing armed conflict in Afghanistan.
2. In compliance with UN Security Council Resolution 1868 (2009), UNAMA Human Rights undertakes a range of activities to enhance the protection of civilians in armed conflict. For example, UNAMA Human Rights conducts independent and impartial monitoring of incidents involving loss of life or injury to civilians, as well as damage or destruction of civilian infrastructure, and conducts advocacy activities geared to mitigating the impact of the armed conflict on civilians. Appendix I summarizes the methodology employed by UNAMA Human Rights' Officers for collecting information, analysing, and reporting on incidents of civilian casualties and the impact of the armed conflict on civilians.

## **General Trends: January - June 2009**

3. Armed conflict in Afghanistan intensified significantly after 2005, with insurgent/AGE attacks and operations by PGF encroaching into more areas of the country. As the conflict has widened and deepened throughout 2007, 2008 and into 2009, almost a third of the country is now directly affected by insurgent activities with differing intensity. Armed conflict is particularly prevalent in the South, South-East, East, Central, and Western regions of the country. It is also spreading into areas formerly relatively tranquil, such as the North and North-East.
4. As the conflict intensifies and spreads, it is taking an increasingly heavy toll on civilians, as the growing civilian death toll registered by UNAMA Human Rights each year since 2007 indicates. In the first six months of 2009, UNAMA recorded 1013 civilian deaths, compared with 818 for the same period in 2008, and 684 in 2007 (see graph #1 below). This represents an increase of 24% of civilian casualties in the first six months of 2009 as compared to the same period in 2008. Both Anti-Government Elements and pro-government forces are responsible for the increase in civilian casualties. UNAMA Human Right figures indicate that more civilians are being killed by AGEs than by PGF. In the first six months of 2009, 59% of civilians were killed by AGEs and 30.5% by PGF. This represents a significant shift from 2007 when PGF were responsible for 41% and AGEs for 46% of civilian deaths.
5. Operations carried out by PGF have resulted in a growing number of civilian casualties since 2007. Whereas the overall proportion of civilian deaths attributed to the PGF has declined in recent years, mainly due to concerted mitigation efforts, the actual number of civilian deaths continues to increase.
6. The Government of Afghanistan (GoA) and its allies, in attempting to quell the insurgency and responding to insurgent activity within civilian areas, are also conducting more operations in areas where civilians reside. These factors have resulted in a rising toll in terms of civilian

deaths and injuries and destruction of infrastructure, including homes and assets, which are essential for survival and the maintenance of livelihoods.

7. UNAMA Human Rights notes that a high priority has been given by the PGF to minimising the number of civilian casualties in the armed conflict. As part of these efforts, a review and change of tactics has been conducted by ISAF and US Forces Afghanistan, including the redrafting of Tactical Directives (TDs) in September and December 2008, and again more recently in July 2009. In addition, a Civilian Casualties Tracking Cell was created in September 2008 within ISAF which is mirrored by a similar body within US Forces Afghanistan. There was also a review in command structures culminating in the creation of a single command for both US Forces Afghanistan and ISAF in the person of General McKiernan in September 2008. There has been a change of Commander of ISAF/US forces Afghanistan in May 2009 with the replacement of General McKiernan by General McChrystal.
8. Notwithstanding efforts by international military forces to implement policies and procedures to minimize the impact of their operations on civilians, airstrikes remain responsible for the largest percentage of civilian deaths attributed to PGF during the first six months of 2009. UNAMA Human Rights recorded 40 incidents of airstrikes since the beginning of 2009 in which 200 civilians reportedly lost their lives. Implementation of search and seizure operations (including night time raids) are also of concern, and there have been reports of a number of joint Afghan and international military forces operations in which excessive use of force has allegedly resulted in civilian deaths. There have been a declining number of “force protection incidents”, where civilians were killed after failing to follow instructions when approaching too close to military convoys, military installations, or checkpoints.
9. A continuing trend seen through 2008 and into the first six months of 2009 is that AGE tactics have shifted, from frontal or ambush attacks on PGF, to insurgent or guerrilla type activities, including asymmetric attacks such as IEDs, VBIEDs, BBIEDs, (that remain responsible for the largest number of civilian deaths), and targeted assassinations.
10. Between January and June 2009, 595 civilian deaths were attributed to AGE activities; 400 of those deaths were the result of indiscriminate IED and suicide attacks. This represents 67% of all deaths attributable to AGEs, or 39.5% of the total 1013 civilians killed in the first half of 2009. AGE operations are frequently undertaken regardless of the impact on civilians in terms of deaths and injuries or destruction of civilian infrastructure. Based on investigation of specific incidents conducted by UNAMA Human Rights, information suggests that AGEs are basing themselves in civilian areas so as to deliberately blur the distinction between combatants and civilians, and as part of what appears to be an active policy aimed at drawing a military response to areas where there is a high likelihood that civilians will be killed or injured. Also of great concern to UNAMA Human Rights, is the frequency by which AGEs conduct attacks in, or against, civilian locations. UNAMA Human Rights continues to document IED attacks carried out on roads used by civilian traffic, residential compounds, and market places. In some areas, UNAMA Human Rights has also noted targeted assassinations of civilians through the use of IEDs, particularly in the South-East.
11. AGEs’ attacks on humanitarian workers and government employees, including medical and educational staff, have increasingly impaired access by Afghans to humanitarian assistance, in particular to life-saving health care, food, shelter and other services essential for survival. This has a particularly detrimental impact on women and children living in conflict-affected

areas. Large parts of the South, South-West, South-East, East, and Central regions of Afghanistan remain classified as ‘extreme risk, hostile environment’ for humanitarian agencies conducting relief work in those areas. Schools, particularly those for girls, have come under increasing attack thereby depriving thousands of students, especially girls, of their right of access to education. According to UNICEF, there were 16 IED explosions in school premises over the six month period. For example, in Ghor province in April 2009, two classrooms of a school were destroyed by an IED; the first attack on a school in the province since 2007. On 27 May 2009, a girls’ school was attacked in Qalai Naw area of Charkh District, Logar province by AGEs with RPG, destroying the school gate and several windows. UNAMA Human Rights has noted that there have been threat letters issued against schools planned to be used for election purposes, particularly in the East and South East regions.

