



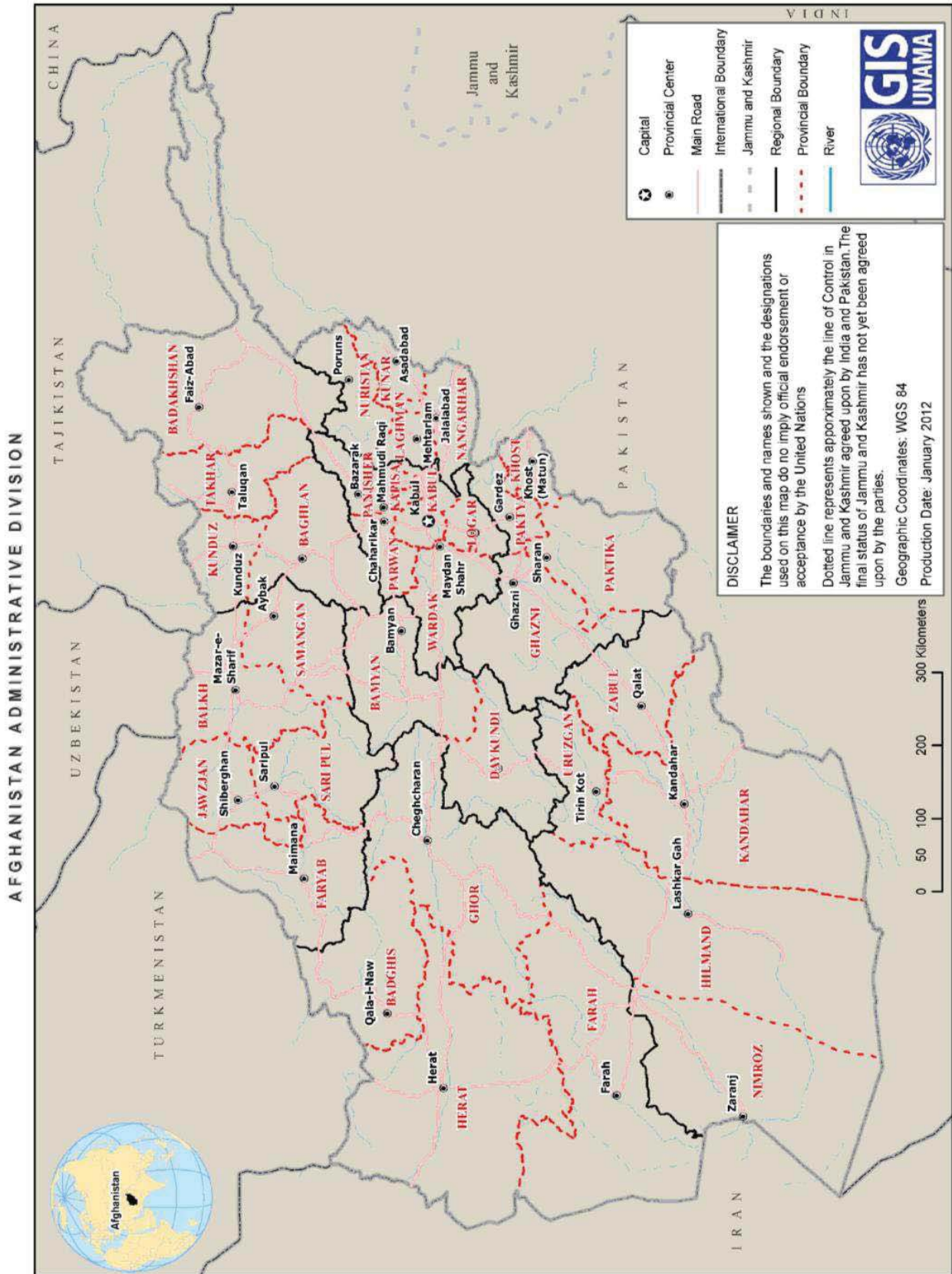
# AFGHANISTAN

## PROTECTION OF CIVILIANS IN ARMED CONFLICT

ANNUAL REPORT 2016  
KABUL, AFGHANISTAN FEBRUARY 2017



UNITED NATIONS  
HUMAN RIGHTS  
OFFICE OF THE HIGH COMMISSIONER



## Afghanistan Annual Report on Protection of Civilians in Armed Conflict: 2016

Photo on Front Cover: © (Xinhua/Rahmat Alizadah)

Graves prepared for victims killed during the 23 July 2016 suicide attack on a peaceful demonstration in Deh Mazang square, Kabul – the single deadliest conflict-related incident for civilians recorded by UNAMA in Afghanistan since 2001. UNAMA documented 85 civilian deaths and the injury of 413 others – most of whom were of Hazara ethnicity and the Shia Muslim religious minority. *Daesh*/Islamic State Khorasan Province claimed responsibility for the attack.

**“This appalling conflict destroys lives and tears communities apart in every corner of Afghanistan. Real protection of civilians requires commitment and demonstrated concrete actions to protect civilians from harm and for parties to the conflict to ensure accountability for indiscriminate and deliberate acts of civilian harm.”**

Tadamichi Yamamoto, United Nations Special Representative of the Secretary-General for Afghanistan, Kabul, February 2017.

**“Children have been killed, blinded, crippled – or inadvertently caused the death of their friends – while playing with unexploded ordnance that is negligently left behind by parties to the conflict. Women continue to be brutally punished in parallel so-called ‘justice’ processes while religious minorities are targeted as they pray in their mosques. The consequences of each act of violence ripple through families and entire communities that are left broken, unable to sustain themselves and largely failing to obtain any semblance of justice or reparation. After nearly 40 years of constantly evolving armed conflict in Afghanistan, a Daesh franchise has now surfaced as an additional, deadly component. It is about time the various parties to the conflict ceased the relentless commission of war crimes and thought about the harm they are doing to their mothers, fathers, children and future generations by continuing to fuel this senseless, never-ending conflict.”**

Zeid Ra’ad Al Hussein, United Nations High Commissioner for Human Rights, Geneva, February 2017.

## **Mandate**

The 2016 Annual Report on the Protection of Civilians in Armed Conflict in Afghanistan was prepared by the Human Rights Unit of the United Nations Assistance Mission in Afghanistan (UNAMA) and covers the period from 1 January to 31 December 2016.

The UNAMA Human Rights Unit prepared this report pursuant to the UNAMA mandate under United Nations Security Council Resolution 2274 (2016) “to monitor the situation of civilians, to coordinate efforts to ensure their protection, to promote accountability, and to assist in the full implementation of the fundamental freedoms and human rights provisions of the Afghan Constitution and international treaties to which Afghanistan is a State party, in particular those regarding the full enjoyment by women of their human rights.”

Security Council resolution 2274 (2016) recognizes the importance of ongoing monitoring and reporting to the Security Council on the situation of civilians in the armed conflict, particularly on civilian casualties.

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

This report received technical input from the Office of the United Nations High Commissioner for Human Rights.

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## Methodology

UNAMA documents reports of civilian casualties by conducting on-site investigations where possible, consulting a broad range of sources, and accessing various types of information. All sources are thoroughly evaluated for their credibility and reliability. In undertaking investigation and analysis of each incident, UNAMA exercises due diligence to corroborate and crosscheck information from as wide a range of sources as possible, including accounts of witnesses, victims and other persons directly-affected by conflict-related violence; conflict actors (including the Government of Afghanistan, Anti-Government Elements, and international military forces); local village/district and provincial authorities; religious and community leaders; and other interlocutors.

UNAMA obtains information through direct site visits, physical examination of items and evidence gathered at the scene of incidents, visits to hospitals and medical facilities, still and video images, reports of the United Nations Department of Safety and Security and other United Nations entities, accounts by secondary sources, and information gathered by non-governmental organizations and other third parties.

For verification of each incident involving a civilian casualty, UNAMA requires at least three different and independent types of sources, i.e. victim, witness, medical practitioner, local authorities, confirmation by party to the conflict, community leader or other sources. Wherever possible, information is obtained from the primary accounts of victims and/or witnesses of the incident and on-site investigations. This form of investigation is not always possible, primarily due to security-related constraints affecting access. In such instances, UNAMA relies on a range of techniques to gain information through reliable networks using as wide a range of sources as possible, all of which are evaluated for credibility and reliability.

When documenting incidents of civilian casualties, UNAMA proactively consults sources of different genders, as well as those belonging to minority racial, religious and ethnic groups, and marginalised sectors of society. In doing so, UNAMA takes care to protect vulnerable sources from any possible repercussions for providing information, including by meeting in safe locations, conducting interviews with women in accordance with prevailing social norms, and halting investigations where it may endanger sources. UNAMA also proactively monitors, documents and advocates on civilian casualty trends impacting the above-mentioned groups.

Where UNAMA is not satisfied with information concerning an incident, it will not consider it as verified. Unverified incidents are not included in this report. In some instances, investigations may take several weeks before conclusions can be drawn, which means that civilian casualty figures documented from an incident may be revised as more information becomes available and is incorporated into the analysis. Where information is unclear, conclusions will not be drawn until and unless more satisfactory evidence is obtained or the case will be closed without conclusion and will not be included in the statistical reporting.

In all cases, UNAMA is guided by the applicable norms of international humanitarian law. In some incidents, the civilian status of the reported victims cannot be conclusively established or is disputed. UNAMA defines civilians as persons who are not members of the armed forces or of an organized armed group. It does not document civilian casualties where the civilian directly participated in hostilities at the time of death or injury, nor does it document the death or injury of individuals protected from attack who are not civilians under international humanitarian law, such as persons *hors*



*de combat* or the medical and religious personnel of the armed forces.<sup>1</sup> UNAMA does not presume fighting-age males are either civilians or fighters. Rather, such claims are assessed and documented based upon the facts available for the incident in question. Where insufficient information is available, such casualties will not be included in the statistical reporting.

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

As multiple parties are engaged in the conflict, UNAMA makes every effort to identify as precisely as possible the party responsible for a particular civilian casualty. Due to limitations associated with the operating environment, such as the joint or partnered nature of some military operations, the inability of primary sources in many incidents to identify clearly or distinguish between diverse military actors or insurgents, or the absence of any claim of responsibility, this may not always be possible. UNAMA attributes responsibility for each civilian casualty incident to either Pro-Government Forces or Anti-Government Elements, jointly to both groups, or as “perpetrator-undetermined” in the case of explosive remnants of war that cannot be conclusively attributed to one party or may be left behind from previous conflicts.

In cases of ground engagements between Pro-Government Forces and Anti-Government Elements in which a civilian casualty cannot be attributed to one party, UNAMA attributes responsibility to both groups and records them in a separate category entitled “Pro-Government Forces and Anti-Government Elements”.

UNAMA does not claim that the statistics presented in this report are complete and acknowledges possible under-reporting of civilian casualties given limitations inherent in the operating environment.

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<sup>1</sup> For more information, see Chapter on Legal Framework.

## Executive Summary

*“It was the day before Ramadan when a number of Taliban entered my village. My husband decided that we had to leave the village before they attacked the Afghan National Army nearby. I had delivered a baby seven days earlier and had been too sick to walk which is why we remained there. My husband, mother-in-law, three children, my baby, and I started to walk to a neighbouring village. While we were walking to my husband’s tricycle, a mortar shell landed nearby. My mother-in-law and I hit the ground injured and my newborn baby was hit by shrapnel in the chest. He died after a few minutes.”<sup>2</sup>*

-- Victim of a mortar attack during a ground engagement which killed two civilians, including a baby boy, and injured two others<sup>3</sup> in Bala Buluk district, Farah province, on 4 June.<sup>4</sup>

Conflict-related violence exacted a heavy toll on Afghanistan in 2016, with an overall deterioration in civilian protection and the highest total civilian casualties recorded since 2009 when UNAMA began systematic documentation of civilian casualties. Against a backdrop of protracted ground fighting, the battlefield permeated civilian sanctuaries that should be spared from harm, with suicide attacks in mosques; targeted attacks against district centres, bazaars and residential homes; and the use of schools and hospitals for military purposes.

Between 1 January and 31 December, UNAMA documented 11,418 civilian casualties (3,498 deaths and 7,920 injured); marking a two per cent decrease in civilian deaths and six per cent increase in civilians injured. These figures amount to a three per cent increase in total civilian casualties compared to 2015.<sup>5</sup> Since 2009, the armed conflict in Afghanistan has claimed the lives of 24,841 civilians and injured 45,347 others.

In 2016, UNAMA documented record numbers of civilian casualties from ground engagements, suicide and complex attacks and explosive remnants of war, as well as the highest number of civilian casualties caused by aerial operations since 2009.<sup>6</sup> Increases in civilian deaths and injuries from these tactics drove the overall three per cent rise in civilian casualties, while civilian casualties from improvised explosive devices (IEDs) and targeted and deliberate killings decreased.

As in 2015, ground engagements between Anti-Government Elements and Pro-Government Forces, particularly in areas populated or frequented by civilians, remained the leading cause of civilian casualties, followed by IEDs, suicide and complex attacks and targeted and deliberate killings.<sup>7</sup>

The conflict severely impacted Afghan children in 2016. UNAMA recorded 3,512 child casualties (923 deaths and 2,589 injured), a 24 per cent increase from 2015, and the highest number of child casualties recorded by UNAMA<sup>8</sup> in a single year.<sup>9</sup> The disproportionate rise in child casualties across Afghanistan in 2016 resulted mainly from a 66 per cent increase in civilian casualties from explosive remnants of war – most of whom were children.

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<sup>2</sup> UNAMA telephone interview with victim, Farah city, 14 June 2016.

<sup>3</sup> Fighting between Taliban and Afghan national security forces lasted for days, with both sides using indirect and/or explosive weapons, trapping civilians inside of their homes.

<sup>4</sup> The Taliban claimed responsibility for attacking the Afghan national security forces in the area on that date on its Pashto website on 5 June 2016, accessible at: <http://alemara1.org/?p=53236>, last accessed 5 December 2016 but not for causing the civilian casualties.

<sup>5</sup> In 2015, UNAMA documented 11,034 total civilian casualties (3,565 deaths and 7,469 injured). See UNAMA 2015 Annual Report on Protection of Civilians in Armed Conflict, p. 1.

<sup>6</sup> In 2009, UNAMA documented 622 civilian casualties (388 deaths and 234 injured) from airstrikes.

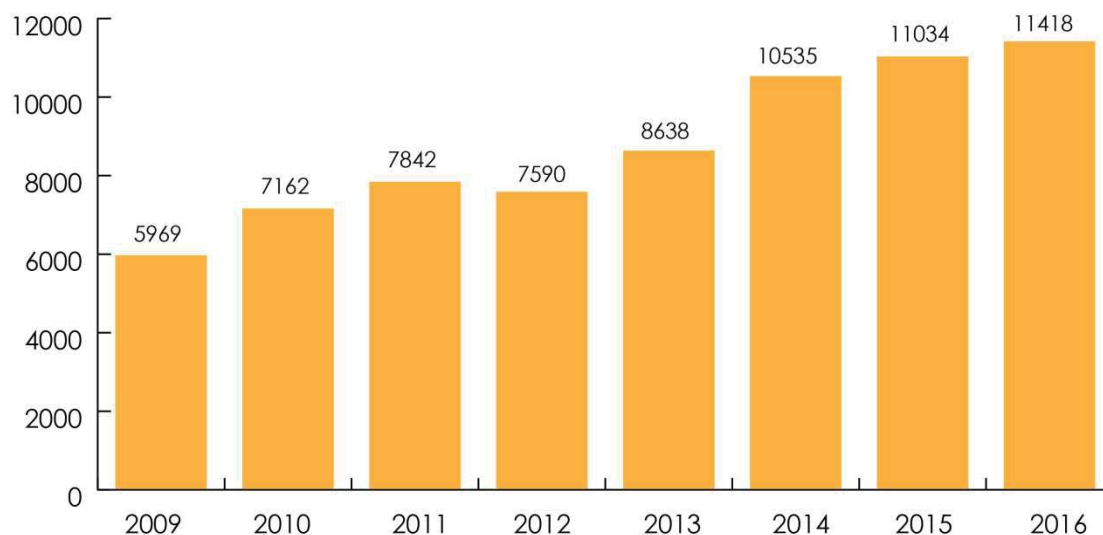
<sup>7</sup> See UNAMA 2015 Annual Report on Protection of Civilians in Armed Conflict.

<sup>8</sup> UNAMA began systematic documentation of civilian casualties in 2009.

<sup>9</sup> In 2015, UNAMA documented 2,840 child civilian casualties (736 civilian deaths and 2,104 injured).

In 2016, UNAMA documented 1,218 women casualties (341 deaths and 877 injured), representing a two per cent decrease compared to 2015.<sup>10</sup> Women casualties caused by ground engagements increased by seven per cent compared to 2015. Of concern, Anti-Government Elements continued to subject women to punishments imposed through parallel justice structures.