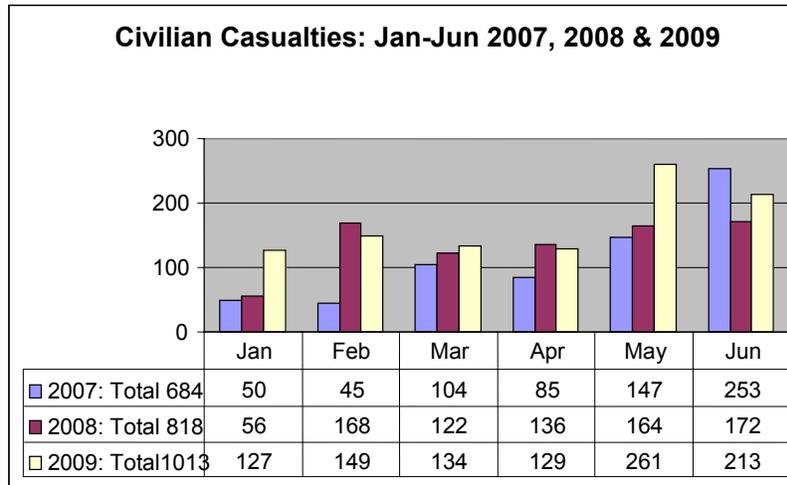
12. Increased AGE activity, including a new “Operation Victory” announced by the Taliban leadership, in response to the troop surge being implemented by the US Administration, and the Presidential and Provincial Council elections scheduled for 20 August, raise the prospect of a further intensification of the conflict in Afghanistan. Given the pattern of the conflict so far, further significant civilian casualties in the coming months are likely.
13. UNAMA remains concerned at the high level of civilian casualties resulting from the ongoing armed conflict in Afghanistan and reinforces the message that more has to be done by all parties to the conflict, including in particular the armed opposition, to reduce the impact of their operations and activities on civilians. While pro-government forces have been responsive to the issue of civilian casualties arising from their operations, civilian deaths caused by airstrikes is still a serious concern. AGEs continue to undertake asymmetric attacks and conduct operations in civilian areas, particularly IED and suicide attacks, heedless of the toll on civilians. UNAMA and the UN High Commissioner for Human Rights remind all parties to the conflict of their obligations to protect civilians under international humanitarian law, international human rights law and the national laws of Afghanistan.

### **Civilian Casualties: January – June 2009**

14. As noted, the armed conflict intensified significantly throughout Afghanistan in 2008 and in the first six months of 2009, with a corresponding rise in civilian casualties and a significant erosion of humanitarian space. UNAMA Human Rights recorded 1013 civilian casualties for the period 1 January to 30 June 2009. This represents a 24% increase in casualties from the same period in 2008 when 818 civilians died. Most of the deaths continued to occur in the South, South East, East, West and Central regions of the country. According to UNAMA’s figures 595 (59%) of these deaths were caused by AGEs and 310 (30.5%) by international and national Afghan forces (PGF). The remaining 108 (10.5%) could not be attributed to any of the parties to the conflict.
15. With the exception of February, during the first six months of 2009, UNAMA Human Rights recorded higher figures of civilian deaths and injuries from those recorded in the same period for 2008. This phenomenon could be explained by the fact that there has been sustained AGE activity throughout the winter months of late 2008 and early 2009 (unlike in previous years when there has been a lull in fighting). Other factors include, a growing incidence of military operations in civilian settings, complex AGE attacks, military operations being conducted across the border in Pakistan forcing many fighters back into Afghanistan, the troop surge by the international military forces, and the policy of ISAF and US Forces Afghanistan to

intensify their military response to the insurgency through the winter months as well as intensifying operations in the summer months of May and June.

**#1 Recorded civilian casualties January-June 2007-2009\***



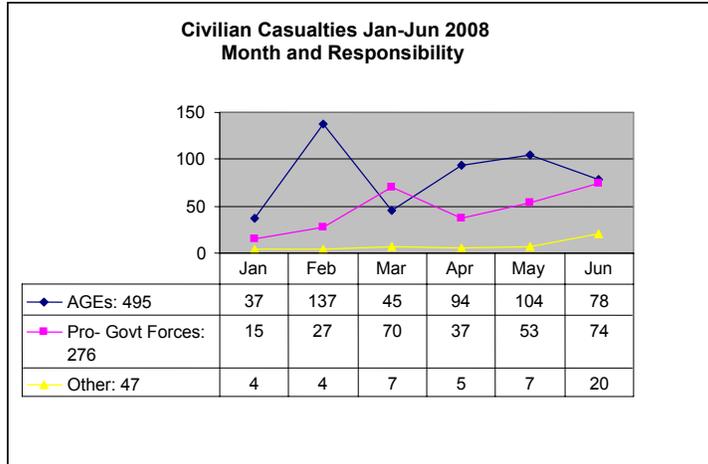
16. For January 2009, UNAMA recorded 127 civilian deaths (44 by AGEs, 63 by PGF and 20 where responsibility could not be determined) which represents a 127% increase on the January 2008 total of 56 civilian deaths (37 by AGEs, 15 by PGF and 4 where responsibility could not be determined). January 2009 figures represent a 33% increase on the 104 deaths recorded for December 2008. Significantly, more civilian deaths were attributed to the PGF in January 2009 than AGEs (63 were killed by PGF, whereas 44 were killed by AGEs), which is a reversal of usual monthly trends whereby AGEs remain responsible for most civilian casualties.
17. In February 2009, 149 civilian deaths were recorded by UNAMA; 80 (54%) caused by AGEs, 46 (31%) caused by PGF and another 23 (15%) where responsibility could not be attributed. These 149 deaths constitute an increase of 34% on January's 111 reported deaths, but is a 12.5% decrease on the 168 civilian deaths recorded in February 2008. The high casualty figure for February 2008 includes the death toll resulting from a suicide bombing at a dog-fight in Arghandab district, Kandahar that claimed 67 civilian lives.
18. UNAMA recorded 134 civilian deaths during the month of March 2009. AGEs were responsible for 81 deaths (60%), PGF for 34 (25%), while the deaths of 19 (14%) could not be attributed. This reveals a decrease in civilian casualties of 10% on February's 149 reported deaths.
19. In April 2009, 129 civilian deaths were reported to UNAMA as a result of armed conflict; 79 (61%) deaths were attributed to AGEs, 32 (25%) to PGF and 18 deaths (14%) could not be attributed. The South remained the worst affected area, with 62 civilian deaths reported in

\* Information contained in these graphs is sourced from reports of civilian casualties investigated by UNAMA Human Rights and is updated regularly. Last updated 8 July 2009.