**Civilian Deaths and Injuries**  
**January to December 2009 - 2016**



Civilian casualties increased in five of Afghanistan's eight regions in 2016. The armed conflict most affected the southern region, which recorded 2,989 civilian casualties (1,056 deaths and 1,933 injured), a 17 per cent increase compared to 2015.<sup>11</sup> The central region recorded the second highest number of civilian casualties – 2,348 civilian casualties (534 deaths and 1,814 injured) – an increase of 34 per cent compared to 2015 due to suicide and complex attacks in Kabul city.<sup>12</sup> The north-eastern and eastern regions experienced a decline in civilian casualties; however, both recorded significant numbers – 1,595 civilian casualties (433 deaths and 1,162 injured) in the eastern region and 1,270 civilian casualties (382 deaths and 888 injured) in the north-eastern region.<sup>13</sup> UNAMA

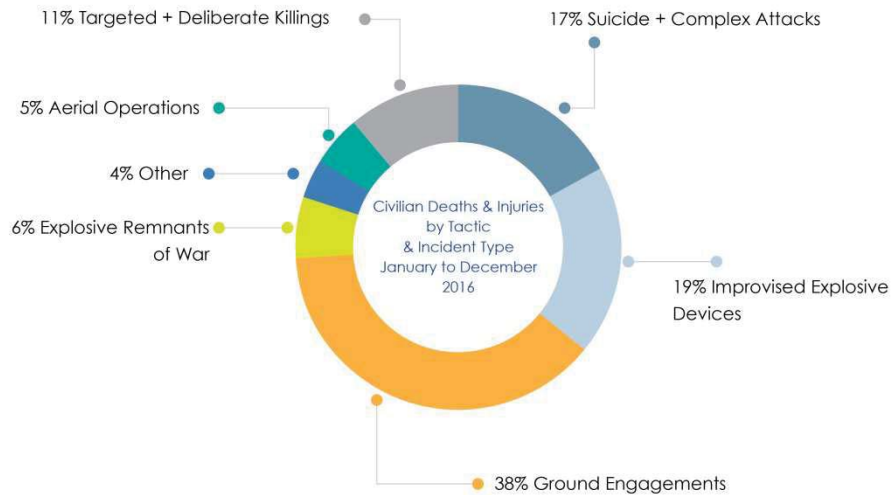
<sup>10</sup> Between 1 January and 31 December 2015, UNAMA documented 1,247 women casualties (334 deaths and 913 injured).

<sup>11</sup> In 2015, UNAMA documented 2,559 civilian casualties (906 deaths and 1,653 injured) in the southern region of Afghanistan, comprised of Helmand, Kandahar, Nimroz, Uruzgan, and Zabul provinces.

<sup>12</sup> UNAMA defines the central region of Afghanistan as including Kabul, Kapisa, Logar, Maidan Wardak, Parwan, and Panjshir provinces. Kabul province recorded 1,758 civilian casualties (376 deaths and 1,382 injured), the most of any province in Afghanistan in 2016.

<sup>13</sup> UNAMA defines the north-eastern region as Badakhshan, Baghlan, Takhar, and Kunduz provinces. In the eastern region, which UNAMA defines as Kunar, Laghman, Nangarhar, and Nuristan provinces, civilian casualties decreased by three per cent compared to 2015, when UNAMA recorded 1,647 civilian casualties (484 deaths and 1,163 injured). Civilian casualties in the north-eastern region decreased by 36 per cent compared to 2015 when UNAMA recorded 1,982 civilian casualties (637 deaths and 1,345 injured).

documented 1,362 civilian casualties (384 deaths and 978 injured) in the northern region,<sup>14</sup> 903 civilian casualties (340 deaths and 563 injured) in the south-eastern region,<sup>15</sup> 836 civilian casualties (344 deaths and 492 injured) in the western region<sup>16</sup> and 115 civilian casualties (25 deaths and 90 injured) in the central highlands region.<sup>17</sup>



The escalation in ground fighting and overall insecurity, compounded by a lack of respect for human rights and international humanitarian law by parties to the conflict, particularly Anti-Government Elements, led to an overall deterioration in civilian protection reinforced by a pervasive absence of accountability. In addition to unacceptably high numbers of civilian deaths and injuries, 2016 saw record levels of conflict-related displacement, accompanied by loss of livelihoods and property and restricted access to health and education.

The Protection of Civilians in Armed Conflict annual report of 2016 draws attention to alarming trends, including the unrelenting and devastating impact of ground engagements on civilians, large-scale suicide and complex attacks intentionally targeting civilians, the detrimental effect on civilians of the continued use of IEDs, and the serious implications for children of the presence of explosive remnants of war in civilian areas. The report also details the impact of conflict on freedom of expression and freedom of religion or belief.

<sup>14</sup> UNAMA defines the northern region as Balkh, Faryab, Jawzjan, Samangan and Sari Pul provinces. Civilian casualties increased by 58 per cent compared to 2015 when UNAMA documented 862 civilian casualties (298 deaths and 564 injured).

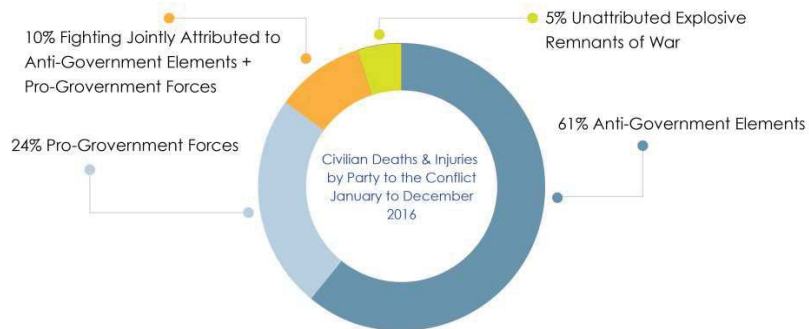
<sup>15</sup> UNAMA defines the south-eastern region as comprising Ghazni, Khost, Paktya and Paktika provinces. Civilian casualties decreased by 39 per cent compared to 2015, when UNAMA documented 1,470 civilian casualties (514 deaths and 956 injured).

<sup>16</sup> UNAMA defines the western region as Badghis, Farah, Ghor, and Herat provinces. It recorded a 19 per cent increase in civilian casualties compared to 2015 when UNAMA recorded 703 civilian casualties (288 deaths and 415 injured).

<sup>17</sup> UNAMA refers to Bamyan and Daikundi provinces as the central highland region. Civilian casualties increased by 98 per cent compared to 2015 when UNAMA recorded 58 civilian casualties (30 deaths and 28 injured).

*Attribution of responsibility*

UNAMA attributed 61 per cent of civilian deaths and injuries to Anti-Government Elements, (mainly Taliban);<sup>18</sup> 24 per cent to Pro-Government Forces (20 per cent to Afghan national security forces, two per cent to pro-Government armed groups and two per cent to international military forces);<sup>19</sup> and 10 per cent to ground engagements between Anti-Government Elements and Pro-Government Forces<sup>20</sup> in which the civilian casualties could not be attributed to one specific party. The remaining five per cent of civilian casualties could not be attributed to any party<sup>21</sup> and resulted mainly from explosive remnants of war.<sup>22</sup>



<sup>18</sup>Anti-Government Elements encompass all individuals and armed groups involved in armed conflict with or armed opposition against the Government of Afghanistan and/or international military forces. They include those who identify as ‘Taliban’ as well as individuals and non-State organized armed groups taking a direct part in hostilities and assuming a variety of labels including the Haqqani Network, Islamic Movement of Uzbekistan, Islamic Jihad Union, Lashkari Tayyiba, Jaysh Muhammed, groups that identify as “*Daesh*”/Islamic State Khorasan Province and other militia and armed groups pursuing political, ideological or economic objectives including armed criminal groups directly engaged in hostile acts on behalf of a party to the conflict.

<sup>19</sup> The term “Pro-Government Forces” includes the Afghan Government’s national security forces and other forces and groups that act in military or paramilitary counter-insurgency operations and are directly or indirectly under the control of the Government of Afghanistan. These forces include, but are not limited to, the Afghan National Army (ANA), Afghan National Police (ANP), Afghan National Border Police, National Directorate of Security and Afghan Local Police - which operate under Government legal structures - and pro-Government armed groups and militias that have no basis in Afghan law and do not operate under formal Government structures. This term also includes international military forces and other foreign intelligence and security forces. See the glossary section for further details.

<sup>20</sup> Of the total of 1,773 civilian casualties (482 deaths and 1,291 injured) attributed to Pro-Government Forces during ground engagements, UNAMA attributed 899 civilian casualties (254 deaths and 645 injured) to Afghan National Army; 135 civilian casualties (42 deaths and 93 injured) to Afghan National Police; and 103 civilian casualties (18 deaths and 85 injured) to pro-Government armed groups. These figures also include two incidents of ground engagements attributed to International Military Forces that resulted in seven civilian casualties (seven deaths).

<sup>21</sup> UNAMA attributed less than one quarter of one per cent to cross-border shelling from Pakistan into Afghanistan – 17 civilian casualties (six deaths and 11 injured)

<sup>22</sup> “Explosive remnants of war” refers to unexploded ordnance (UXO) and abandoned explosive ordnance (AXO).

*Anti-Government Elements and Daesh/Islamic State Khorasan Province*

In 2016, Anti-Government Elements caused 61 per cent of all civilian casualties through attacks that disregarded civilian life, including the indiscriminate detonation of IEDs in civilian-populated areas. Between 1 January and 31 December, UNAMA attributed 6,994 civilian casualties (2,131 deaths and 4,863 injured) to Anti-Government Elements, an increase of two per cent compared to 2015.<sup>23</sup> This slight increase may be attributable to an increase in civilian casualties caused by suicide and complex attacks, despite reductions in civilian casualties from IEDs and targeted and deliberate killings.

Of the 6,994 civilian casualties (2,131 deaths and 4,863 injured) attributed to Anti-Government Elements in 2016, UNAMA attributed 4,953 civilian casualties (1,618 deaths and 3,335 injured) to Taliban;<sup>24</sup> 899 civilian casualties (209 deaths and 690 injured) to *Daesh*/Islamic State Khorasan Province (ISKP); and 1,099 civilian casualties (286 deaths and 813 injured) to unidentified Anti-Government Elements where there was no public claim of responsibility, or attribution to a specific group was not possible.<sup>25</sup>

The number of civilian casualties perpetrated by *Daesh*/ISKP increased by nearly ten times in 2016 compared to 2015. UNAMA documented 899 civilian casualties (209 deaths and 690 injured) in comparison to 82 civilian casualties (39 deaths and 43 injured) in 2015. *Daesh*/ISKP used suicide attacks and targeted killings as primary tactics against civilians, particularly targeting members of the Shia Muslim religious minority.

The majority of civilian casualties caused by Anti-Government Elements resulted from the indiscriminate and illegal use of IEDs. UNAMA documented 2,156 civilian casualties (700 civilian deaths and 1,456 injured) from IEDs<sup>26</sup> – a tactic used only by Anti-Government Elements – reflecting a nine per cent reduction compared to 2015.<sup>27</sup> Since 1 January 2009, the mission has recorded 19,993 civilian casualties (6,861 deaths and 13,132 injured) in 5,905 IED attacks.

While the mission recorded decreases in civilian deaths and injured from remote-controlled, non-suicide vehicle-borne and magnetic IEDs, civilian casualties from pressure-plate or victim-activated IEDs increased by four per cent in 2016, causing 1,100 civilian casualties (473 deaths and 627 injured)<sup>28</sup> and accounted for more than half of civilian casualties from this illegal and indiscriminate type of weapon. Pressure plate-IEDs function as victim-activated devices, triggered by any person stepping on them – including children – or any vehicle driving over them. Anti-Government

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<sup>23</sup> In 2015, UNAMA documented 6,871 civilian casualties (2,324 deaths and 4,547 injured) attributed to Anti-Government Elements. See UNAMA 2015 Annual Report on Protection of Civilians in Armed Conflict, p.4

<sup>24</sup> In 2015, UNAMA attributed 4,050 civilian casualties to Taliban (1,534 deaths and 2,516 injured). These figures included claimed and unclaimed attacks carried out by the Taliban which caused civilian casualties.

<sup>25</sup> UNAMA attributed the remaining 45 civilian casualties as follows (none of which were publically claimed): Haqqani Network, four civilian casualties (one death and three injured); Hezb-i-Islami, seven civilians injured; Lashkar-i-Taiba, four civilian deaths; Taliban-Tehriki Pakistan, 12 civilian casualties (eight deaths and four injured); and 18 civilian casualties (five deaths and 13 injured) jointly to Taliban and *Daesh*/ISKP ground fighting.

<sup>26</sup> The improvised explosive device (IED) figures do not include civilian casualties caused by suicide and complex attacks (which involve IED tactics) or targeted killings carried out by Anti-Government Elements using IEDs. These incidents are documented in the Chapters on Suicide and Complex Attacks and Anti-Government Element Targeted Killings Resulting in Civilian Casualties. For more information see Chapter on Improvised Explosive Devices.

<sup>27</sup> In 2015, UNAMA documented 2,375 civilian casualties (719 deaths and 1,656 injured) from IEDs.

<sup>28</sup> In 2015, UNAMA documented 1,058 civilian casualties (465 deaths and 593 injured) from pressure plate-IEDs.

Elements continued to plant pressure plate-IEDs in public areas used by civilians such as roads, in and around Government offices, bazaars, and in proximity to schools and bus stations.

In 2016, UNAMA documented the highest number of civilian casualties caused by suicide and complex attacks since it began systematically recording civilian casualties in 2009. It recorded 1,963 civilian casualties (398 deaths and 1,565 injured) from these tactics, an increase of seven per cent compared to 2015.<sup>29</sup> Suicide and complex attacks remained the third leading cause of civilian casualties in 2016 and the second leading cause of civilian casualties attributed to Anti-Government Elements, accounting for 17 per cent of all civilian casualties.

The intensification of efforts by Taliban and other Anti-Government Element groups to seize or maintain territory led to a correlated increase in civilian casualties from ground engagements. In 2016, UNAMA attributed 1,469 civilian casualties (308 deaths and 1,161 injured) from ground fighting to Anti-Government Elements.

UNAMA recorded a 16 per cent decrease in civilian casualties from targeted killings attributed to Anti-Government Element – 1,118 civilian casualties (574 deaths and 544 injured)<sup>30</sup> – but continued to document deliberate killings of civilians, including civilian government workers, education personnel, medical workers, tribal elders, humanitarian de-miners and others.<sup>31</sup>

UNAMA notes with grave concern the almost six-fold increase in civilian casualties from attacks targeting places of worship in 2016. UNAMA documented 378 civilian casualties (87 deaths and 291 injured) compared to 56 civilian casualties (42 deaths and 14 injured) in 2015, mainly due to deliberate sectarian attacks targeting the Shia Muslim religious minority.

#### *Pro-Government Forces*

While acknowledging efforts by the national and international military forces to mitigate civilian harm, UNAMA attributed 2,728 civilian casualties (903 deaths and 1,825 injured) to Pro-Government Forces in 2016, accounting for 24 per cent of all civilian casualties, and reflecting a 46 per cent increase compared to 2015. UNAMA attributed 20 per cent of total civilian casualties to the Afghan national security forces, two per cent to international military forces and two per cent to pro-Government armed groups.

In 2016, UNAMA observed that increased ground operations by Afghan national security forces in response to a rise in Anti-Government Element offensives and attacks contributed to the overall increase in civilian deaths and injuries by Pro-Government Forces. UNAMA attributed 1,773 civilian casualties (482 civilian deaths and 1,291 injured) to Pro-Government Forces, mainly Afghan national forces, during ground operations, a 40 per cent increase from 2015.<sup>32</sup> The majority of the casualties resulted from the indirect and/or explosive use of weapons, mainly mortars, in civilian-populated areas.

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<sup>29</sup> In 2015, UNAMA documented 1,840 civilian casualties (308 deaths and 1, 532 injured) from suicide and complex attacks.

<sup>30</sup> In 2016, UNAMA documented 106 civilian casualties (81 deaths and 25 injured) from Pro-Government Force-perpetrated targeted or deliberate killings. See Chapter on Other Killings by Afghan National Security Forces. In 2015, UNAMA documented 1,425 civilian casualties (853 deaths and 572 injured) from targeted killings – of which Anti-Government Elements were responsible for 94 per cent - 1,337 civilian casualties (792 deaths and 545 injured).

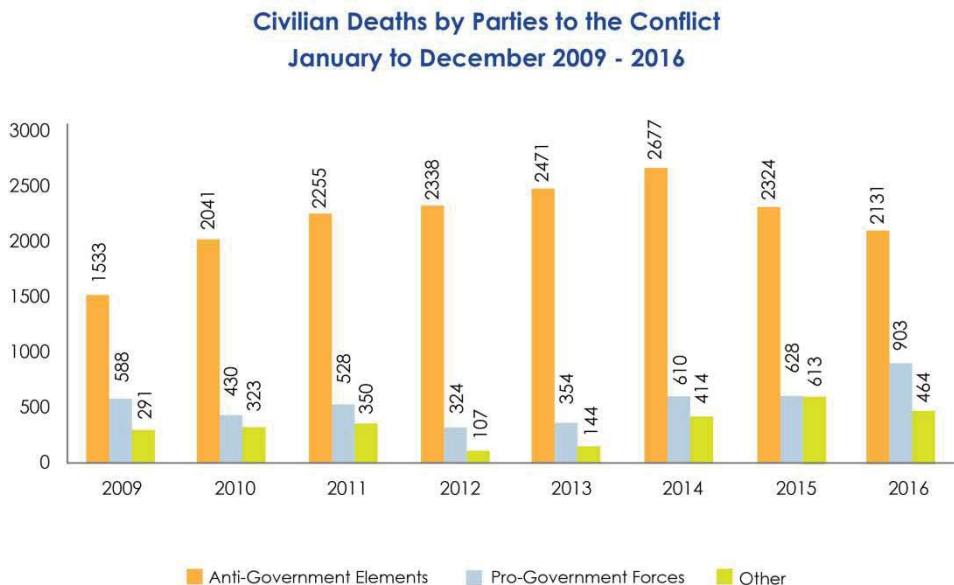
<sup>31</sup> See the Glossary and Chapter on Anti-Government Element Targeted Killings Resulting in Civilian Casualties for the definition of ‘targeted killing’ used by UNAMA.

<sup>32</sup> In 2015, UNAMA documented 1,264 civilian casualties (343 civilian deaths and 921 injured) from ground engagements by Afghan national security forces.