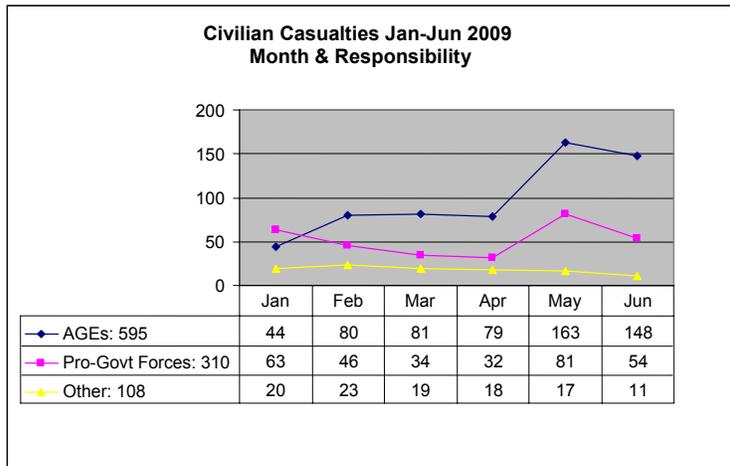
April - 40 at the hands of AGEs, 12 by PFG, and 10 deaths where responsibility could not be attributed.

20. There was a considerable rise in civilian casualties in May 2009 when UNAMA recorded 261 civilian deaths, including 163 by AGEs (62%), 81 by PGF (31%), and 17 (6%) where responsibility could not be attributed. Similar to previous months, the region with the largest number of civilians killed remained the South with 94 recorded casualties. The increase in casualties in May is attributed to a combination of factors including, for example, instability in Pakistan, the IM troop surge, as well as seasonal factors. In the Western region, civilian casualties jumped considerably in May 2009 with 71 civilian deaths recorded by UNAMA: 66 (93%) were attributed to PGF and 5 (7%) where responsibility could not be determined. This contrasts sharply with 6 deaths recorded in the region in April 2009: 4 (67%) by AGEs and 2 (33%) where responsibility could not be determined. The dramatic increase is largely due to the incident in Bala Baluk, Farah Province, where at least 63 women and children lost their lives as a result of airstrikes on 4 May 2009.
  
21. In June 2009, UNAMA Human Rights records show that 213 civilians died as a result of the armed conflict. This represents a 24% increase on the 172 civilians who died in June 2008 and continues the trend witnessed from the beginning of the year of a marked increase in civilian casualties compared with the previous year. Of the 213 casualties recorded in June 2009, 148 were killed as a result of AGEs, 54 from PGF and 11 lost their lives in circumstances where responsibility could not be determined. When compared with the casualties recorded from June 2008, the numbers of civilians killed by AGEs in June 2009 increased by 90% (78 civilians were killed by AGEs in June 2008), while deaths resulting from operations by PGF dropped by 24% (74 civilians were killed by PGF in June 2008), while those killed in situations where responsibility could not be determined also dropped by 45% (responsibility for the deaths of 20 civilians in June 2008 could not be determined). Of the 54 civilians killed resulting from operations by PGF in June 2009, 40 (74% of total killed by PGF and 19% of total civilian casualties for the month) lost their lives as a result of airstrikes and 2 (4% of total killed by PGF and 1% of total civilian casualties for the month) died as a result of escalation of force incidents. Of the 148 killed by AGEs, 14 (9% of total killed by AGEs and 6.5% of the total civilian casualties for the month) were the victims of targeted assassination, whereas 96 (65% of total killed by AGEs and 45% of total civilian casualties for the month) died as a result of IEDs and suicide attacks and 15 (10% of total killed by PGF and 7% of total civilian casualties for the month) were killed as a result of mortar/rocket or grenade attacks. In June 2009 the Southern region continued to have the highest number of civilian casualties, with 92 reported deaths, followed by the South East region with 50 deaths, and the East with 16 deaths.

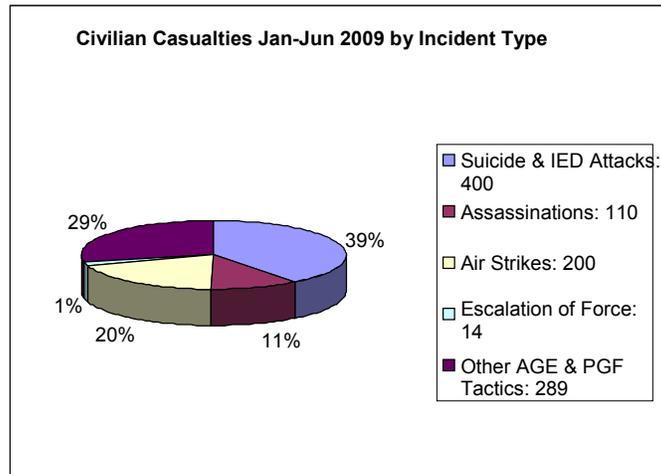
**#2 - Recorded civilian casualties by AGE and PGF  
January – June 2008**



**#3 - Recorded civilian casualties by AGE and PGF  
January - June 2009**



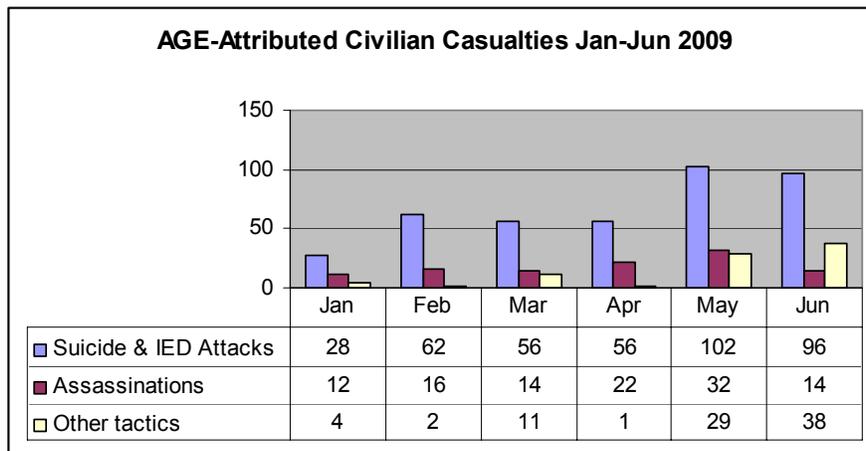
**#4 – Recorded civilian casualties by incident type  
January – June 2009**



**IEDs and Suicide Attacks by AGEs**

22. AGEs remain responsible for the largest proportion of civilian casualties. The use of improvised explosive devices (IEDs), which are by their nature indiscriminate, increased during the first few months of 2009. Civilian deaths reportedly caused by AGEs rose from 700 in 2007 to 1,160 in 2008, an increase of over 65%. In the first six months of 2009, AGEs killed 595 civilians, 400 of whom died as a result of indiscriminate IED and suicide attacks. This represents 67% of all deaths attributable to AGEs, and 39.5% of the total 1013 civilians killed in this period.

**#5 –AGE –Attributed Civilian Casualties  
January – June 2009.<sup>1</sup>**



\* Other Tactics by AGEs includes rocket attacks, ambushes, hit and run attacks, snipers that resulted in civilian casualties.

23. Suicide and IED attacks killed more Afghan civilians than any other tactic used by the parties to the conflict. Although such attacks are frequently directed against military or government targets, they are often carried out in crowded areas with apparent disregard for the extensive injury and death they cause to civilians. In the Central region, for example, UNAMA Human Rights recorded that AGEs killed 59 civilians in the first six months of 2009, of which 42 were killed by BBIEDs, VBIEDs, and IEDs.
24. Suicide and IED attacks are undertaken in violation of the relevant principles of international law. The method of warfare selected, namely IEDs and suicide bombs, are by their nature indiscriminate; even in situations where military objectives are targeted, the nature of these devices means that all individuals in the vicinity of the attack are at risk, and are killed or injured, often with a significant and disproportionate toll on civilians.
25. AGEs frequently utilize IEDs and suicide attacks to target civilians working for the international military forces, construction companies either employed by PRTs or the provincial government, as well as convoys of international military forces' goods carried by private contractors. School properties have been damaged or destroyed, and students, teachers and other education sector employees have been killed and injured due to the placement of IEDs or as a result of suicide attacks.
26. The sustained and widespread use of IEDs contributes to a climate of fear and intimidation that has significant repercussions for Afghan civilians, including in particular in terms of loss of life and livelihoods. IEDs are planted indiscriminately, and coupled with the use of suicide attacks, civilians who support or work for the government or PGF are targeted. UNAMA Human Rights has documented numerous incidents of IEDs placed outside the residential homes of ANP officers, civil servants and others who work for, or support the GoA, and the international community. For example, on 19 May 2009, an IED exploded under the vehicle of the head of Department of Women Affairs in Khost province in an apparent attempt to intimidate her. This was a culmination of a number of threats made against her in the month prior to the explosion.
27. UNAMA Human Rights has also noted the use of IEDs in targeted assassinations on provincial government officials including on 7 February 2009 the *uluswal* (district administrator) of Lalpura district was killed and his driver injured in an RCIED explosion. On 4 May 2009, the Mayor of Mehterlam City in Lagham, was killed as well as 6 other civilians in a BBIED explosion that also injured 10 others. On 29 May 2009, the Governor of Kunduz was injured during an RCIED explosion in Chushmai-e-Shir village of Taloqan district.
28. UNAMA Human Rights also recorded a new trend emerging in May and June 2009, whereby magnetic IEDs attached to vehicles were used to target a variety of individuals who mainly work with the government or international military forces. On 29 May 2009, a Provincial Council candidate was killed by a magnetic IED attached to his vehicle in Khost. On 26 June 2009 in the market place of Khost city, a translator working for the international military forces was killed, and 4 others were injured, by a magnetic IED attached to his vehicle. On 27 June 2009, a magnetic IED exploded under a vehicle belonging to an individual who reportedly provided services to ISAF, in Khost city.
29. IEDs have been placed in crowded residential and commercial areas such as market places, music shops, or shops that are seen to be selling goods deemed to be 'immoral', such as

DVDs. On 12 April 2009, an IED placed in a wheelbarrow transported by a young boy prematurely detonated 15 metres from the Governor's office in Aybak city, in Samangan, killing the boy and injuring a female bystander. Subsequent investigations indicated that the IED had been planted without the knowledge of the boy.

**Case Study**

On 7 May 2009, a VBIED riding a motorcycle and apparently targeting international military forces exploded his suicide vest in the market of Grishk Twon, Nahri Sarraj district, Helmand, reportedly killing 23 civilians and injuring 17 others. This was the fifth incident in Grishk Town market over the six month period that targeted IM and ANSF, but where civilians were the main victims: 2 ANP were killed and 5 injured as compared to 35 civilians reportedly killed and 50 injured.