After ground engagements, aerial operations remained the second leading cause of civilian casualties caused by Pro-Government Forces in 2016. In 2016, the mission documented the highest number of civilian casualties caused by aerial operations since 2009. Airstrikes carried out by international and Afghan air forces caused 590 civilian casualties (250 deaths and 340 injured), nearly double that recorded in 2015.<sup>33</sup> Women and children comprised 52 per cent of civilian casualties from aerial operations. The sharp increase in civilian casualties from airstrikes attributed to military forces demonstrates the critical need for continuous review of targeting criteria and pre-engagement precautionary measures in both offensive and defensive aerial operations.

The rising levels of civilian casualties caused by Pro-Government Forces through ground operations could be addressed through the adoption and implementation of the National Policy on Civilian Casualty Prevention and Mitigation and through strengthened tactical directives, training, and targeting practices in the use of indirect and/or explosive weapons.

In 2016, UNAMA documented 185 civilian casualties (52 deaths and 133 injured) by pro-Government armed groups, an increase of 42 per cent compared to the same period in 2015.<sup>34</sup> This is the highest number of civilian casualties caused by pro-Government armed groups in a single year since UNAMA began systematic documentation of civilian casualties.



<sup>33</sup> In 2015, UNAMA recorded 296 civilian casualties (149 deaths and 147 injured) from aerial operations. Therefore, civilian casualties from aerial operations increased by 99 per cent in 2016 compared to 2015.

<sup>34</sup> In 2015, UNAMA documented 130 civilian casualties (48 deaths and 82 injured) due to the activities of pro-Government armed groups.



## Observations on the Impact of the Armed Conflict on Civilians in 2016

In 2016, conflict-related insecurity and violence inflicted severe harm on civilians, especially women and children. The intensification of armed clashes between Pro-Government Forces and Anti-Government Elements over territorial gains and losses resulted in record levels of civilian harm, including the highest number of child casualties and levels of internal displacement documented since 2009. In the 15th year of ongoing and protracted armed conflict between the Government and Taliban, Afghanistan also experienced record numbers of civilian casualties caused by ground engagements, suicide and complex attacks and explosive remnants of war, in addition to the highest number of civilian casualties caused by aerial operations since 2009.

The continuation of attacks targeting civilians and indiscriminate attacks by Anti-Government Elements – in particular, IED and suicide attacks in civilian-populated areas – is illegal, reprehensible and, in most cases, may amount to a war crime. It is imperative that the perpetrators, whoever they are, be held accountable for such acts.

While Anti-Government Elements, mainly Taliban, continued to cause the majority of civilian casualties, the persistent increase in civilian casualties attributed to Pro-Government Forces remains concerning. The increased harm caused by Pro-Government Forces was primarily due to the continued indirect and/or explosive use of weapons such as artillery, mortars, rockets and grenades during ground engagements by Afghan national security forces, and aerial operations conducted by both Afghan and international military forces.

The sharp rise in the killing and maiming of children from explosive remnants of war demonstrated the preventable consequences of unexploded ordnance left behind on the battlefield by parties to the conflict, who had failed to clear it. In this regard, Afghanistan's recent ratification of Protocol V on Explosive Remnants of War<sup>35</sup> to the 1980 Convention on Certain Conventional Weapons should be followed by the implementation of direct measures to ensure the marking, clearance and/or destruction of explosive remnants of war in affected territories under its control.<sup>36</sup>

The increased capacity of *Daesh*/ISKP to strike beyond its perceived areas of influence and presence in eastern Afghanistan exacerbated the escalation in conflict and deteriorating security environment. The nature of attacks perpetrated by *Daesh*/ISKP is indicative of attempts to expand the conflict along sectarian lines, further compounding concerns for the protection of civilians. In addition, the brutality and scale of civilian casualties caused by *Daesh*/ISKP attacks targeting members of the Shia Muslim religious minority raises serious concerns regarding the perpetration of war crimes and crimes against humanity, and the broader impact of such incidents on the right to religious freedom and the protection of minorities in general.

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<sup>35</sup> The Minister of Foreign Affairs for Afghanistan signed an “Instrument of Accession” on 15 January 2017 ratifying the 1980 Convention on Conventional Weapons and Additional Protocols I, II (as amended in 1996), III, IV, and V) – copy of document on record with UNAMA. The Ministry of Foreign Affairs submitted the document to the office of the United Nations Secretary-General on 26 July in compliance with the procedure for ratification of the conventions and its protocols – information received in an email between UNAMA and the Directorate of Mine Action Coordination/Ministry of Foreign Affairs in January 2017. Based on this information, UNAMA believes that the conventions and its protocols therefore came in to effect in Afghanistan on 26 January 2017.

<sup>36</sup> Protocol on Explosive Remnants of War (Protocol V to the 1980 Convention on Certain Conventional Weapons), 28 November 2013, Article 3(2).

UNAMA observed progress in relation to the Government's expressed commitment to reduce the impact of armed conflict on civilians through the formulation of the National Policy for Civilian Casualty Prevention and Mitigation. UNAMA noted the establishment of a Senior Level Protection Working Group to lead dialogue and support development of policies to promote protection of civilians. The transfer of responsibility for the Civilian Casualty Avoidance and Mitigation Board (CAMB) from the Resolute Support Mission to the Government of Afghanistan should intensify efforts to concretize commitments to protect civilians. It should also result in the introduction of practical measures by Afghan national security forces at the operational level to reduce harm to civilians during operations against Anti-Government Elements.

Prospects for peace in 2017 do not appear likely. Although the signing of a peace agreement between the Government and Hezb-i-Islami (Gulbuddin) in July was encouraging, talks with the Taliban have not yet proved productive. The peace agreement – which could act as a precedent for future talks with the Taliban – granted a broad amnesty to Hekmatyar and other members of Hezb-i-Islami (Gulbuddin), which would prevent the domestic prosecution of individuals who may be legally responsible for war crimes, genocide, crimes against humanity and other gross violations of human rights. Such amnesties are inconsistent with Afghanistan's obligations under international law, as well as with the norms upheld by United Nations policy. Moreover, broad amnesties encourage impunity and may undermine efforts to secure genuine and lasting peace and reconciliation. Furthermore, the peace agreement failed to recognize the right to the truth of victims of gross violations of human rights and their families. UNAMA underlines that peace negotiations at every level must uphold the protection of women's rights.

While civilian harm climbed to unprecedented levels, parties to the conflict, in particular Anti-Government Elements, continued to deny the full extent of harm caused by their operations.<sup>37</sup> Although parties have acknowledged responsibility for some incidents of civilian casualties resulting from military operations, the vast majority of incidents, particularly those attributed to the Taliban, remain unacknowledged. Unless all parties to the conflict make serious efforts to review and address the consequences of their operations, the levels of civilian casualties, displacement and other types of human suffering are likely to remain elevated.

The need for a robust commitment from parties to the conflict to comply with their legal obligations to prevent civilian death and injury and to take further measures to protect Afghan civilians is essential. Reduced civilian casualties and improvements in human rights protection should be the core benchmarks of improved stability and efforts toward peace in Afghanistan.

## **Recommendations**

UNAMA offers the following recommendations to the parties to the conflict to support their efforts to protect civilians, prevent civilian casualties and uphold their obligations under international humanitarian and human rights law:

### **Anti-Government Elements**

In compliance with obligations under international humanitarian law:

- Cease the deliberate targeting of all civilians and civilian objects, including Government officials, journalists, human rights defenders, judges and prosecutors, aid-workers and places of worship and

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<sup>37</sup> As a matter of practice, UNAMA routinely shared cases of attributed civilian casualties and egregious incidents with the relevant parties.

culture.

- Cease the use of all IEDs, including the use of body-borne IEDs and vehicle-borne IEDs during suicide and complex attacks, particularly when deploying such devices indiscriminately and disproportionately in areas frequented by civilians, and immediately stop using illegal pressure-plate IEDs.
- Cease firing mortars, rockets and grenades from and into civilian-populated areas.
- Enforce statements by Taliban leadership that prohibit attacks against civilians and in civilian-populated areas; implement directives ordering Taliban members to prevent and avoid civilian casualties; and make public Taliban civilian protection policies.
- Ensure that all directives and orders are compliant with international humanitarian law and hold accountable those conducting indiscriminate attacks and any member who targets, kills or injures civilians; ensure that Anti-Government Elements do not use schools, hospitals, clinics and other protected sites under international humanitarian law for military purposes; cease all attacks and threats against healthcare workers, including polio vaccinators and polio vaccination campaigns; and refrain from any acts that impede individuals' rights of access to the highest attainable standards of education and healthcare.
- Immediately cease restrictions placed on women and girls' legitimate freedoms to move, to receive education and health-care and to work, as they have no basis in law or religion; and immediately stop imposing punishments under parallel justice structures.

#### **Government of Afghanistan**

- Cease the indirect use of mortars, rockets, grenades and other weapons, and aerial attacks in civilian-populated areas. Develop and implement clear tactical directives, rules of engagement and other procedures in relation to the use of explosive weapons and armed aircraft.
- Adopt and implement the National Policy on Civilian Casualty Prevention and Mitigation; finalize the action plan, which should include concrete objectives and additional measures to prevent civilian casualties in the conduct of hostilities; and ensure the establishment of a dedicated entity within the Government to investigate all incidents of conflict-related harm to civilians.
- Immediately disband and disarm all illegal armed groups, militias and "national uprising movements" and cease the use of irregular forces, militias and armed groups in operations of Afghan national security forces.
- Ensure that all allegations of violations of international humanitarian law and international human rights law and human rights abuses are investigated, including violations of women's rights by Afghan national security forces and pro-Government armed groups; and prosecute and punish those found responsible, as required under Afghan and international law.
- Adopt an action plan to implement Protocol V to the 1980 Convention on Certain Conventional Weapons; and ensure remedial measures to minimize the risks and effects of explosive remnants of war by strengthening national capacity and allocating resources to implement the action plan by taking necessary steps to clear affected areas following operations.
- Ensure that the right to remedy of victims of serious violations of international humanitarian law and gross violations of international human rights law is fulfilled through equal and effective access

to justice, reparations – including restitution, compensation, rehabilitation, and guarantees of non-repetition – and access to relevant information concerning violations and reparation mechanisms, without discrimination on any ground, including gender or ethnicity.

- Continue to prioritize the further capacity development of Afghan national security forces to command, control and effectively conduct counter-IED operations and IED-disposal, including exploitation;<sup>38</sup> dedicate all necessary resources to ensure the full implementation of the national counter-IED strategy.
- Ensure respect for medical facilities, medical personnel and medical transport as neutral facilities and actors; and ensure that all people in Afghanistan have access to the highest attainable standards of education and healthcare.

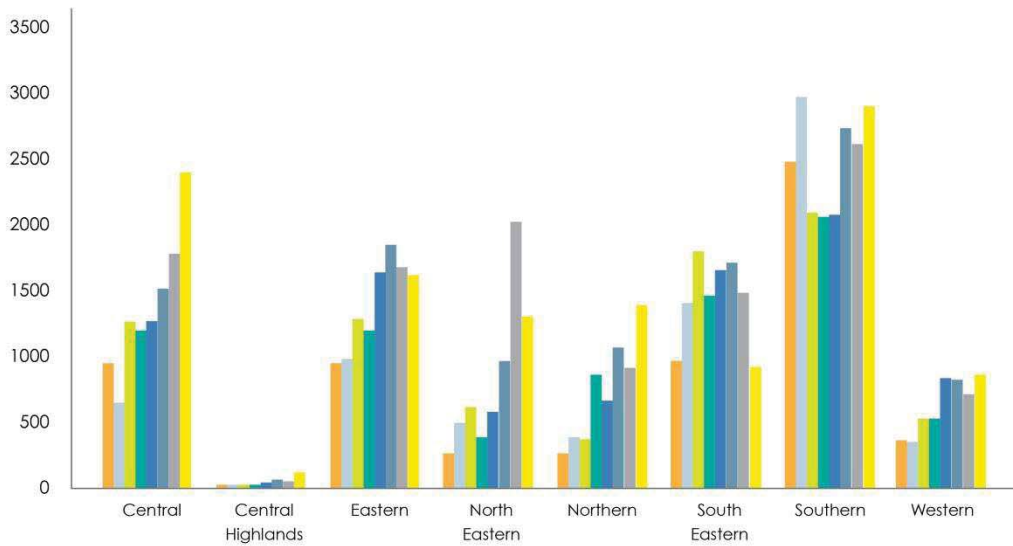
### **International Military Forces**

- Support the Government of Afghanistan in implementing the National Policy on Civilian Casualty Prevention and Mitigation in the conduct of hostilities and developing an appropriate action plan, which should include concrete objectives to prevent civilian casualties in the conduct of hostilities.
- Continue to provide training, resources and related support to Afghan national security forces beyond 2017, at policy and operational levels, and expand to the tactical level, noting in particular the need for appropriate protocols, training and civilian casualty mitigation measures in relation to the use of indirect fire weapons and armed aircraft, so as to ensure compliance with obligations under international humanitarian law.
- Continue support to Afghan national security forces in command, control and effective conduct of counter-IED operations and IED-disposal, including IED exploitation, in 2017 and beyond.
- Conduct transparent post-operation reviews and investigations following allegations of civilian casualties in operations involving international military forces, including security and intelligence forces, with particular regard to aerial operations – including those deploying unmanned aerial vehicles – and search operations, with a view to improving operational practice and accountability, as well as to ensuring operations are carried out in line with obligations under international humanitarian law and international human rights law, and ensuring compensation for victims and survivors.

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<sup>38</sup> IED exploitation is the process of identifying, collecting, processing and disseminating information and material gathered from an IED incident site to gain actionable intelligence, to improve counter-IED procedures and methods, to decrease the resources of insurgents and to support prosecutions. It includes preservation, identification and recovery of IED components for technical, forensic and biometric examination and analysis and is carried out by authorized specialist facilities. IED exploitation is a critical component of effective and sustainable counter-IED measures.

**Civilian Deaths and Injuries by Region**  
January to December 2009 - 2016



2009	942	27	785	262	188	959	2441	365
2010	641	8	975	479	381	1387	2940	351
2011	1242	3	1262	606	369	1775	2057	528
2012	1183	14	1183	376	848	1442	2021	523
2013	1255	53	1606	573	667	1624	2050	810
2014	1488	67	1813	929	1060	1677	2687	814
2015	1753	58	1647	1982	862	1470	2559	703
2016	2348	115	1595	1270	1362	903	2989	836

## I. Human Rights Protection in Conflict-Affected Areas

### Women and Armed Conflict

*“I was in my village when the fighting started between the Taliban and Afghan national security forces. I felt frightened and left home with my children for safety at a relative’s home away from the conflict area. We were sitting in a room when one of the mortars, fired by the Afghan National Police towards the Taliban, hit the house. Two of my daughters and my relative’s son were killed. I was injured along with my two sons and another daughter. My relative’s daughter was also injured as a result of mortar explosion inside the house.”*

-- A 32 year-old-woman victim of a mortar fired by the Afghan National Police on 26 September, Khowjaghar district, Takhar province.

Throughout 2016, the sustained violence of the armed conflict in Afghanistan led to the double victimization of those in the most vulnerable situations. Conflict-related violence killed and maimed women and girls, many of whom were also subjected to human rights abuses imposed by Anti-Government Elements, including brutal punishments inflicted by parallel justice structures. On other occasions, Anti-Government Elements deliberately limited fundamental human rights, including restrictions on freedom of movement, sometimes impeding access to health-care, and prohibitions on girls’ access to education beyond primary level.

#### *Women Civilian Casualties from Conflict-Related Violence*

During 2016, UNAMA documented 1,218 women civilian casualties (341 deaths and 877 injured), a two per cent decrease compared to 2015.<sup>39</sup> Ground engagements, IEDs and targeted and deliberate killings remained the leading causes of women casualties.<sup>40</sup> Women civilian casualties accounted for 11 per cent of all civilian casualties in 2016.

Anti-Government Elements caused 46 per cent of all women civilian casualties in 2016 while Pro-Government Forces caused 40 per cent. The remaining civilian casualties among women resulted from cross-fire incidents between Pro-Government Forces and Anti-Government Elements where UNAMA could not attribute responsibility to one party (13 per cent), and explosive remnants of war (two per cent).

Conflict-related violence in civilian-populated areas heavily impacted women. Ground engagements caused the majority – 58 per cent – of women civilian casualties, accounting for 704 women civilian casualties (173 deaths and 531 injured), a seven per cent increase compared to 2015.<sup>41</sup> UNAMA documented 192 women civilian casualties (33 deaths and 159 injured) from ground engagements by

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<sup>39</sup> Between 1 January and 31 December 2015, UNAMA documented 1,274 women civilian casualties (334 deaths and 913 injured).

<sup>40</sup> Ground engagements caused 58 per cent of women civilian casualties - 704 women civilian casualties (173 deaths and 531 injured), IEDs caused 12 per cent – 151 women civilian casualties (66 deaths and 85 injured), aerial attacks caused nine per cent – 104 women civilian casualties (33 deaths and 71 injured), targeted and deliberate killings caused eight per cent – 100 women civilian casualties (38 deaths and 62 injured), suicide and complex attacks caused eight per cent – 99 women civilian casualties (10 deaths and 89 injured), and explosive remnants of war caused two per cent – 24 women civilian casualties (five deaths and 19 injured). The remaining tactics – parallel justice structure punishments; search operations; incidents of threat, intimidation, and harassment; escalation of force; and conflict-related abduction of civilians caused three per cent of women civilian casualties.

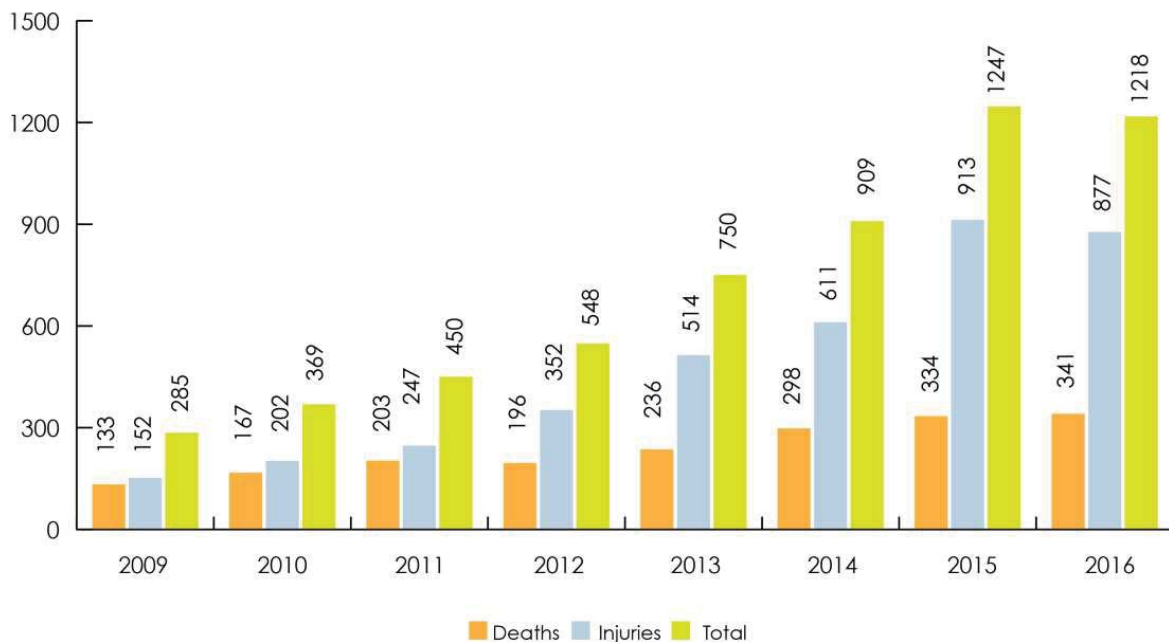
<sup>41</sup> Between 1 January and 31 December 2015, UNAMA documented 657 women civilian casualties (153 deaths and 504 injured) from ground engagements.

Anti-Government Elements, a 14 per cent increase compared to 2015.<sup>42</sup> Ground engagements by Pro-Government Forces resulted in 354 women civilian casualties (101 deaths and 253 injured), a 35 per cent increase compared to 2015, mostly due to the indiscriminate and indirect use of mortars and other explosive weapons in civilian-populated areas.<sup>43</sup>

UNAMA documented 151 women civilian casualties (66 deaths and 85 injured) from IED detonation, of which pressure-plate IEDs caused 66 per cent.<sup>44</sup> While this represented a 25 per cent decrease compared to 2015, this indiscriminate and unlawful tactic remained the second leading cause of women civilian casualties in 2016.<sup>45</sup> For example, on 28 November in Shah Wali Kot district, Kandahar province, a pressure-plate-IED planted by Taliban targeting Afghan national security forces detonated, killing two women, three girls and two men.

In 2016, an increase in aerial operations by Pro-Government Forces, particularly the Afghan Air Force (AAF) – often in support of ground forces targeting Anti-Government Elements in civilian-populated areas – resulted in a significant rise in women civilian casualties caused by airstrikes. UNAMA documented 104 women civilian casualties (33 deaths and 71 injured) from aerial operations in 2016 compared to 27 women civilian casualties (13 deaths and 14 injured) in 2015.

**Women Deaths and Injuries**  
January to December 2009 - 2016



<sup>42</sup> In 2015, UNAMA recorded 168 civilian casualties (42 deaths and 126 injured) attributable to Anti-Government Elements during ground engagements.

<sup>43</sup> In 2015, UNAMA documented 262 women casualties (53 deaths and 209 injured) as a result of ground engagements by Pro-Government Forces.

<sup>44</sup> In 2016, pressure-plate IEDs caused 100 women civilian casualties (54 deaths and 46 injured).

<sup>45</sup> UNAMA documented 202 women civilian casualties (84 deaths and 118 injured) in 2015 as a result of IEDs.

*Targeted Killings of Women*

During 2016, UNAMA recorded 96 women civilian casualties (35 deaths and 61 injured) caused by 54 incidents of targeted and deliberate killings carried out by Anti-Government Elements,<sup>46</sup> a 25 per cent increase compared to 2015. Sixty-four women civilian casualties (26 deaths and 38 injured) occurred as a result of attacks in which Anti-Government Elements intentionally targeted women, while the remainder happened as collateral damage in incidents targeting others.<sup>47</sup> For example, on 12 November, Anti-Government Elements killed a woman in her home in Bala Buluk district, Farah province, after accusing her of campaigning against violent extremism. On 15 October, Anti-Government Elements killed a female non-governmental organization worker (and schoolteacher) actively engaged in aid and election projects in Warduj district, Badakhshan province.

Anti-Government Elements targeted women human rights defenders and women active in public life, as well as women employed in non-traditional sectors such as policing and security, limiting their ability to participate in these areas due to fear of reprisal. For example, on 17 December 2016, Anti-Government Elements killed five women employees of a private security company in Kandahar city, Kandahar province. The Taliban denied responsibility for the killings, describing the incident as “an internal matter for the Kandahar authorities.”<sup>48</sup> The incident followed a pattern of execution-style killings in Kandahar city.<sup>49</sup> Information received by UNAMA suggests that the attackers may have killed the women simply because they worked outside their homes. The Kandahar authorities arrested two suspects a few weeks after the killings, although the precise circumstances of the killings remain unclear.

The continued inability of the Government to hold the perpetrators of conflict-related targeted killings of women accountable raises the concern of possible acquiescence in crimes against women, particularly women perceived to hold roles, or engage in activities, that may conflict with prevailing social norms.

*Restrictions on Women and Girls’ Enjoyment of Fundamental Human Rights*

As in 2015, Anti-Government Elements motivated by violent extremism continued to place restrictions on women and girls’ enjoyment of fundamental human rights in the areas under their control. UNAMA documented incidents in which Anti-Government Elements prevented women from accessing rights such as health-care. For example, at the beginning of March 2016, Anti-Government Elements in Yamgan district, Badakhshan province, issued a statement proclaiming that women could no longer visit the district health clinic without a close male family member. Earlier, in January, UNAMA received several reports that Anti-Government Elements had posted a guard at the front of the clinic. UNAMA also documented 22 incidents of threat, intimidation and harassment by Anti-Government Elements targeting girls’ education.<sup>50</sup>

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<sup>46</sup> These figures include some instances where a woman was not the target of the attack but killed or injured during the attack. For more information on how UNAMA documented targeted killings by Anti-Government Elements, see Chapter on Anti-Government Element Targeted Killings Resulting in Civilian Casualties.

<sup>47</sup> In 2015, UNAMA documented 82 women civilian casualties (39 deaths and 43 injured) from targeted killings.

<sup>48</sup> Taliban posted the statement on its Twitter account, accessible at: <http://www.twitter.com/zmujahid5>, last accessed 23 January 2017.

<sup>49</sup> In 2016, UNAMA documented 25 incidents of civilian casualties from successful or attempted targeted and deliberate killings in Kandahar city, resulting in 18 civilian deaths and the injury of 11 others. See Chapter on Anti-Government Element Targeted Killings Resulting in Civilian Casualties.

<sup>50</sup> See Chapter on Children and Armed Conflict.



Between September and November 2016, UNAMA facilitated consultations with over 400 Afghans civil society activists, including 235 women, as part of the mission's Global Open Days on Women, Peace and Security. Participants raised concerns over the spread of extremist ideologies in unregistered madrassas and mosques, prisons, universities, public gatherings and online. UNAMA also received reports of tactics of recruitment by Anti-Government Elements that exploited vulnerabilities of women such as mothers of killed members of the Afghan National Security Forces or imprisoned women whose reintegration into their original families is extremely challenging due to social stigma.

In light of the challenges detailed above, UNAMA calls on the Government to undertake further steps to implement the National Action Plan on United Nations Security Council Resolution 1325 on Women, Peace and Security, including sustained national funding and political support at the highest level.

### Children and Armed Conflict

*"On 17 October, I was walking in my village when I heard a horrible explosion. I really don't know what happened. Now I realize I have lost one of my legs. My brother says I was injured as a result of a pressure-plate improvised explosive device detonation."<sup>51</sup>*

-- 15-year-old boy injured by a pressure-plate improvised explosive device detonation on 17 October in Imam Sahib district, Kunduz province.

Child casualties caused by conflict-related violence continued to rise in 2016.<sup>52</sup> Between 1 January and 31 December 2016, UNAMA documented 3,512 child casualties (923 deaths and 2,589 injured), a 24 per cent increase compared to 2015.<sup>53</sup> Boys comprised 70 per cent of child casualties and girls accounted for 29 percent.<sup>54</sup> Children comprised 31 per cent of all conflict-related civilian casualties in Afghanistan in 2016.

UNAMA remains particularly concerned by the continued increase in child casualties caused by ground engagements. In 2016, UNAMA recorded 1,761 child casualties (390 deaths and 1,371 injured) caused by ground engagements, an increase of 23 per cent compared to 2015.<sup>55</sup> As in 2015, ground engagements caused the majority of child casualties in 2016, accounting for half of all child casualties.<sup>56</sup> Child civilian casualties from ground engagements increased at a higher rate than adult civilian casualties due to an increase in ground fighting in civilian-populated areas, which are typically inhabited by large families with many children. Ground engagements particularly affected girls, accounting for 67 per cent of all girl casualties in comparison to 43 per cent of boy casualties.<sup>57</sup>

<sup>51</sup> UNAMA interview with victim, Kunduz city, Kunduz province, 23 October 2016.

<sup>52</sup> UNAMA notes that child casualties increased by 14 per cent in 2015 compared to 2014. See UNAMA 2015 Annual Protection of Civilians in Armed Conflict Report, p. 18.

<sup>53</sup> In 2015, UNAMA documented 2,840 child casualties, (736 deaths and 2,104 injured) caused by the armed conflict.

<sup>54</sup> UNAMA could not verify the gender of one per cent of child casualties in 2016 – 26 child casualties (16 deaths and 10 injured). UNAMA documented 2,462 boy casualties (668 deaths and 1,794 injured) and 1,024 girl casualties (239 deaths and 785 injured).

<sup>55</sup> In 2015, UNAMA documented 1,431 child casualties (293 deaths and 1,138 injured) from ground engagements.

<sup>56</sup> In 2016, explosive remnants of war caused the second highest number of child casualties, followed by IEDs and aerial operations.

<sup>57</sup> UNAMA recorded 1,060 boy casualties (250 deaths and 810 injured) and 688 girl casualties (133 deaths and 555 injured) from ground engagements in 2016.

UNAMA documented a 65 per cent increase in child casualties from the detonation of explosive remnants of war in 2016, recording 609 child casualties (183 deaths and 426 injured).<sup>58</sup> UNAMA is concerned by the persistent and pervasive use of indirect and/or explosive weapons, including rockets and mortar rounds – which typically produce dud ordnance – by parties to the conflict, and is extremely concerned by the persistent failure of these actors to mark and clear unexploded ordnance from the battlefield following ground fighting in civilian-populated areas.

Children accounted for 84 per cent of civilian casualties from explosive remnants of war in 2016. The disproportionate impact of these devices on children is linked to poverty and lack of education and awareness about the dangers of unexploded ordnance. Children living in conflict-affected areas are less likely to have received mine-risk education and, motivated by natural curiosity, frequently pick up unfamiliar and shiny objects near their homes while playing outside. Children also use metal-detectors to find scrap metal to sell, often searching former battlefields or farmland where stray dud ordnance can be found. In many cases, while parents and children may be aware of the risks posed by the collection of scrap metal, poverty compels families to continue doing so.<sup>59</sup> Explosive remnants of war particularly affected boys, causing 21 per cent of all boy casualties compared to nine per cent of girl casualties.<sup>60</sup>

Child casualties from aerial operations more than doubled in 2016, increasing to 200 child casualties (78 deaths and 122 injured) compared to 91 child casualties (36 deaths and 55 injured) in 2015. For example, on the night of 2 to 3 November, a series of airstrikes carried out against residences in Boz-e-Qandahari village, Kunduz district, Kunduz province, killed 20 children in addition to six women and six men.

Child casualties caused by IEDs in 2016 increased by four per cent compared to 2015.<sup>61</sup> UNAMA recorded 554 child casualties (167 deaths and 387 injured) caused by this tactic (primarily pressure-plate and remote-controlled IEDs), reversing the decline in IED-attributed child casualties observed in 2015.<sup>62</sup> Suicide and complex attacks caused 155 child casualties (16 deaths and 139 injured) in 2016, a 31 per cent decrease compared to 2015.<sup>63</sup>

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<sup>58</sup> For more information, see chapters on Explosive Remnants of War and Ground Engagements: Civilians Caught in Cross-Fire. In 2015, UNAMA documented 369 child casualties (115 deaths and 254 injured) from explosive remnants of war.

<sup>59</sup> See Chapter on Explosive Remnants of War for more details.

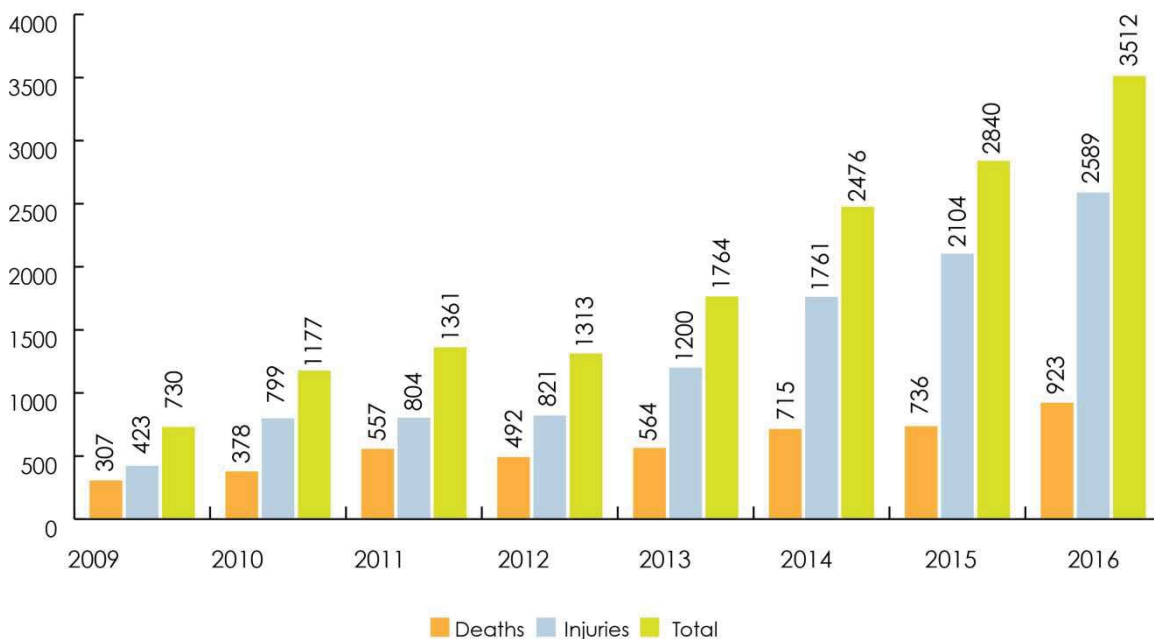
<sup>60</sup> In 2016, UNAMA documented 89 girl civilian casualties (24 deaths and 65 injured) and 520 boy casualties (159 deaths and 361 injured) from explosive remnants of war.

<sup>61</sup> In 2015, UNAMA documented 532 child casualties (158 deaths and 374 injured) caused by IEDs.

<sup>62</sup> In 2015, child casualties caused by IEDs decreased by 14 per cent compared to 2014.

<sup>63</sup> In 2015, UNAMA documented 225 child casualties (50 deaths and 175 injured) from suicide and complex attacks.

### Child Deaths and Injuries January to December 2009 - 2016



#### *Abduction of Children*

UNAMA documented 10 incidents of abduction involving 15 children in 2016. Abductions of children occurred throughout Afghanistan, including in Farah, Kunduz, Helmand, Maidan Wardak, Laghman, Nangarhar and Badakhshan provinces.

The mission attributed seven incidents, involving the abduction of 11 children, to Taliban and one incident to *Daesh*/ISKP where the group abducted two children.<sup>64</sup> Anti-Government Elements primarily abducted boys aged 16 and 17 whom they perceived to be government supporters, members of the Afghan national security forces, or linked to rival Anti-Government Elements. For example, on 13 November, in Alishang district, Laghman province, Anti-Government Elements abducted a man and two boys from a vehicle based on an assumption that their family members worked for the Government. Anti-Government Elements subsequently released the three individuals following negotiations with local elders. Afghan Local Police and pro-Government armed groups each carried out the abduction of one child, both of which appeared motivated by sexual violence.<sup>65</sup>

#### *Recruitment and Use of Children in the Armed Conflict*

UNAMA continued to receive reports of recruitment and use of children by Anti-Government Elements and Afghan national security forces as co-chair of the United Nations Country Task Force

<sup>64</sup> In accordance with Security Council Resolution 2255 (2015), the United Nations Security Council listed Taliban for the abduction of children in 2015. The listing process is intended to publically name armed groups and other actors who commit grave violations against children. Taliban are also listed for recruiting and using children, patterns of killing and maiming children, recurrent attacks or threats of attacks on schools or hospitals and associated protected persons.