30. Simultaneous attacks by AGEs using IEDs and suicide attacks have become increasingly sophisticated over the six month period. This tactic, whereby a number of vehicle and body-borne attackers are used to target multiple government locations, with the intention of incurring the largest amount of casualties, often civilians who work in these locations is an increasingly common tactic. The coordinated attack against the MoJ Central Prison Directorate (CPD) headquarters, the Ministry of Education, and the National Directorate of Security in Kabul on 11 February 2009, led to at least 21 civilians killed. In that incident UNAMA received reports that several of the civilian Government employees were deliberately singled out for attack and shot, despite clearly being non-combatants.

**Multiple attacks on Government buildings in Kandahar**

On 1 April 2009, there was a multiple attack on the Provincial Council building in Kandahar City. A car bomb was set off at the compound's gate to facilitate the entry of six armed men bearing AK-47s and wearing suicide vests. Two of these men were killed by the car bomb, but the remaining four attackers entered the building. Ultimately, two of the attackers detonated their vests, while two were shot and killed before they were able to do so. Apart from the seven attackers, those killed in the attack included three government officials, four Provincial Council employees, and seven ANP guards. In addition, at least 17 civilians were injured, including 7 Provincial Council members. At the time of the attack, the building was being used for a training program.

**Multiple attacks on the Provincial Administration in Khost**

On 12 May 2009, 21 individuals were killed, including three civilians, and 25 individuals were injured, including 22 civilians during a complex attack on the provincial administration buildings in Khost. At about 11:00, a group of AGE simultaneously attacked the office of the Provincial Governor and the ANP HQ. The attackers used explosive, heavy weapons and small arms fire. The attack on the Governor's Office was carried out by a VBIED and then a BBIED attacker who was wearing a *burqa*. The ANP HQ came under fire from the direction of the Municipality Department that had first been taken by the insurgents. Reportedly, during the day, some AGE (suicide attackers) spread out throughout the city. They were being hunted by ISAF and ANSF who had also cordoned off the city centre. The Municipality department continued to be occupied by insurgents and from 13.00 onwards severe fighting continued between AGE and ISAF/ANSF. Use of hand grenades, heavy and small weapons were reported and several explosions were heard (potentially BBIEDs). Around 16:00, although the situation was calmer, another big explosion took place in the Municipality building. In an interview with Aljazeera news, Taliban spokesman, Zabihullah Mujahid, acknowledged the attack on government buildings and claimed that 30 suicide attackers had entered the town. He added that they were targeting Khost because of the large presence of international military forces. However, the attacks were directed against civilian targets irrespective of the presence of civilians.

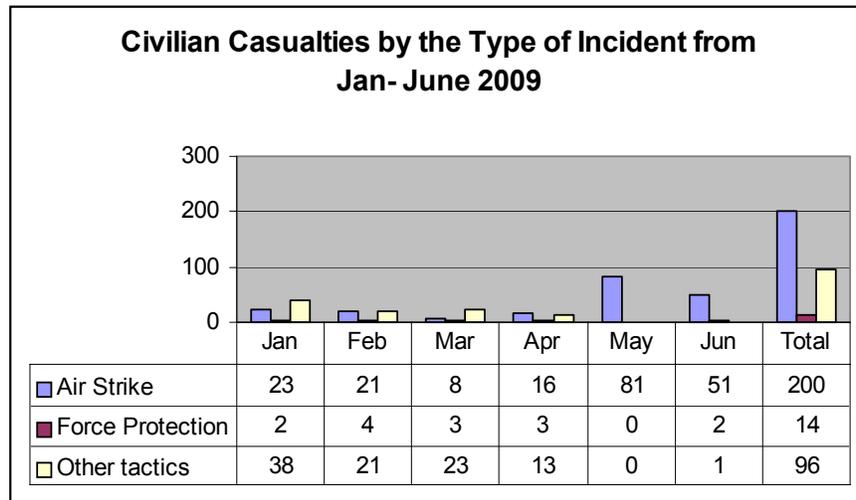
31. The willingness of the armed opposition to endanger civilians, including children, with the use of IEDs points to the AGEs' apparent disregard for civilian casualties that may arise from their actions. Far from taking action to minimize the impact of their activities on civilians, sectors of the armed opposition appear to deliberately favour the use of indiscriminate tactics, such as the use of IEDs. The statement made in June 2009 by a deputy commander to Mullah Omar is of particular concern. This statement indicates that fighters should place themselves among civilians and civilians should be prepared to die because such tactics draw a response from the PGF and enhances their struggle by undermining public support for the continued presence of the international military, and international community generally, within Afghanistan. However, all persons engaged with the armed opposition have an obligation to comply with the requirements of international humanitarian law, and this includes, at the minimum, not to actively target civilians and to observe the principles of distinction and proportionality when conducting their operations, in addition to their obligations under the laws of Afghanistan.

### **Air Strikes by pro-government forces**

32. The use of airstrikes in civilian areas continues to claim the largest percentage of civilian deaths attributed to pro-government forces. Between January and June 2009, UNAMA recorded 200 civilian deaths arising from airstrikes. This represents 64.5% of the total number of 310 civilians killed by PGF, or 20% of the total number of 1013 civilians killed in this period. These percentages are slightly lower than the figures recorded for the entire year of 2008, when UNAMA Human Rights recorded that 552 civilians died from airstrikes, a figure

which constituted 67% of the 828 non-combatant deaths attributed to PGF or 26% of the 2118 civilians killed overall.