<sup>65</sup> Additional details withheld for protection reasons.

on Monitoring and Reporting (CTFMR),<sup>66</sup> recording 59 incidents involving the recruitment or use of 91 boys in 2016.<sup>67</sup> Given the high likelihood of under-reporting, UNAMA notes that this data may not accurately reflect the actual scale of child recruitment and use by parties to the conflict, in particular by *Daesh*/ISKP and Taliban.<sup>68</sup> Anti-Government Elements recruited and/or used the majority of children. CTFMR documented 66 boys recruited or used by Taliban, 10 boys recruited or used by *Daesh*/ISKP, and five boys recruited by unidentified Anti-Government Elements, mainly to plant IEDs, transport explosives, carry out suicide attacks and spy. For example, on 14 July, in Gardez district, Paktiya province, the detonation of a suicide vest killed a 13-year-old boy when he tried to put it on in his home prior to conducting an attack. Afghan national security forces recruited and/or used nine boys in 2016 (five boys by the Afghan National Police (ANP), one boy by the Afghan National Army (ANA), two boys by the Afghan Local Police and one boy jointly by ANP and Afghan Local Police) and a pro-Government armed group recruited and/or used one boy.

#### *Rape and Other Forms of Sexual Violence*

UNAMA documented four incidents of conflict-related sexual violence against children in 2016, including one incident of rape. Such incidents are likely under-reported as a result of prevailing social norms, such as stigma associated with being a victim of sexual violence that may result in marginalization or exclusion from society.

Two incidents of sexual violence documented by UNAMA involved the use of boys by Afghan Local Police for sexual purposes in Baghlan and Kunduz provinces, including rape and sexual exploitation.<sup>69</sup>

The mission also documented the sexual abuse of a 16-year-old boy on 17 October in Paktiya province by ANA Special Forces who forcibly stripped him naked and took photographs of him in front of teachers and students at his school. After objections from pupils and teachers, ANA Special Forces reportedly opened fire in the school premises, seriously injuring another student in the neck, and beat another student unconscious. On 19 October, five ANA personnel involved in the incident were arrested and transferred to the ANA Special Corps Court in Kabul city for prosecution.<sup>70</sup>

On 21 October, a political delegation established by the President's office visited Gardez city to meet with local government officials and *shura* members to discuss the incident. As a result of the incident, the school closed for three days, temporarily preventing 1,200 students from attending class. According to information received, the Special Corps Court convicted one lieutenant involved in the

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<sup>66</sup> The Afghanistan Country Task Force on Monitoring and Reporting was formed in September 2008 as part of the monitoring and reporting mechanism on the six grave violations against children established by, and listed in, Security Council Resolution 1612 (2005): (i) killing or maiming of children; (ii) recruitment or use of children by armed forces or armed groups; (iii) sexual violence against children; (iv) attacks against schools or hospitals; (v) abduction of children; and (vi) denial of humanitarian access for children.

<sup>67</sup> In 2015, the CTFMR documented the recruitment and/or use of 48 boys by parties to the conflict. UNAMA refers to boys because the CTFMR did not document any incidences of recruitment and/or use of girls by parties to the conflict.

<sup>68</sup> Recruitment and use of children by armed forces and groups refers to "any person below 18 years of age who is [...] recruited or used by an armed force or armed group in any capacity, including but not limited to children, boys and girls, used as fighters, cooks, porters, spies or for sexual purposes." See Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups, accessible at: [https://childrenandarmedconflict.un.org/publications/ParisPrinciples\\_EN.pdf](https://childrenandarmedconflict.un.org/publications/ParisPrinciples_EN.pdf).

<sup>69</sup> For more information, see UNAMA 2016 Mid-Year Report on Protection of Civilians in Armed Conflict, p. 20.

<sup>70</sup> UNAMA requested information from the National Security Council on efforts to hold the perpetrators accountable on 15 January and to date, has not received a response.

incident for unlawful use of force and sentenced him to two years' imprisonment and found another soldier guilty of beating and sentenced him to one year of imprisonment.<sup>71</sup> Three soldiers were released due to a lack of evidence. None of the perpetrators was charged with sexual abuse or exploitation of the boy.

In 2016, UNAMA attempted to follow up on allegations of sexual abuse of boys by ANP in Uruzgan province. While it received anecdotal evidence that the practice was ongoing and widespread in the province, the extreme sensitivities involved, particularly the risks to victims, prevented UNAMA from verifying specific incidents in accordance with its methodology.

Throughout 2016, UNAMA continued to support the Afghan Independent Human Rights Commission in its efforts to prevent and criminalize *bacha bazi* and other forms of sexual abuse.<sup>72</sup> UNAMA urges the Government to criminalize the practice of *bacha bazi* by endorsing the criminal legislation proposed and drafted by the commission through a presidential decree.

UNAMA also supported the commission in its efforts to advocate for a victim-centred approach to *bacha bazi* that includes social care and compensation. Currently, there are very few services and support mechanisms for victims of *bacha bazi*, while punitive measures taken to address this issue allegedly fall on the victims, who are often punished and re-victimized by law enforcement and the court system.

#### *Incidents Related to Schools and Education*

In 2016, UNAMA documented 94 conflict-related incidents targeting and/or impacting education and education-related personnel – a 20 per cent decrease compared to 2015 – that resulted in 91 civilian casualties (24 deaths and 67 injured).<sup>73</sup> UNAMA attributed 82 per cent of incidents targeting and/or impacting education to Anti-Government Elements, while Afghan national security forces and pro-Government armed groups perpetrated the remaining 21 per cent.

Incidents of threat and intimidation directed against education-related personnel and facilities (including teachers, school watchmen and staff from the Department of Education) continued to account for the majority of incidents targeting education in 2016. UNAMA documented 44 incidents of this nature, representing a 41 per cent reduction in the number of instances compared to 2015.<sup>74</sup> Notwithstanding this decrease, UNAMA remains concerned by continued incidents of interference with girls' education by Anti-Government Elements - 16 incidents of threats, intimidation, and harassment targeted girls' schools. For example, on 4 September, Anti-Government Elements ordered the principals of girls' high schools in Alishang, Alingar and Dawlatshah districts of Laghman province to close the schools for girls in grade seven and asked the community elders to prohibit the participation of girls in higher education. In addition, UNAMA also documented the abduction of the headmaster of a girls' school, the shooting to death of the teacher who worked at a

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<sup>71</sup> Email correspondence between UNAMA and the Ministry of Defense, dated 22 January 2017.

<sup>72</sup> *Bacha bazi* is a term loosely translated as “boy play” and practiced in some parts of Afghanistan by commanders and other influential men, usually associated with sexual exploitation and abuse of young boys. See National Inquiry on the causes and consequences of *bacha bazi* in Afghanistan, Afghanistan Independent Human Rights Commission, 8 August 2014, accessible at [http://www.aihrc.org.af/home/research\\_report/3324](http://www.aihrc.org.af/home/research_report/3324), last accessed 10 July 2016.

<sup>73</sup> In 2015, UNAMA documented 26 civilian casualties (11 deaths and 15 injured) from incidents targeting education.

<sup>74</sup> In 2016, UNAMA documented 44 incidents of threat and intimidation targeting education compared to 75 incidents in 2015.

girls' school, an IED detonation outside of a girls' school that damaged classrooms and three additional incidents of intentional damage to girls' schools.

Other incidents of threats and intimidation resulted in the closure of both boys and girls schools by staff members and the Department of Education in response to overt Anti-Government Element threats. Threats and intimidation also occurred during the military use of schools or involved intentional damage to property, sexual violence in a school yard (see above) and the beating of a teacher.

UNAMA documented 13 incidents of targeted killings aimed at education professionals in 2016, resulting in the deaths of 11 civilians and injury to 10 others; 12 incidents involving the abduction of 55 education-related personnel and students; 10 incidents of intentional damage to education property; five IED incidents targeting education; and one complex attack targeting a university.<sup>75</sup>

UNAMA continued to record the use of educational facilities for military purposes by parties to the armed conflict. In 2016, it documented the use of 36 educational facilities, mainly by Afghan national security forces, who occupied or used 26 schools. The mission also documented the use of one school by a pro-Government armed group and the use of nine educational facilities by Anti-Government Elements. The occupation or use of educational facilities for military purposes occurred throughout Afghanistan, including in Helmand, Kunduz, Logar, Maidan Wardak, Takhar Farah, Badakshan, Ghor, Jawzjan and Paktya provinces.

In addition to depriving children of education, the military use of educational facilities exposes them to the risk of damage from ground fighting or aerial operations. For example, ANA soldiers occupied two high schools in Nirkh district, Maidan Wardak province, from 13 to 15 March during an operation. Subsequent fighting between them and Anti-Government Elements damaged the doors and windows of the schools.

UNAMA remains concerned about the continued military use of schools, particularly by Afghan national security forces, despite the Ministry of Education's issuance on 4 June and 4 July 2016 of instructions to all security-related ministries calling on security forces to stop using schools for military purposes and underlining Afghanistan's commitment to the Safe Schools Declaration.<sup>76</sup> UNAMA urges all Afghan national security forces to adhere to the Safe Schools Declaration and calls on parties to the conflict to refrain from using educational facilities for military purposes.

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<sup>75</sup> UNAMA also recorded nine cases that did not fit directly within the above-mentioned incidents, namely seven incidents involving occupation and/or use of educational facilities not involving threats and intimidation, and two cases of looting of school equipment.

<sup>76</sup> The Safe Schools Declaration "provides states the opportunity to express broad political support for the protection and continuation of education in armed conflict, and is the instrument for states to endorse and commit to implement the Guidelines on Protection Schools and Universities from Military Use during Armed Conflict. The Declaration was opened for endorsement at the Oslo Conference on Safe Schools convened by the Norwegian Ministry of Foreign Affairs on 29 May 2015." See: <http://www.protectingeducation.org/guidelines/support>, last accessed 5 January 2017. The Government of Afghanistan signed the declaration in May 2015.

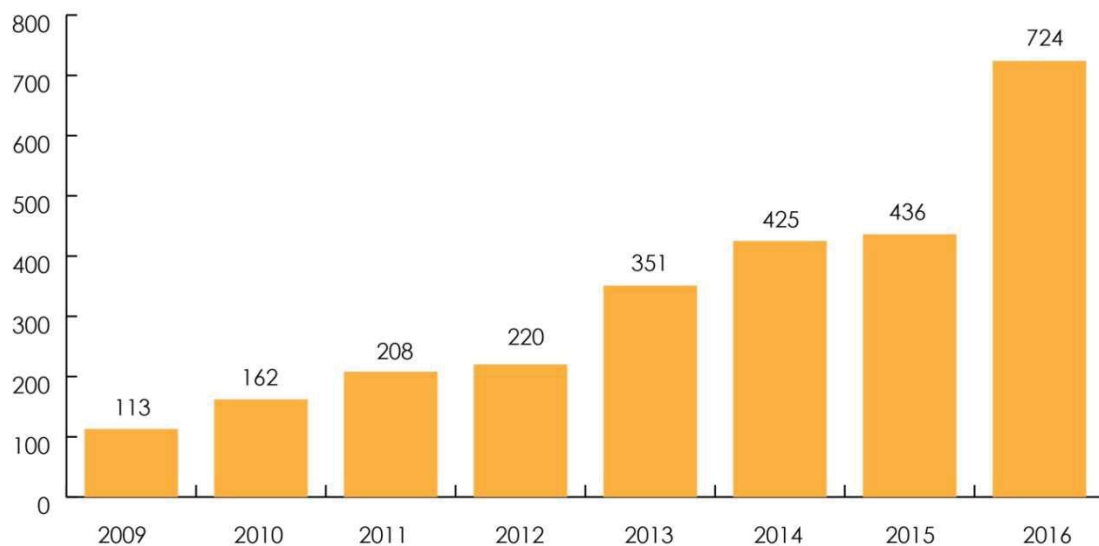
## Explosive Remnants of War

*“Yesterday, I was playing with other children on the streets near our house in the village. I saw our neighbour, a boy who later died, holding something made of metal. I knew that it was something explosive. He told all of us ‘I’m going to detonate it’. I slapped him on his face and told him ‘don’t do it!’ and then I moved further away from him. He began hitting the object with a stone. It exploded. I fell unconscious and I don’t know what happened next.”<sup>77</sup>*

-- 13-year-old girl injured in Pul-i-Khumri district, Baghlan province, on 16 July by an explosive remnants of war detonation that killed one girl and three boys and injured two girls and a boy.

UNAMA is extremely concerned by the substantial increase in civilian casualties attributed to explosive remnants of war. In 2016, UNAMA documented the highest number of civilian casualties caused by the detonation of explosive remnants of war since the mission began recording civilian casualties in 2009.<sup>78</sup> Between 1 January and 31 December, UNAMA documented 326 incidents of explosive remnants of war detonation resulting in 724 civilian casualties (217 deaths and 507 injured), an increase of 66 per cent compared to 2015, rendering explosive remnants of war responsible for six per cent of all civilian casualties in 2016.<sup>79</sup>

**Civilian Deaths and Injuries from Explosive Remnants of War  
January to December 2009 - 2016**



UNAMA continued to observe the correlation between increased civilian casualties from explosive remnants of war and increases in ground engagements frequently characterized by the use of indirect and/or explosive weapons in civilian-populated areas.<sup>80</sup> Eight of the 10 provinces most affected by

<sup>77</sup> UNAMA interview with victim, Pul-i-Khumri city, Baghlan province, 17 July 2016.

<sup>78</sup> UNAMA documented the following civilian casualties from explosive remnants of war before 2016: 2015- 436 civilian casualties (129 deaths and 307 injured); 2014 – 425 civilian casualties (124 deaths and 301 injured); 2013 – 351 civilian casualties (116 deaths and 235 injured); 2012 – 220 civilian casualties (77 deaths and 143 injured); 2011 – 208 civilian casualties (69 deaths and 139 injured); 2010 – 162 civilian casualties (49 deaths and 113 injured); and 2009 – 113 civilian casualties (31 deaths and 82 injured).

<sup>79</sup> In 2015, UNAMA documented 436 civilian casualties (129 deaths and 307 injured) from explosive remnants of war detonation.

<sup>80</sup> Indirect and/or explosive weapons produce dud ordnance – explosive remnants of war. See UNAMA 2016 Mid-Year Report on Protection of Civilians in Armed Conflict, pp. 27, 42.

explosive remnants of war detonation in 2016 are also among the 10 provinces most affected by ground engagements, demonstrating the dangers of deploying weapons capable of producing dud ordnance (such as rockets, mortars, and grenades) in urban and populated areas.<sup>81</sup> For example, on 16 November in the Zarkharid area of Kunduz city, an unexploded rocket-propelled grenade left behind during the Taliban offensive on the city in October 2016 detonated during a wedding party, killing two boys and injuring seven other children.

In addition to rising insecurity and ground engagements in civilian-populated areas, attacks against humanitarian de-miners hindered demining efforts, creating further risks for civilian communities. In 2016, UNAMA documented 20 separate incidents of attacks and threats against humanitarian deminers, resulting in 19 civilian casualties (nine deaths and 10 injured). On 9 March, Taliban attacked a group of security guards deployed by the Ministry of Interior Affairs to provide security for humanitarian de-miners to clear a site in Muhmand Dara district, Nangarhar province. The attack killed three guards and wounded another. Taliban abducted two guards, including the one wounded, who remain in their captivity. Taliban claimed responsibility for the attack.<sup>82</sup> UNAMA also documented 12 separate incidents where Anti-Government Elements abducted 110 humanitarian deminers. For example, on 7 August 2016, Anti-Government Elements abducted 32 members of demining teams clearing a former firing range in Saydabad district, Maidan Wardak province, confiscating five vehicles and their equipment. After being questioned by the Anti-Government Elements, all were later released unharmed. The vehicles and equipment were also later released through mediation by the local community.

UNAMA is equally concerned by the severe and disproportionate impact on children of explosive remnants of war. In 2016, children comprised 86 per cent of all civilian casualties caused by the detonation of explosive remnants of war, making it the second leading cause of child casualties after ground engagements.<sup>83</sup> UNAMA documented 609 child casualties (183 deaths and 426 injured) from explosive remnants of war in 2016, which predominantly occurred while children played with or handled them after discovering dud ordnance while collecting scrap metal, tending to livestock or engaging in other farming activities or simply playing. For example, on 8 August, a group of small children discovered unexploded ordnance in Spin Boldak district, Kandahar province, and began playing with it. The resulting detonation killed four of them, aged between two and five-years-old.