**#6 - PGF-attributed Civilian Casualties January-June 2009**



33. In January 2009, UNAMA Human Rights recorded 4 instances of airstrikes that resulted in 23 civilian deaths. In February 2009, there were 2 airstrikes recorded that caused 21 civilian deaths. UNAMA Human Rights recorded 3 airstrikes in March 2009, which claimed 8 civilian lives. In April 2009, 5 airstrikes were recorded that caused 16 civilian deaths. May 2009 saw 4 airstrikes, which caused 81 civilian casualties making it the deadliest month in terms of civilian casualties as a result of airstrikes for the first half of the year. UNAMA attributes 63 of these deaths to the airstrikes in the high profile incident on 4 May 2009 in Gerani village, Bala Baluk district of Farah Province. Fifty-one civilians were killed as a result of 6 airstrikes in June 2009, making it the second deadliest month for civilian casualties arising from airstrikes in the first six months of 2009, including 18 civilians killed in two separate airstrikes in the Central Highlands Region. These figures indicate that while the number of deadly airstrike incidents remains low overall, when they do occur they can claim a significant number of lives, as is evidenced by the 4 May incident in Bala Baluk. In a worrying development, it was reported to UNAMA Human Rights that on 5 June 2009, 5 civilians were reportedly killed by an airstrike on the Bala Dasht village of Kirjan district, Dai Kundi province in the Central Highlands region followed by a second airstrike on the same village on 14 June 2009, which reportedly claimed the lives of a further 13 civilians, including 8 children. This is the first recorded airstrike in this region since the intensification of the conflict in 2005 and signals the spreading of the conflict into hitherto more stable areas where AGE infiltration has been increasing.

**Air strike in Guzara district**

On 17 February, IM conducted an airstrike in the area of Korkosa (Kariz Sultan) in Guzara district Herat Province. Reportedly, two bombs were dropped targeting two vehicles parked between two Kuchi tents among a settlement of some 13 Kuchi families. As a result, UNAMA found that 13 Kuchi civilians were killed. The air strike had been conducted in order to eliminate a prominent AGE commander, Gulyam Yahya, who was later ascertained not to have been in the vicinity of the airstrike.

34. Airstrikes are used mainly during operations carried out on specific targets or when called upon during “troops in contact” (TIC) situations with insurgents. UNAMA Human Rights has found that there were less civilian casualties from ‘pre-planned’ airstrikes than in TIC situations. Although usually focusing on a pre-determined target, such as a mid to high level Taliban commander, there have been instances where pre-planned airstrikes have been carried out on targets located among high concentrations of civilians and have claimed civilian lives. For instance, UNAMA Human Rights recorded that on 9 January 2009, one civilian was killed and several were injured when an airstrike hit their house during an operation against AGE locations in Dara-i-Pech district in Kunar province. On 2 April 2009, a local employee of an international NGO was reportedly killed when his relative’s house was mistakenly hit as a result of a night-time airstrike on a village in the Baraki Barak district of Logar Province. On 27 April 2009, two civilians were killed when their residence collapsed reportedly due to an explosion from a nearby airstrike during fighting between ISAF and AGEs in Lashkar Gah in Helmand Province.
  
35. Information gathered by UNAMA Human Rights on airstrike incidents, suggests that significant civilian casualties most usually result from the use of close air support during TIC situations particularly when these operations are being conducted in villages and other areas where civilians are concentrated. Civilians are most in danger when airstrikes are called in to support ground forces and residential compounds are targeted because armed fighters have taken up positions within those compounds (at times irrespective of whether civilians are present or not), or because of intelligence (which on occasion post-event evidence suggests may have been faulty or misleading) that an alleged Taliban commander and/or networks of AGEs are present and possibly using the civilians resident there as shields. In several cases investigated by UNAMA, it is apparent that important traditional codes of hospitality and power imbalances inhibit the ability of villagers living in areas with a strong AGE presence to refuse shelter to an AGE commander or his men. Information indicates that AGEs take advantage of these factors to use civilian houses as cover, to deter PGF raids, or to increase the likelihood of civilian casualties if raided by PGF, potentially violating international humanitarian law.

***Airstrike in Bala Baluk district***

The incident in Gerani village in Bala Baluk district in Farah Province on 4 May 2009 highlights the effects of the use of airstrikes in civilian areas, which claimed 64 lives (63 women and children as a result of the airstrikes, and one girl during cross fire). Following its investigations into the event, the US military acknowledged that it had failed to comply with internal military guidelines. In this respect, the investigations distinguished between those airstrikes that occurred during the day and those which occurred in the evening -the latter of which did not adhere “*to all of the specific guidance and Commanders Intent contained in the controlling directive[...]*” and which “*likely resulted in civilian casualties.*” (US CENTCOM Summary Report on the Investigation into Civilian Casualties in Farah Province, Afghanistan on 4 May 2009, 18 June 2009). The US investigation also concluded that 26 civilians were killed during the incident, though it did not discount the possibility of a higher death toll. It also referred to the report of the Afghan Independent Human Rights Commission in which 86 civilian casualties were cited.

According to UNAMA Human Rights, it appears that US Forces did not take sufficient precautionary measures prior to the attack. The assessment should have determined whether civilians would be disproportionately harmed and whether it was appropriate to use airstrikes in a residential area. UNAMA Human Rights also noted that the airstrikes during the day and those during the evening were conducted in markedly different settings. Several strikes were used after the end of ground engagement, around the time of evening prayer.

The event occurred despite tactical directives issued by the ISAF/US Forces Afghanistan Commander intended to minimize the impact of operations on non-combatants in September and December 2008. Amongst several proposals submitted in the US investigation report was the review of tactical directives to include specific guidance on close air support for both planned operations and for troops in contact / self defense situations. Such guidance should be accompanied by training of both existing and new troops.

36. The risk to civilians is exacerbated by the use of heavy tonnage ordnances within tightly settled civilian areas. Civilians are also at risk from airstrikes when IMF and ANSF convoys are ambushed on roads or in civilian areas and when civilians are mistakenly identified as, or infiltrated by, AGEs, often when traveling in vehicles or in large groups. The risk to civilians is particularly serious during night-time operations, or during a general combat situation in a village or other such setting, given that large numbers of civilians can be sheltering within a single residential compound owing to traditional family structures, which usually contain large numbers of women and children. It is noteworthy that it is not only civilian lives that are put at risk by airstrikes. There is also significant risk of damage or destruction of civilian property and infrastructure, such as housing, schools and clinics.
37. There is a strong feeling of anger and disappointment among the Afghan general public engendered by the civilian casualty toll arising from operations conducted by PGF, in particular those caused by airstrikes, which is undermining support for the continued presence of the international military forces, and the international community generally. Following several incidents, there have been public demonstrations (whether spontaneous or orchestrated) such as that which followed the Bala Baluk incident on 4 May 2009. President Karzai has made clear in a number of public statements that airstrikes, which cause civilian

casualties, undermine the objectives of the Government and public support for the international military forces.

38. International military forces have taken some initiatives to address a number of significant concerns they believe contribute to civilian casualties, particularly those arising from airstrikes. As already mentioned, these have included streamlining and greater transparency of command structures between ISAF and Operation Enduring Freedom/US Forces Afghanistan; the latter now largely operating under the Commander of ISAF who is simultaneously Commander of US Forces Afghanistan. ISAF also introduced a centralised Civilian Casualties Tracking Cell (that is mirrored within US Forces Afghanistan by a similar tracking cell), with the purpose of logging and investigating all alleged incidents of civilian casualties attributed to ISAF/US Forces Afghanistan.
39. It is noteworthy that refined Tactical Directives on “force protection”, airstrikes and nighttime raids were issued in September 2008 for ISAF and a similarly worded TD was also issued for US Forces Afghanistan in December 2008. The September 2008 refined TD focused on airstrikes among other issues, including the conduct of night raids. The ISAF TD was again reviewed in June 2009 and was reissued on 2 July 2009, for both ISAF and US Forces – Afghanistan (USFOR-A), with strengthened language, which is viewed as a positive step aimed at reducing the number of civilian casualties. The 2 July 2009 Tactical Directive provides “guidance and intent on the employment of force in support of ISAF operations,” whereby commanders on the ground are expected to minimize civilian casualties through the limited use of force, including close air support, when targeting residential compounds. However, its impact remains to be seen, but it will require appropriate training of soldiers operating on the ground, especially in light of regular troop rotations, and appropriate review of specific incidents when they occur so as to identify failures to implement the TD and practical lessons that can be incorporated into future operations aimed at lessening the impact on civilians and civilian infrastructure.
40. International military forces have shown increasing willingness since September 2008 (in the aftermath of the Shindand incident on 22 August 2008) to institute more regular inquiries into specific incidents. An example is the Central Command inquiry held into the Bala Baluk incident of May 2009. However, the independence and transparency of such inquiries is still open to question. The absence of accountability by troops under Operation Enduring Freedom in particular remains of concern to UNAMA.
41. Throughout 2009, there has been a greater openness displayed by the international military forces, in particular ISAF, concerning specific incidents and a greater willingness to acknowledge civilian casualties and the details of the incidents which caused them through the issuance of public press statements. However, in some instances, concerns have been raised that US Forces Afghanistan have made wide-ranging allegations, through press statements, concerning AGE tactics, as occurred in the wake of the Bala Baluk airstrikes (4 May 2009). Such statements were later found to have been incorrect, particularly the suggestion that insurgents had deliberately killed civilians in an attempt to pass these deaths off as a crime by international military forces. In a subsequent investigation, the US military acknowledged that they had breached internal US military guidelines regarding the use of air power.
42. Despite improvements, certain issues continue to be of concern. These include the level of transparency of the international military forces and their capacity or willingness to provide

information to UNAMA. Especially at Regional Command level, UNAMA Human Rights when conducting investigations into specific incidents of civilian casualties attributed to the international military forces, was often unable to obtain information necessary to clarify command responsibility for a particular operation or to obtain other meaningful information which would help shed light on particular events.

43. UNAMA Human Rights continues to highlight the need for solatia payments to victims and their families to be issued along a standardized criteria that includes equitable and accessible mechanisms and to be paid in a timely manner. At present, different troop contributing countries have different conditions for such payments. Victims and affected families often do not know who or where to go to in order to submit a claim for compensation, finding accessibility to military bases difficult and off-putting. The present system of solatia payments can also lead to the ensuing risk that this can encourage falsification of civilian casualty claims.
44. UNAMA and OHCHR continue to raise the issue of civilians affected by conflict. On 4 June, the UN High Commissioner for Human Rights expressed her “grave alarm” regarding the situation of civilians in armed conflict worldwide, calling for independent investigations of all incidents causing casualties, as well as justice and remedies for the victims. UNAMA has welcomed efforts by the international military to address the issue of civilian casualties. However, more needs to be done to ensure sufficient implementation of Tactical Directives designed to lessen the impact of fighting on civilians and to ensure proper training of soldiers engaged on the ground. It is equally important that the international military establishes systems that are open and transparent for monitoring and investigating incidents of alleged civilian casualties. Each incident that involves civilian casualties needs to be reviewed by an independent investigation and that lessons learned are incorporated into future practices. Further, it is essential that those who breach rules of international humanitarian law, standing orders, or tactical directives must be held accountable. All future practices must ensure that there is minimum risk and impact on civilians from the conduct of their military operations.

## Appendix I

### ***Summary of UNAMA Human Rights Methodology for Information gathering and Analysis relating to Civilian Casualties***

The civilian casualty figures recorded by UNAMA are the result of investigations and reports undertaken/prepared by UNAMA Human Rights staff members in accordance with the OHCHR and SC 1868 (2009) monitoring mandate. UNAMA Human Rights investigates all reports of civilian casualties arising from the armed conflict, no matter which group, entity, or authority, is alleged to be responsible.

UNAMA Human Rights investigates reports of civilian casualties by harnessing as great a range of sources and types of information as possible. All sources and the information they provide, are analysed for their reliability and credibility. In undertaking investigation and analysis of specific incidents, UNAMA Human Rights endeavours to corroborate and cross-check all information from as wide a range of sources as possible including, for example, testimonies of eye-witness and directly affected persons, military actors (including Afghan Government and international), local village/ district and provincial authorities, religious and community leaders, direct site visits, photographs and film evidence, visits to hospitals and medical facilities, secondary source testimonies, media reports, information collected by UN/ NGOs, etc.

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

Where UNAMA Human Rights is not satisfied with the evidence concerning a particular incident, it will not be reported. In some instances, investigations may take several weeks before conclusions can be drawn. This may also mean that conclusions as to civilian casualties arising from a particular incident may alter slightly as more information comes to hand and is analysed. However, where information is equivocal, then conclusions will not be drawn until more satisfactory evidence is obtained, or the case will be closed without conclusion and will not be included in statistical reporting.