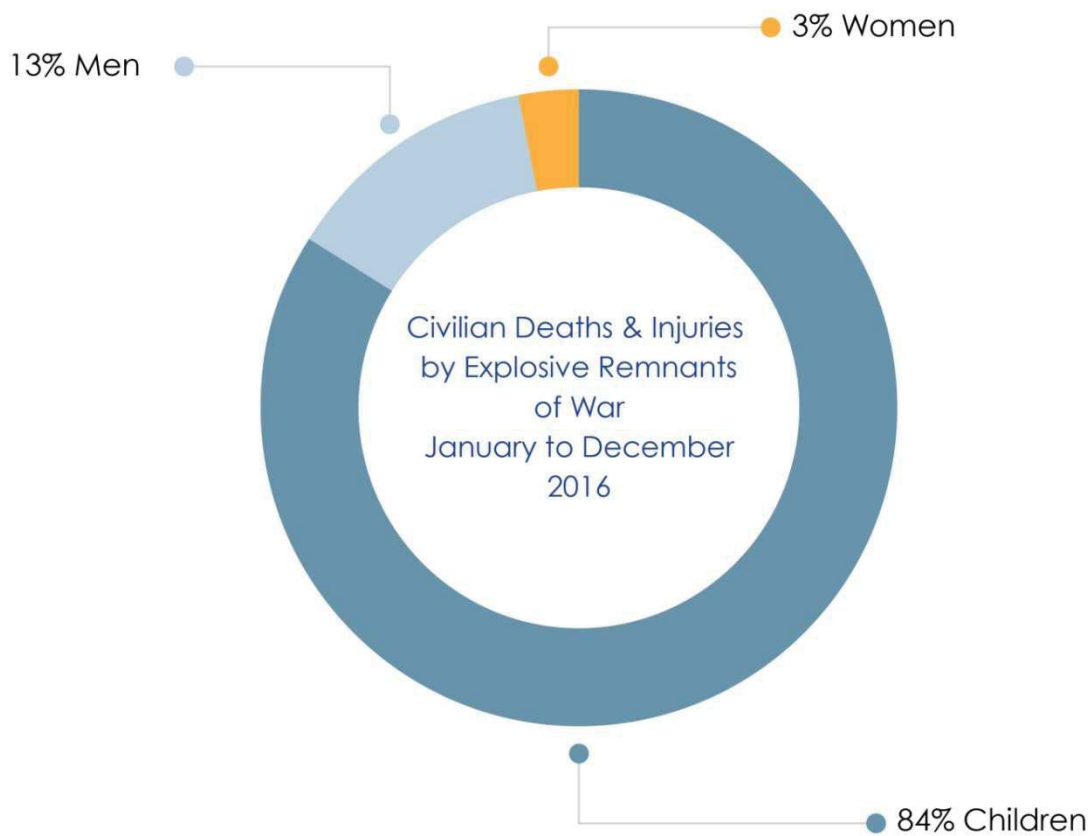
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<sup>81</sup> Kandahar, Helmand, Faryab, Herat, Nangarhar, Baghlan, and Kunduz provinces are among the 10 provinces most affected by explosive remnants of war detonations and ground engagements. The provinces of Ghazni and Zabul, which appear in the 10 provinces most affected by explosive remnants, are the eleventh and twelfth most affected by ground engagements. For more information on the impact of indirect and/or explosive weapons on civilians, see Chapter on Ground Engagements: Civilians Caught in Cross-fire.

<sup>82</sup> Taliban claim of responsibility posted on English website, formerly accessible at: <http://shahamat-english.com/5-killed-11-injured-in-nangarhar-operation>, copy on record with UNAMA.

<sup>83</sup> See Chapter on Children and Armed Conflict.





Throughout 2016, the failure of parties to the conflict to mark and clear unexploded ordnance following security operations exposed communities to danger, particularly children. This negligence caused rising levels of civilian deaths; loss of limbs, eyesight, hearing and other serious injuries; and destroyed families who lost children, parents and other relatives. The consequences of injury go far beyond physical harm: children blinded or crippled by the detonation of explosive remnants of war may be deprived of access to education; injured breadwinners may not be able to perform physical labour such as farming; and many of those injured may be unable to access medical treatment, including initial trauma treatment, and subsequent treatment for using prosthetics and physiotherapy.

Parties to the conflict must take effective measures to ensure that their repeated commitments to avoid civilian harm are upheld. Concrete steps must be taken to minimize the use of explosive weapons which produce dud ordnance - such as mortars, rockets, and grenades - in civilian-populated areas. Finally, parties to the conflict must immediately mark and clear explosive remnants of war from the battlefield and community space.

The mission once again reminds all parties to the conflict that international humanitarian law requires that every effort be made during the conduct of military operations to spare civilians from the ravages of war, and that all necessary precautions be taken to avoid injury, loss or damage to civilian populations.<sup>84</sup>

UNAMA welcomes Afghanistan's ratification of Protocol V on Explosive Remnants of War to the

<sup>84</sup> Implicit in Common Article 3; Additional Protocol II, Articles 4, 13. See also Additional Protocol I, Article 57 (not applicable to non-international armed conflict but accepted as customary international law – see ICRC Customary International Humanitarian Law, Rules 15-22).

1980 Convention on Certain Conventional Weapons.<sup>85</sup> It urges the Government of Afghanistan to undertake the direct measures defined in and obligated by the Protocol, including by developing appropriate policies and procedures to mark and clear, remove or destroy explosive remnants of war in affected territories under its control,<sup>86</sup> and to take all feasible precautions in the territory under its control affected by such devices to protect the civilian population, individual civilians and civilian objects from their risks and effects. Such precautions may include warnings, risk education, marking, fencing and monitoring of the territory affected by explosive remnants of war.<sup>87</sup>

UNAMA strongly recommends that the Taliban and other Anti-Government Elements take all necessary measures to mark and immediately clear explosive remnants of war from territory under their influence and/or allow and enable humanitarian de-miners to access these areas to remove unexploded ordnance from community spaces.

The mission once again urges the Government of Afghanistan to prioritize the implementation of its National Civilian Casualty Prevention and Mitigation Policy as a matter of priority, and to ensure its compliance with the obligations contained in Protocol V.

### Impact of Armed Conflict on Health-Care

*“We were on the way from Alishang district to Mehterlam public hospital, transferring a pregnant woman in an ambulance. Suddenly, Anti-Government Elements opened fire on the ambulance and wounded the patient in her neck. We stopped in the area and brought the patient to a house and provided primary treatment to stop her bleeding. After two hours, and negotiations by community elders with the Anti-Government Elements, it was clear to them that the ambulance was transporting a pregnant woman and not any Afghan Local Police members. They finally allowed us to transfer the patient to Mehterlam public hospital for treatment.”<sup>88</sup>*

-- Witness of Anti-Government Element attack on an ambulance that injured a pregnant woman in Alishang district, Laghman province, on 29 August 2016.

In 2016, UNAMA documented 119 conflict-related incidents targeting and/or impacting health-care or health-care workers that resulted in 23 civilian casualties (10 deaths and 13 injured) and 42 civilian abductions, consistent to figures documented in 2015.<sup>89</sup> Threats, intimidation, and harassment and abduction of medical personnel comprised the majority of incidents, but the mission also documented cases of targeted killings and occupation and/or use of medical facilities for military

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<sup>85</sup> The Minister of Foreign Affairs for Afghanistan signed an “Instrument of Accession” on 15 January 2017 ratifying the 1980 Convention on Conventional Weapons and Additional Protocols I, II (as amended in 1996), III, IV, and V) – copy of document on record with UNAMA. The Ministry of Foreign Affairs submitted the document to the office of the United Nations Secretary-General on 26 July in compliance with the procedure for ratification of the conventions and its protocols – information received in an email between UNAMA and the Directorate of Mine Action Coordination/Ministry of Foreign Affairs in January 2017. Based on this information, UNAMA believes that the conventions and its protocols therefore came in to effect in Afghanistan on 26 January 2017.

<sup>86</sup> Protocol V to the 1980 Convention on Certain Conventional Weapons on Explosive Remnants of War, 28 November 20013 (“Protocol V”), Article 3(2).

<sup>87</sup> Protocol V, Article 5(1).

<sup>88</sup> UNAMA telephone interview with witness, Jalalabad city, Nangarhar province, 5 October 2016

<sup>89</sup> In 2015, UNAMA documented 109 incidents targeting health-care that resulted in 15 civilian casualties (seven deaths and eight injured) and 51 civilians abducted. While UNAMA documented a 45 per cent increase in incidents targeting health-care during the first six months of 2016 compared to the first six months of 2015, this trend reversed in the second half of 2016. See UNAMA 2016 Mid-Year Report on Protection of Civilians in Armed Conflict, p. 22.

purposes. UNAMA attributed responsibility for 95 incidents to Anti-Government Elements, 23 incidents to Afghan national security forces and one incident to pro-Government armed groups.

Of the 119 incidents recorded in 2016, UNAMA documented 74 incidents of threats and intimidation against health-facilities, resulting in the temporary closure of at least 20 health-facilities. Threats and intimidation ranged from ordering the closure of clinics and vaccination programmes to ordering medical staff to pay taxes. For example, in Burka, Baghlan-e-Jadid and Pul-i-Khumri districts of Baghlan province, 16 clinics closed for 10 days after Anti-Government Elements ordered their closure on 23 July and threatened health personnel. Anti-Government Elements issued the threats in retaliation against Afghan national security forces after they confiscated medical supplies and an ambulance from a first aid trauma post in Dhana-e-Ghory district that previously treated injured Anti-Government Element fighters.

UNAMA documented 21 incidents of abduction targeting health-care workers (some of which included the seizure of ambulances) by Anti-Government Elements, resulting in the abduction of 42 civilians, and five incidents of attempted or successful targeted killings of health-care professionals (including two attacks directed at ambulances). UNAMA also documented the attempted abduction of a medical doctor by a pro-Government armed group on 1 March in Aybak district, Samangan province.

UNAMA also recorded five incidents of intentional damage to medical facilities, five incidents of theft or looting of medical facilities not involving threat or intimidation, damage to a health facility in a ground engagement, one incident of remote-controlled IED detonation targeting a health clinic, and five incidents of theft or looting of medical equipment from medical facilities.

During the incidents mentioned above, the mission documented 10 instances of Anti-Government Element occupation or use of health facilities (six by Taliban, one by *Daesh*/ISKP, and three by undetermined Anti-Government Elements). For example, on 27 August in Jani Khel district, Paktya province, Anti-Government Elements occupied the health clinic in the district administration centre before Afghan national security forces recaptured the area on 9 September and in turn occupied the health clinic until 4 October. Between 27 August and 4 October, parties to the conflict occupying the facility destroyed and looted 60 per cent of its medical equipment and caused damage to around one fifth of the building.

UNAMA documented 13 incidents of military use or occupation of health-care facilities by Afghan national security forces.<sup>90</sup> Afghan national security forces also conducted two search operations in medical facilities that resulted in one civilian death and one civilian injury, both in Maidan Wardak province.

UNAMA highlights that 18 of the 95 incidents targeting health-care attributed to Anti-Government Elements specifically targeted polio vaccination programmes, including seven incidents of abduction of polio vaccinators.<sup>91</sup>

In addition to the above cases targeting or impacting the delivery of health-care, UNAMA documented five cases in which the armed conflict indirectly affected health-care facilities, predominantly due to the use of indirect and/or explosive weapons during ground engagements. For

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<sup>90</sup> UNAMA documented four incidents of use or occupation of health facilities for military purposes without threat or intimidation. The remaining five incidents are also included in the number of incidents of threat, intimidation, and harassment.

<sup>91</sup> For more information, see section on Impact of Armed Conflict on Eradicating Polio below.

example, on 28 May, during a Taliban attack on the Ghandak area of Shiber district, Bamyan province, two rockets landed inside the compound of the basic health centre, damaging windows. One rocket landed on the roof of the clinic but did not explode.<sup>92</sup>

UNAMA once again urges parties to the conflict to abide by the international humanitarian law and international human rights law protecting the sick and wounded and the right to health, including the right to the highest attainable standard of health, which continues to apply during armed conflict.<sup>93</sup> This includes the Government's core obligations to ensure the right to access health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalized groups; access to the minimum essential food which is nutritionally adequate and safe; access to shelter, housing and sanitation and an adequate supply of safe drinking water; the provision of essential drugs; and equitable distribution of health facilities, goods and services.<sup>94</sup>

UNAMA reiterates that medical personnel and facilities exclusively engaged in treating the sick and wounded in Afghanistan are protected from attack based on civilian status.<sup>95</sup> Medical personnel provide impartial care to all sick and wounded persons, regardless of affiliation, and continue to enjoy civilian status while carrying out their duties as medical personnel.<sup>96</sup> In addition, medical personnel and facilities displaying the distinctive emblems (including the red crescent), and medical personnel, and facilities assigned by the parties to the conflict exclusively to treat the sick and wounded, benefit from special protections under international humanitarian law.<sup>97</sup> In compliance with their international legal obligations, both Anti-Government Elements and Afghan national security forces should not impede the provision of care to the wounded and sick by blocking the movement of medical personnel.<sup>98</sup> Similarly, medical facilities such as hospitals and clinics and medical transports (for example, ambulances) must be respected and protected by parties to the conflict.<sup>99</sup>

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<sup>92</sup> Taliban claimed responsibility for launching the attack on its Dari website, formerly accessible at: <http://shahamat-farsi.com/?p=29961>, copy on record with UNAMA.

<sup>93</sup> See Universal Declaration of Human Rights (1949), Article 25; International Covenant on Economic, Social, and Cultural Rights (1966), Article 12; United Nations Committee on Economic, Social and Cultural Rights General Comment No. 14 (2000). See also International Court of Justice, *Advisory Opinion on Legal Consequences of Construction of the Wall in Occupied Palestinian Territories*, 9 July 2004, para. 106.

<sup>94</sup> See United Nations Committee on Economic, Social and Cultural Rights General Comments No. 3 (1999), 18 (2000).

<sup>95</sup> Common Article 3 to the Geneva Conventions of 12 August 1949 ("Common Article 3"); Protocol II Additional to the Geneva Conventions of 12 August 1949, 8 June 1977 ("Additional Protocol II"), Article 4(2), 13; International Committee of the Red Cross (ICRC), *Customary International Humanitarian Law*, 2005, Volume I: Rules ("ICRC Customary International Humanitarian Law Study"), accessible at: <https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1>, Rules 1, 6.

<sup>96</sup> Implicit in Common Article 3; Additional Protocol II, Article 4(2), 7(2); ICRC Customary International Humanitarian Law Study, Rules 25, 110. See also Additional Protocol II, Article 10(1): "Under no circumstances shall any person be punished for having carried out medical activities compatible with medical ethics, regardless of the person benefiting therefrom."

<sup>97</sup> Common Article 3; Additional Protocol II, Articles 9(1),10,12,13(2); ICRC Customary International Humanitarian Law Study, Rules 25, 26, 28-30. See also Security Council Resolution 2286 (2016) condemning attacks and threats against the wounded and sick, medical personnel and humanitarian personnel exclusively engaged in medical duties, 3 May 2016, S/RES/2286(2016).

<sup>98</sup> Implicit in Common Article 3; Additional Protocol II, Articles 7(2), 8-10; ICRC Customary International Humanitarian Law Study, Rules 25, 26, 28, 29, 30, 110.

<sup>99</sup> Implicit in Common Article 3(2); Additional Protocol II, Articles 7, 8, 10, 11; ICRC Customary International Humanitarian Law Study, Rules, 25, 26, 28. See also Rome Statute of the International Criminal Court, 17 July

In addition, UNAMA highlights that while military use and occupation of health facilities does not necessarily violate international humanitarian law, it is only permissible when required by military necessity.<sup>100</sup>

### **Interference with Medical Transports by Parties to the Armed Conflict**

UNAMA is concerned by the failure of both Anti-Government Elements and Afghan national security forces to respect and protect medical transports - especially ambulances. In 2016, UNAMA documented 17 incidents in which parties to the conflict attacked, destroyed, stole, or impeded the passage of vehicles (including 12 ambulances) transporting sick and wounded people, medical personnel or medical equipment.<sup>101</sup>

UNAMA attributed 12 of 17 incidents to Anti-Government Elements, including two attacks directly targeting ambulances. For example, on 22 February in Maywand district, Kandahar province, Anti-Government Elements opened fire on an ambulance transporting a patient from Maywand clinic to Mirwais hospital, injuring the driver on the hand and damaging the vehicle. The patient had to be transferred to a different vehicle in order to reach the hospital.

The mission documented six incidents in which Anti-Government Elements stole ambulances and, in four cases, briefly abducted the drivers. Anti-Government Elements released all abductees and the majority of ambulances after intervention by local elders. For example, on 17 September, Anti-Government Elements stopped and seized an ambulance travelling in Zormat district, Paktya province, and abducted the driver. At the time, the ambulance was transporting a patient to Gardez hospital. Anti-Government Elements released the driver 10 days later and returned the ambulance to the clinic 50 days later. UNAMA also documented the intentional destruction of one ambulance and three incidents where Anti-Government Elements stole from or seized vehicles other than ambulances carrying medical supplies or objects.

UNAMA recorded five incidents in which Afghan national security forces impeded the transport of medical supplies. For example, in April, National Directorate of Security personnel seized three non-governmental organization trucks and prevented them from transporting medical supplies from Kunduz city to Imam Saheb and Khan Abad districts, Kunduz province. National Directorate of Security personnel only permitted the trucks to continue after the intervention of the Ministry of Public Health and the Kunduz Health Department.

UNAMA emphasizes that deliberate attacks against ambulances carrying sick and wounded people constitute serious violations of international humanitarian law that may amount to war crimes.<sup>102</sup>

All parties to the armed conflict must protect and respect the sick and wounded as well as medical personnel, facilities and transport. Impeding the movement of medical staff, ambulances or other vehicles transporting the sick or wounded or medical supplies is contrary to international

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1998, (“ICC Statute”), Article 8(2)(e)(iv): “intentionally directing attacks against [...] hospitals and places where the sick and wounded are collected, provided they are not military objectives.”

<sup>100</sup> See also Additional Protocol II, Article 11(2): “The protection to which medical units and transports are entitled shall not cease unless they are used to commit hostile acts, outside their humanitarian function. Protection may however cease only after a warning has been given setting, whenever appropriate, a reasonable time limit, and after such warning has remained unheeded.”

<sup>101</sup> These incidents are documented in the UNAMA protection of civilian database as incidents of threat or intimidation, intentional destruction of civilian property, or attempted deliberate killings, depending on the facts.