It is worth noting that in some incidents the non-combatant status of the reported victims of an incident is disputed. In such cases UNAMA is guided by the applicable standards of international humanitarian law and does not, by default, presume fighting-age males are automatically civilians. Rather, such claims are assessed on the particular facts that are available of the incident in question. Thus, if the non-combatant status of one or more victim(s) remains under significant doubt, such deaths are not included in the overall number of civilian casualties. Thus, there is a significant possibility that UNAMA is under-reporting civilian casualties.

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## Glossary

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The following terminology and abbreviations are utilized in this Bulletin:

**ABP:** Afghan Border Police.

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

**ANA:** Afghan National Army.

**ANP:** Afghan National Police.

**ANSF:** Afghan National Security Forces. A blanket term including ABP, ANA, ANP and NDS.

**ASF:** Afghan Special Forces. These are part of the ANA and are often called ANA Commandos; in some cases OGA (see below) paramilitaries have informally been referred to as ASF.

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

**Casualties:** May be of two classifications:

- **Direct:** casualties resulting directly from armed conflict – including those arising from military operations conducted by pro-government forces (Afghan Government Forces and/or International Military Forces) such as force protection incidents; air raids, search and arrest events, counter insurgency. It also includes casualties arising from the activities of AGEs, such as targeted killings, IEDs, VBIEDs, and BBIEDs, or direct engagement with pro-government forces, etc.
- **Other:** casualties resulting indirectly from the conflict, including casualties caused by explosive remnants of war (ERW), deaths in prison, deaths from probable underlying medical conditions that occurred during military operations, or where access to medical care was denied or was not forthcoming. It also includes deaths arising from incidents where responsibility cannot be determined with any degree of certainty, such as deaths or injuries arising from cross-fire. Finally, it includes casualties caused by inter/intra-tribal or ethnic conflict.

**Civilian/Non-Combatant:** Any person who is not taking an active part in hostilities. It includes all civilians as well as public servants who are not being utilised for a military purpose in terms of fighting the conflict, and encompasses teachers, health clinic workers and others involved in public service delivery, as well as political figures or office holders. It also includes soldiers or any person who are *hors de combat*, whether from injury or because they have surrendered or because they have ceased to take an active part in hostilities for any reason. It includes persons who may be civilian police personnel or members of the military who are not being utilized in counter insurgency operations, including when they are off-duty.

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

**COM-ISAF:** The Commander of ISAF and US Forces Afghanistan; see ISAF.

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

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

**Humanitarian space:** The term ‘*espace humanitaire*’ was coined by former Médecins Sans Frontières (MSF) president Rony Brauman, who described it in the mid-1990s as “a space of freedom in which we are free to evaluate needs, free to monitor the distribution and use of relief goods, and free to have a dialogue with the people”. The UN Office for the Coordination of Humanitarian Affairs (OCHA)’s *Glossary of Humanitarian Terms* has no specific entry for humanitarian space, but it does mention the term as a synonym for the ‘humanitarian operating environment’: “a key element for humanitarian agencies and organisations when they deploy, consists of establishing, and maintaining a conducive humanitarian operating environment”. The Glossary goes on to state that: “...adherence to the key operating principles of neutrality

and impartiality in humanitarian operations represents the critical means, by which the prime objective of ensuring that suffering must be met wherever it is found, can be achieved. Consequently, maintaining a clear distinction between the role and function of humanitarian actors from that of the military is the determining factor in creating an operating environment in which humanitarian organisations can discharge their responsibilities both effectively and safely.” The authors of the OCHA/Department of Peacekeeping Operations (DPKO) report on integrated missions, published in 2005, also address the need to “preserve” humanitarian space, and focus on the distinction between civilian and military functions. Humanitarian space also encompasses the concept that civilians have a right to access life-saving or life-preserving assistance.

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

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

**IMF:** “International Military Forces” includes all foreign soldiers forming part of ISAF and US Forces Afghanistan (including OEF) who are under the command of Commander of ISAF (COM-ISAF). The term also encompasses those forces not operating under the Commander of ISAF, including certain Special Forces.

**Injuries:** Include physical injuries of differing severity. The degree of severity of injury is not recorded in UNAMA Human Rights’ Database. Injuries do not include cases of shock or psychological trauma.

**ISAF:** International Security Assistance Force in Afghanistan. ISAF has a peace-enforcement mandate under Chapter VII of the UN Charter. However, it is not a UN force but a “coalition of the willing” deployed in Afghanistan since 2001 under the authority of the UN Security Council. In August 2003, upon the request of the UN and the Government of the Islamic Republic of Afghanistan, NATO took command of ISAF. The NATO force currently comprises some 61,1300 troops from 42 countries (including all 28 NATO countries) as well as 26 Provincial Reconstruction Teams (PRTs). Since November 2008, the Commander of ISAF serves also as the Commander of US Forces Afghanistan, although the chains of command remain separate.

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

**OEF:** “Operation Enduring Freedom” was the official name used by the US Government for its contribution to the War in Afghanistan. It should be noted that Operation Enduring Freedom - Afghanistan, which is a joint US and Afghan operation, is separate from ISAF, which is an operation of NATO nations including the USA and other troop contributing nations. Most US forces operating under OEF since October 2008 have been incorporated into “US Forces Afghanistan” (see below) under the command of General McChrystal, who is also ISAF Commander – although some special forces remain under separate command.

**Pro-government forces (PGF):**

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

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

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

**US Forces Afghanistan:** or “USFOR-A” is the functioning command and control headquarters for US forces operating in Afghanistan. USFOR-A is commanded by General McChrystal, who also serves as the NATO/ISAF commander. Under this new arrangement, activated in October 2008, US forces, operating as part of Operation Enduring Freedom, were placed under the operational control of USFOR-A. The ISAF and OEF chains of command remain separate and distinct, and US Central Command continues to oversee US counterterrorism and detainee operations.

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