<sup>102</sup> Implicit in Common Article 3; Additional Protocol II, Articles 4(2)(a), 7; ICC Statute, Article 8(2)(c)(i), 8(2)(e)(i), 8(2)(e)(ii), 8(2)(e)(iii).

humanitarian law, regardless of the identity of the sick and wounded being treated.<sup>103</sup> Medical staff are obliged to treat all sick and wounded, affiliation notwithstanding, and parties to the conflict must facilitate the access of medical professionals to the wounded and sick.<sup>104</sup>

### *The Impact of Conflict on the Eradication of Polio*

Afghanistan is one of three countries in the world that are polio-endemic.<sup>105</sup> In 2016, the United Nations International Children's Emergency Fund (UNICEF) and the World Health Organization (WHO) recorded 13 polio cases, all of which occurred in areas under the influence of Anti-Government Elements.<sup>106</sup>

In 2016, UNICEF and WHO recorded 20 conflict-related incidents involving polio vaccination workers, although none that directly targeted the polio programme. Six incidents involved the death or injury of polio vaccinators in conflict-related incidents, 11 incidents involved the abduction of polio vaccination workers, and three incidents involved the destruction of vaccination or communications material. UNICEF and WHO also reported threats and intimidation and short and long term bans on vaccination programmes by Anti-Government Elements, preventing vaccination workers from accessing areas under Anti-Government control. The influence of local and respected elders ended the majority of such bans.<sup>107</sup>

According to UNICEF and WHO estimates, more than 250,000 children missed their polio vaccination as a result of insecurity during the November sub-national polio campaign, mainly in the north-eastern region (105,000 children), and the southern region (120,000 children). While vaccinators subsequently reached children in the southern region, vaccination could not take place in the north-eastern region due to continuing insecurity. During the November campaign, 50 per cent of children missed vaccination due to active fighting while the remaining half missed it due to a ban on house to house polio vaccinations imposed by Anti-Government Elements.<sup>108</sup>

## **Impact of Armed Conflict on the Right to Freedom of Expression**

As highlighted in its 2016 Mid-Year Report on Protection of Civilians in Armed Conflict, UNAMA observed worrying trends concerning the lack of respect for human rights obligations by parties to the conflict, in particular, the right to freedom of expression and the rights of people in Afghanistan to receive and impart information.<sup>109</sup>

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<sup>103</sup> Implicit in Common Article 3; Additional Protocol II, Article 4(2), 7(2), 8, 10-12; ICRC Customary International Humanitarian Law Study, Rules 25, 26, 28, 110.

<sup>104</sup> Implicit in Common Article 3; Additional Protocol II, Article 4(2), 7(2); ICRC Customary International Humanitarian Law Study, Rules 25, 110. See also Additional Protocol II, Article 10(1): "Under no circumstances shall any person be punished for having carried out medical activities compatible with medical ethics, regardless of the person benefiting therefrom."

<sup>105</sup> Polio (poliomyelitis) is a highly infectious, viral disease that attacks the nervous system. Timely immunisation with the oral polio vaccine is the most effective way to prevent infection. Pakistan and Nigeria are the other remaining polio-endemic countries. Nigeria became polio endemic again in the second half of 2016. See WHO Poliomyelitis Factsheet: <http://www.who.int/mediacentre/factsheets/fs114/en/>, last accessed 9 January 2017.

<sup>106</sup> Information received in emails from UNICEF on 3 and 31 January 2017.

<sup>107</sup> Information received in an email from UNICEF on 3 January 2017.

<sup>108</sup> Information received in an email from UNICEF on 3 January 2017.

<sup>109</sup> See UNAMA 2016 Mid-Year Report on Protection of Civilians in Armed Conflict, pp. 30-32. UNAMA monitors incidents involving freedom of expression concerning journalists, civil society, and political analysts as part of its Peace, Civil Society and Human Rights portfolio. The incidents contained in this chapter are those verified according to the UNAMA protection of civilians methodology. See section on Methodology.

Between September and December 2016, UNAMA conducted 11 regional consultations and recorded the views and concerns of 240 journalists and civil society representatives from 22 provinces with respect to their own experiences concerning the exercise of the right to freedom of expression. Participants consistently raised concerns about encountering an environment of threat and intimidation attributable to both Anti-Government Elements and State actors in relation to their freedom to express opinions and monitor and report on human rights violations and abuses, in particular on conflict-related incidents.

Journalists and civil society activists operating in areas affected by armed conflict, in particular Farah, Kunduz and Uruzgan provinces, reported self-censorship as a measure of self-protection against direct or perceived threats or intimidation from Anti-Government Elements and Afghan national security forces when viewed as being critical of that actor.<sup>110</sup> UNAMA received consistent reports that such challenges have disproportionately affected women activists, mainly because of violent extremist ideologies propagated by Anti-Government Elements in conflict-affected areas that reject the participation of women in public life and the promotion of women's rights.<sup>111</sup>

In 2016, Taliban issued at least 11 statements threatening media.<sup>112</sup> In these statements, Taliban criticized several major news providers, including Tolo New, Shamshad and Radio Azadi, accusing them of publishing "enemy propaganda", "intelligence", "biased reports from the mouth of the enemy", and "defaming the Mujahideen."<sup>113</sup> The statements followed rhetoric employed in 2015 when, in response to news coverage of the Taliban's October 2015 offensive in Kunduz city, Taliban designated Tolo TV and 1TV "military objectives".<sup>114</sup>

The subsequent 20 January Taliban suicide attack against a shuttle bus belonging to the Moby Group (the parent company of Tolo TV) as it travelled on a major road in Kabul city, killing eight civilians (including three women) and injuring 30 others including several media professionals, made real the possibility of violent reprisal by Anti-Governments against media actors, creating an environment of fear that negatively impacted freedom of expression. Taliban claimed responsibility for the attack on its website, stating that it had targeted the Tolo TV employees in retaliation for "severe hostility" to

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<sup>110</sup> UNAMA interviews with civil society displaced from the armed conflict in Farah, Kunduz and Uruzgan.

<sup>111</sup> UNAMA interviews with civil society displaced from the armed conflict in Farah, Kunduz and Uruzgan.

<sup>112</sup> At the time of publication, the following links provided access to Taliban digital media: [http://alemarah-english.com/\(English\)](http://alemarah-english.com/(English)), <http://alemara1.org/> (Pashto), <http://alemarah-dari.com/> (Dari). The Taliban spokesperson also used the following Twitter account: <https://twitter.com/zmujahid5>. UNAMA hold copies of statements no longer accessible online.

<sup>113</sup> For example, see the following articles on the Taliban website: "Remarks by spokesman of Islamic Emirate regarding propaganda by malicious network Radio Liberty", 24 December 2016 (<http://alemarah-english.com/?p=8787>, last accessed 6 January 2017); "Remarks by spokesman of Islamic Emirate concerning false reports by some media outlets", 17 January 2016 (formerly accessible at: <http://shahamat-english.com/remarks-by-spokesman-of-islamic-emirate-concerning-false-reports-by-some-media-outlets/>, copy on record with UNAMA); "Notice to all media chiefs and media protection committees in Afghanistan", 20 April 2016 (formerly accessible at: <http://shahamat-english.com/notice-to-all-media-chiefs-and-media-protection-committees-in-afghanistan/chiefs-and-media-protection-committees-in-afghanistan/>, copy on record with UNAMA).

<sup>114</sup> See "Statement by the military commission of Islamic Emirate concerning intelligence TV networks of Tolo and 1TV", 12 October 2015, formerly accessible at: <http://shahamat-english.com/statement-by-the-military-commission-of-islamic-emirate-concerning-intelligence-tv-networks-of-tolo-and-1-tv>, copy on record with UNAMA.

Islam, serving as an “apparatus and propaganda mechanism of the US” and “disrespecting Kunduz citizens and false accusations of executions, plunder, kidnappings and other abuses”.<sup>115</sup>

In addition, on 15 December, armed men shot dead a local journalist working for Mili Paygham Radio in Mohammad Agha district, Logar province, as he travelled home from his office. On two previous occasions, the victim reported receiving death threats by phone from Anti-Government Elements operating in the area who instructed him not to broadcast the voices of women or any advertisements related to Afghan national security forces. Taliban publically denied involvement in the incident.<sup>116</sup> UNAMA documented two incidents of threat and intimidation carried out by *Daesh*/ISKP against independent media operators in Nangarhar province in 2016.<sup>117</sup>

Civil society activists also risk violence from Anti-Government Elements and Afghan national security forces due to the nature of their work and sometimes their influential role in society. For example, on 14 February, Anti-Government Elements shot and killed a respected civil society activist and a doctor as they left a volleyball match organized by civil society in Tagab district, Kapisa province. The civil society activist had previously been abducted by Anti-Government Elements and received threats in relation to his civil society work.

UNAMA emphasizes that journalists and civil society enjoy civilian status as they cover or conduct peaceful activities related to human rights and civil society action.<sup>118</sup> UNAMA reiterates that attacks deliberately directed at civil society or journalists, while peacefully conducting their work, are prohibited under international humanitarian law and may amount to war crimes.<sup>119</sup>

UNAMA notes efforts taken by the Government to protect and respect the right to freedom of expression in 2016. On 31 January, the President issued a decree affirming Afghanistan’s commitment to freedom of expression in the media and on 8 March, a commission was established to investigate cases of murder and violence against journalists and media workers over the previous 15 years. The commission subsequently referred more than 400 cases to relevant authorities for further investigation.

UNAMA urges the Government to ensure that the Presidential decree is followed in good faith and that all cases identified as relevant by the commission are not only investigated promptly, thoroughly and impartially, but also the findings are made public and the perpetrators brought to justice.

UNAMA notes the Government’s commitment on 1 June at the Afghanistan-European Union Human Rights Dialogue to establish an information-sharing arrangement by the end of 2016 among security ministries on threats against journalists and civil society members. However, it notes that at the time of publication of this report, the mechanism had not yet been created. UNAMA calls on the Government to establish the commission in accordance with its commitment as soon as possible.

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<sup>115</sup> Taliban claim of responsibility posted on 20 January 2016 in English formerly accessible at: <http://shahamat-english.com/many-killed-as-martyr-attack-hits-invaders-run-media-vehicle/>, copy on record with UNAMA. For more information, see UNAMA 2016 Mid-Year Report on Protection of Civilians, pp. 30, 31.

<sup>116</sup> On 16 December, Taliban denied responsibility for the attack on its twitter site, accessible at <http://www.twitter.com/zmujahid5>, last accessed 5 January 2017.

<sup>117</sup> For more information see UNAMA 2016 Mid-Year Report on Protection of Civilians, pp. 30, 31.

<sup>118</sup> Common Article 3; Additional Protocol II, Article 4(1); ICRC Customary International Humanitarian Law Study, Rules 6, 34. See also Human Rights Council, 24th session, Annual report of the United Nations High Commissioner for Human Rights, The safety of journalists, A/HRC/24/23, para. 14.

<sup>119</sup> See Common Article 3; Additional Protocol II, Article 4(2), 13; ICRC Customary International Humanitarian Law Study, Rule 1, 6, 156; ICC Statute, Articles 8 (2)(c)(i), 8(2)(e)(i).



UNAMA notes that the European Union continued to implement its 2014 European Union (EU+) Local Strategy for Human Rights Defenders in Afghanistan in 2016. The Human Rights Defenders Committee, a voluntary entity comprised of representatives from local organizations and members of the Afghan Independent Human Rights Commission, provided assistance and support to human rights defenders displaced by Taliban offensives in Kunduz, Helmand, Uruzgan and Farah provinces. UNAMA continued to support these efforts by closely monitoring the situation of affected human rights defenders and coordinating with the European Union and the committee.

### **Deliberate Sectarian Attacks against the Shia Muslim Religious Minority**

In 2016, the emerging pattern of deliberate sectarian attacks against the Shia Muslim religious minority, mainly claimed by *Daesh*/ISKP, raised grave concerns regarding the right to freedom of religion or belief and the protection of minorities.

In the second half of the year, UNAMA recorded five separate attacks against Shia Muslim mosques and gatherings:<sup>120</sup>

- On 23 July 2016, two suicide attackers targeted a peaceful demonstration in Deh Mazang Square of Kabul city protesting a decision relating to a cross-country power line project, killing at least 85 civilians and injuring 413 others – the deadliest attack recorded by UNAMA since 2001. Nearly all victims were men and members of the Shia Muslim religious minority of Hazara ethnicity. On the same day, *Daesh*/ISKP, claimed responsibility for the attacks through a Twitter account affiliated with the Amaq News agency, linking the attacks to the reports of Hazaras' alleged participation in fighting in Syria on the side of the government. Anti-Shia Muslim statements were delivered in the same message.<sup>121</sup> A Truth-Finding and Investigative Committee was appointed by the President on 25 July 2016 following this incident, but it has not yet published any report.
- On 11 October 2016, the day of Ashura, a major Shia Muslim commemoration, an attacker disguised in an Afghan national security force uniform entered the Karte Sakhi Mosque in Kabul, opened fire at Shia worshippers and used a hand grenade, killing 19 civilians and injuring 60 others. The attack caused minor damage to the mosque. *Daesh*/ISKP also claimed responsibility for this attack by issuing another online statement containing hate language targeting the Shia Muslim religious minority.<sup>122</sup>
- On 12 October 2016, an explosion occurred at the entrance of a mosque where Shia worshippers had gathered for the religious commemoration in Khojagholak area of Balkh district, Balkh province. This incident killed 18 civilians and injured 67 others, including 36

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<sup>120</sup> The trend appears to be continuing in 2017. On 01 January, a remote-controlled IED detonated at a Shia mosque in Herat city, Herat province, killing one Shiite worshiper and injuring five other civilians.

<sup>121</sup> *Daesh*/ISKP claimed responsibility for the 23 July attack in Deh Mazang square via the Amaq News Agency accessible at the Terror Monitor Twitter account:

[https://twitter.com/Terror\\_Monitor/status/756895238975664128](https://twitter.com/Terror_Monitor/status/756895238975664128), last accessed 16 January 2017. For more information on this attack – the largest loss of civilian life in a single incident documented in Afghanistan since 2001 – see Chapter on Deliberate Targeting of Civilians and Civilian Objects. UNAMA also issued a special public report on the attack on 18 October accessible at: <http://unama.unmissions.org/protection-of-civilians-reports>, last accessed 5 December 2016.

<sup>122</sup> *Daesh*/ISKP claimed responsibility for the 11 October attack via the Amaq News Agency as tweeted by the Terror Monitor Twitter account, accessible at:

[https://twitter.com/Terror\\_Monitor/status/786176073163694080](https://twitter.com/Terror_Monitor/status/786176073163694080), last accessed 16 January 2017.

children, and also caused minor damage to the gate. No group claimed responsibility for this incident.

- On 21 November 2016, a suicide attack killed at least 40 civilians injured 74 others, including many children, at the Baqer-ul Ulum mosque in Kabul during observance of the religious ceremony of Arbaeen, a commemoration on the 40th day after Ashura. The suicide bomber detonated the device at the mosque, deliberately targeting the large congregation composed mainly of worshippers from the Shia Muslim religious minority.<sup>123</sup> *Daesh*/ISKP claimed responsibility for this attack using derogatory expressions and calling for violence against Shia Muslims, as it called in earlier statements.<sup>124</sup>
- On 22 November 2016, Anti-Government Elements detonated a remote-controlled IED that injured four Shia Muslim worshippers at the Razaiya Mosque in Herat city. No group claimed responsibility for this incident.

The attacks against the four mosques accounted for the almost six-fold increase in civilian casualties from attacks deliberately targeting religious persons and places of worship observed in 2016. UNAMA documented 377 civilian casualties (86 deaths and 291 injured) from such attacks in general, a 573 per cent increase from 2015.<sup>125</sup>

International humanitarian law prohibits attacks deliberately targeting civilians and civilian property, including places of worship and religious persons.<sup>126</sup> Attacks directed against people and places of worship that constitute the cultural or spiritual heritage of peoples are also prohibited.<sup>127</sup> International humanitarian law further provides that all persons not directly participating in hostilities are entitled to respect for their religious practices and must not be discriminated against.<sup>128</sup>

The mission reiterates the obligation of the Government to ensure the security and safety of minorities, including religious and ethnic minorities, during their religious observances. The Government must also protect the right of all persons, especially those who belong to minorities, to peacefully assemble to manifest their religion or belief in teaching, practice, worship and observance and to conduct observances of their religion or belief and worship in public.<sup>129</sup> The Government is also obliged to ensure that any advocacy of national, racial or religious hatred that constitutes

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<sup>123</sup> The attack also caused minor damage to the wall and windows of the mosque.

<sup>124</sup> *Daesh*/ISKP claimed responsibility for the 21 November attack via the Amaq News Agency, accessible at: <https://news.siteintelgroup.com/Jihadist-News/is-claims-killing-wounding-nearly-200-shi-ites-in-suicide-bombing-in-kabul-mosque.html>, last accessed 17 January 2017.

<sup>125</sup> In 2015, UNAMA documented 56 civilian casualties (42 deaths and 14 injured) from 34 separate attacks targeting religious personnel and places of worship.

<sup>126</sup> See Common Article 3; Additional Protocol II, Article 4(2), 13; ICRC Customary International Humanitarian Law Study, Rule 1, 6, 156; ICC Statute, Articles 8 (2)(c)(i), 8(2)(e)(i). See also ICC Statute, Article 8(2)(e)(iv) criminalising “intentionally directing attacks against buildings dedicated to religion [...]”.

<sup>127</sup> Additional Protocol II, Article 16. See also See also International Covenant on Civil and Political Rights, Article 18 on freedom of thought, conscience and religion.

<sup>128</sup> Additional Protocol II, Article 4(1).

<sup>129</sup> Universal Declaration of Human Rights (1948); International Covenant on Civil and Political Rights (1966), Articles 2, 18, 27. See also Human Rights Committee, General Comment 22 on Article 18 (1993). See also International Court of Justice, Advisory Opinion on Legal Consequences of Construction of the Wall in Occupied Palestinian Territories, 9 July 2004, para. 106.

incitement to discrimination, hostility or violence is not only prohibited by law, but that the law is implemented in full.<sup>130</sup>

### **Attacks publically claimed by Daesh/Islamic State Khorasan Province targeting the Shia Muslim religious minority in Kabul city**

In 2016, *Daesh*/ISKP claimed responsibility for three large-scale attacks targeting civilians assumed or perceived to belong to the Shia religious minority in Kabul city on 23 July (during a public demonstration in Deh Mazang square), 11 October (in Karte Sakhi shrine), and on 21 November (in Baqer-ol-Olum mosque).<sup>131</sup> These three attacks alone resulted in 691 civilian casualties (144 deaths and 547 injured).

*Daesh*/ISKP members publically claimed responsibility for all three attacks via the Amaq News Agency using anti-Shia rhetoric, referring to the victims as “polytheists” in a derogatory sense and “apostates” in all three statements.<sup>132</sup> With respect to the attack on 23 July, *Daesh*/ISKP stated that it targeted a group of “rejectionist polytheists [...] in response to their collaboration with the Nusayris [Shias] in the war on the Sunnis in the land of Syria, and in order to purify the land of Khurasan and all other lands of the Muslims of the impurity of their polytheism.”<sup>133</sup>

Attacks deliberately targeting civilians are serious violations of international humanitarian law that amount to war crimes, including murder as a war crime.<sup>134</sup> In addition, widespread or systematic attacks directed against a civilian population (including religious and/or ethnic minorities) in which civilians are intentionally killed may also constitute crimes against humanity.<sup>135</sup> International humanitarian and criminal law further prohibits attacks directed against people and places of worship where it constitutes cultural property.<sup>136</sup>

### **Conflict-Related Displacement**

In 2016, conflict-related violence displaced over half a million Afghans, the highest level of conflict-related displacement recorded by the United Nations High Commissioner for Refugees (UNHCR)

<sup>130</sup> International Covenant on Civil and Political Rights, Article 20.

<sup>131</sup> UNAMA publically condemned all three attacks in press statements issued on 23 July (<http://unama.unmissions.org/statement-un-envoy-tadamichi-yamamoto-condemning-attack-targeting-civilians-attending-peaceful>); 11 October (<http://unama.unmissions.org/unama-condemns-killing-civilians-kabul-mosque-attack>); 21 November (<http://unama.unmissions.org/unama-condemns-killing-civilians-kabul-mosque-attack-0>). The UN Security Council also publically condemned the 23 July attack: <http://unama.unmissions.org/security-council-press-statement-terrorist-attack-kabul-1>. All links last accessed 5 December 2016.

<sup>132</sup> See above for links to claims of responsibility on Amaq news.

<sup>133</sup> See *Daesh*/ISKP claim of responsibility for the 23 July attack in Deh Mazang square via the Amaq News Agency accessible at the Terror Monitor Twitter account: [https://twitter.com/Terror\\_Monitor/status/756895238975664128](https://twitter.com/Terror_Monitor/status/756895238975664128), last accessed 5 December 2016.

<sup>134</sup> Common Article 3; Additional Protocol II, Articles 4(2), 13(2); ICC Statute, Articles 8(2)(c) and 8(2)(e)(i); ICRC Customary International Humanitarian Law Study, Rules 1, 6, 156.

<sup>135</sup> For example, crimes against humanity as defined in Article 7 of the ICC Statute include, *inter alia*, acts of murder; extermination; or persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender, or other grounds; and other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health, when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.

<sup>136</sup> ICRC Customary International Humanitarian Law Study, Rule 38. ICC Statute, Article 8(2)(e)(iv) criminalizes in non-international armed conflict “intentionally directing attacks against buildings dedicated to religion [...] historic monuments [...] provided they are not military objectives”. See also Additional Protocol II, Article 16; International Convention on Civil and Political Rights, Article 18.

and the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) in Afghanistan.<sup>137</sup> Between 1 January and 31 December, 636,500 people fled or left their homes due to conflict, an increase of 66 per cent compared to 2015, continuing a four-year upward trend in the number of internally displaced persons.<sup>138</sup> Children comprised 56 per cent of those internally displaced in 2016.<sup>139</sup> Of Afghanistan's 34 provinces, 31 recorded some level of forced displacement in 2016 (including 213 of 399 districts) and all 34 provinces hosted displaced persons.<sup>140</sup>

Continued intense ground fighting between Anti-Government Elements and Afghan national security forces in civilian-populated areas drove internal displacement in 2016. As a consequence of the nature and location of such clashes, internally displaced persons often fled their homes quickly and relied temporarily on family networks in other areas for assistance, shelter and support. Internally displaced persons frequently returned to areas of recent fighting promptly, exposing themselves to the risk of unexploded ordnance and other threats, including the possibility of renewed armed clashes or aerial operations.<sup>141</sup> In some areas of Afghanistan, a backdrop of threats and intimidation, abduction and targeted killings of civilians perceived to be supporting or aligned with Government also contributed to internal displacement.

Most displacement occurred in the north-eastern region (203,320 internally displaced persons), followed by the southern region (177,952 internally displaced persons),<sup>142</sup> predominantly attributable to the Taliban's brief incursion into Kunduz city in October 2016 and its attempts to take control of Lashkar Gah city, Helmand province, in August and October 2016. Other areas of significant displacement included Pachir Agam district, Nangarhar province, due to fighting between *Daesh*/ISKP and Afghan national security forces, and Faryab province, driven by fighting between Taliban and Afghan national security forces, as well as pro-Government armed groups.

The heightened vulnerability of those displaced remains a major concern for UNAMA. Internally displaced Afghans suffer significantly higher rates of mortality than the general population as they remain at high risk of physical attack and abduction and of being caught in cross-fire, particularly when fleeing violence. Internally displaced women and children face particular risks of abuse of their basic rights, in particular, access to adequate shelter, food and health services.

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<sup>137</sup> UNHCR started documenting numbers of internally displaced persons in Afghanistan in 2009. In 2016, responsibility for tracking numbers of internally displaced persons transferred to OCHA. Information obtained from UNCHR/OCHA through Afghanistan: Conflict Induced Displacements tool:

<https://www.humanitarianresponse.info/en/operations/afghanistan/idps>, last accessed 10 January 2017.

<sup>138</sup> In 2015, UNHCR documented approximately 384,426 internally displaced persons (the exact number of internally displaced persons from Kunduz city in 2015 was unknown). Information obtained in an email from OCHA, dated 10 January 2017, and from UNCHR/OCHA through Afghanistan: Conflict Induced Displacements tool: <https://www.humanitarianresponse.info/en/operations/afghanistan/idps>; [http://reliefweb.int/sites/reliefweb.int/files/resources/afg\\_conflict\\_idps\\_2016\\_jan\\_dec\\_snapshot\\_20170129.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/afg_conflict_idps_2016_jan_dec_snapshot_20170129.pdf), both last accessed 10 January 2017.

<sup>139</sup> Information obtained from UNCHR/OCHA through Afghanistan: Conflict Induced Displacements tool: <https://www.humanitarianresponse.info/en/operations/afghanistan/idps>, last accessed 30 January 2017.

<sup>140</sup> In comparison, UNHCR documented internal displacement in 129 districts in 2015. Information received in an email from OCHA, dated 10 January 2017.

<sup>141</sup> See End of Mission Statement by the United Nations Special Rapporteur on the human rights of internally displaced persons, Mr Chaloka Beyani, on his visit to the Islamic Republic of Afghanistan – 11 to 20 October 2016: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20712&LangID=E>, last accessed 18 December 2016.

<sup>142</sup> Information obtained from UNCHR/OCHA through Afghanistan: Conflict Induced Displacements tool: <https://www.humanitarianresponse.info/en/operations/afghanistan/idps>, last accessed 30 January 2017.

In response to the surge in numbers of internally displaced persons, the Government finalized a draft policy framework in 2016 for returnees and internally displaced persons aimed at minimizing the time that internally displaced persons spend in transitional arrangements.

### **Cross-Border Engagement**

Between 1 January and 31 December 2016, UNAMA documented 11 incidents of cross-border shelling from Pakistan into Afghanistan, all of which struck in Kunar and Nangarhar provinces. Cross-border shelling resulted in 17 civilian casualties (six deaths and 11 injured), a 47 per cent decrease compared to 2015.<sup>143</sup> For example, on 14 October, Pakistan military forces fired 11 heavy artillery rounds into Sirkani district, Kunar province, seriously injuring a 12-year-old boy.

UNAMA also documented the death of two boys and injury of three girls from unexploded ordnance fired into Afghanistan during previous cross-border shelling in an incident on 28 July, in Sirkani district, Kunar province, after the children found the device and hit it with stones, triggering its detonation.

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<sup>143</sup> In 2015, UNAMA documented 32 civilian casualties (10 deaths and 22 injured) in Afghanistan from cross-border shelling from Pakistan.

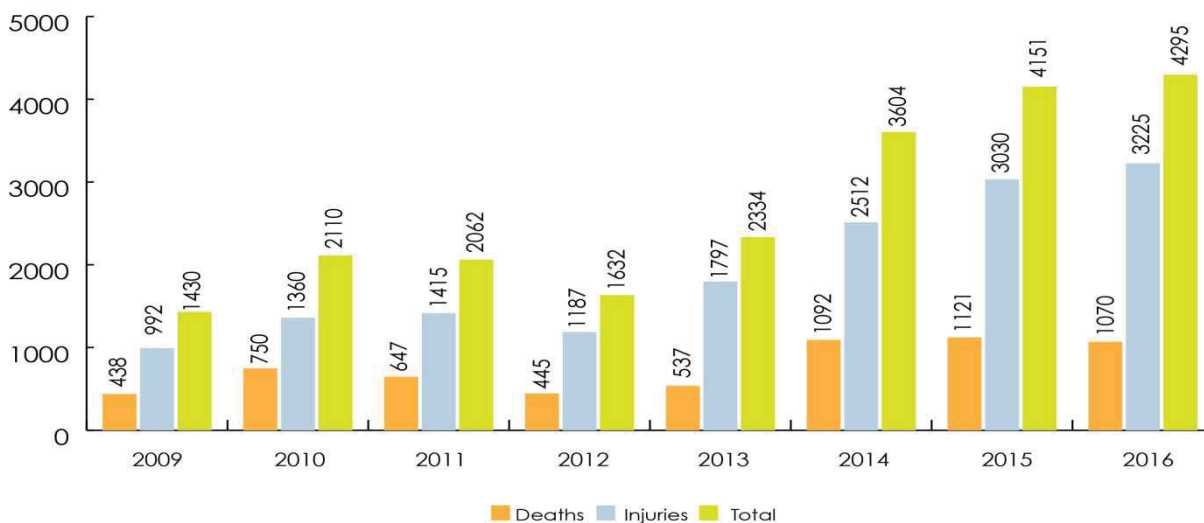
## II. Ground Engagements – Civilians Caught in Cross-Fire

*“A mortar round impacted my house during the night while we were sleeping, killing my 10-year-old son and eight-year-old daughter on the spot. My two other daughters, aged three and six years old, and my seven-year-old son were injured. Only my wife and I remained unharmed. Earlier in the day, Taliban attacked an Afghan National Army check-post. Both sides fired at each other using rockets and mortars. The Afghan National Army fired the rocket that hit my house. We have no life anymore. My house was destroyed and I cannot pay the medical treatment for my children or provide enough food for my family.”<sup>144</sup>*

-- Victim and father of five child victims of a mortar round fired by the Afghan National Army that impacted a civilian house in Shah Wali Kot district, Kandahar province, on 4 October 2016, killing a boy and a girl and injuring three other children from the same family.

In 2016, ground fighting between the parties to the conflict continued to severely impact civilians. Between 1 January and 31 December 2016, UNAMA documented 4,295 civilian casualties (1,070 deaths and 3,225 injured) from ground engagements, a three per cent increase compared to 2015 and the highest number of civilian casualties caused by ground engagements since UNAMA started documentation in 2009.<sup>145</sup> Consistent with 2015, ground engagements remained the leading cause of civilian casualties, causing 38 per cent of all civilian casualties.

**Civilian Deaths and Injuries by Ground Engagements  
January to December 2009 - 2016**



Pro-Government Forces caused 41 per cent of all civilian casualties from ground engagements in 2016;<sup>146</sup> Anti-Government Elements caused 34 per cent; and 25 per cent resulted from ground

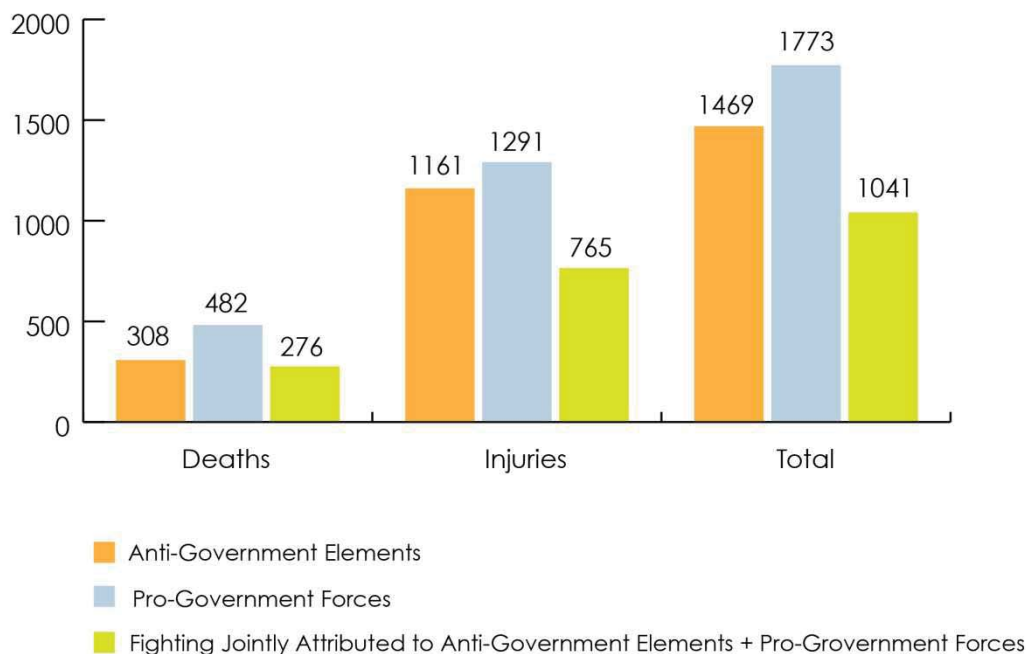
<sup>144</sup> UNAMA telephone interview with victim, Kandahar city, 5 October 2016.

<sup>145</sup> In 2015, UNAMA documented 4,151 civilian casualties (1,121 deaths and 3,030 injured).

<sup>146</sup> Of the number of civilian casualties from ground engagements attributed to Pro-Government Forces, UNAMA attributed 1,663 (457 deaths and 1,206 to Afghan national security forces); 103 civilian casualties (18 deaths and 85 injured) to pro-Government armed groups; and seven civilian casualties (seven deaths) to international military forces during two incidents of ground engagements.

engagements between Anti-Government Elements and Pro-Government Forces in which UNAMA could not determine the exact perpetrator and attributed responsibility to both.<sup>147</sup>

### Civilian Deaths and Injuries: Ground Engagements by Party to the Conflict January - December 2016



UNAMA is particularly concerned by the persistent use of indirect and/or explosive weapons in civilian-populated areas by parties to the conflict. These weapons systems accounted for 61 per cent of civilian casualties caused by ground engagements and 23 per cent of all civilian casualties documented by UNAMA in 2016.<sup>148</sup>

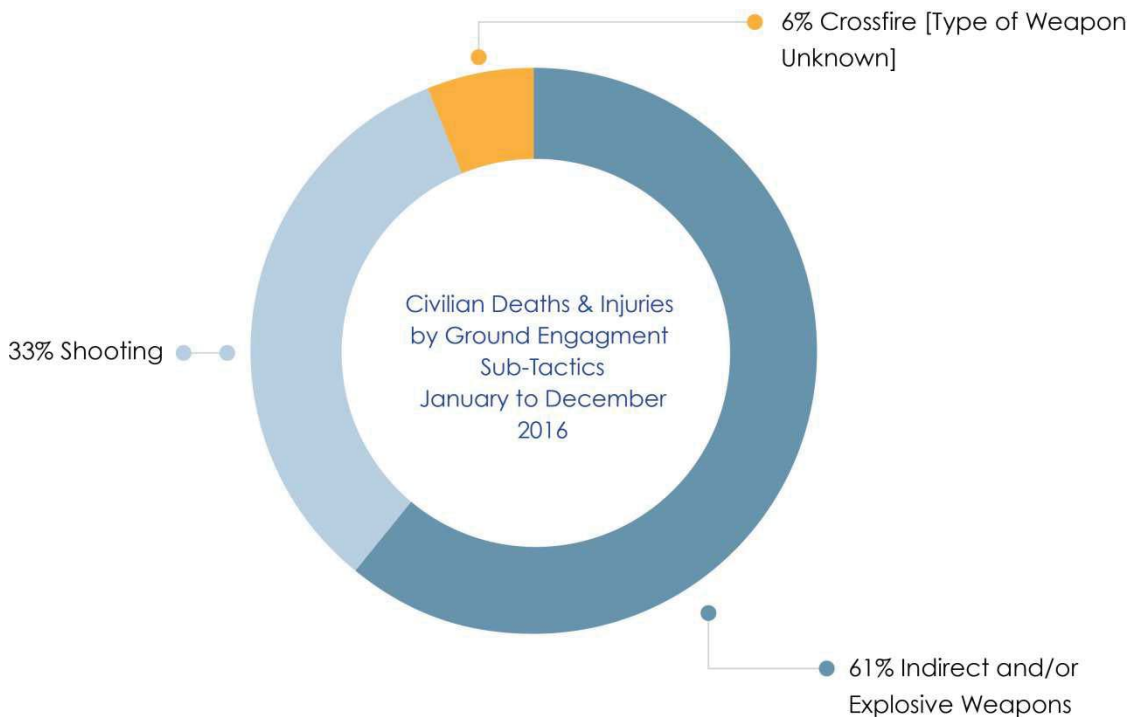
Ongoing ground fighting in civilian-populated areas frequently involving the use of indirect and/or explosive weaponry in the context of Anti-Government Element offensives to take and hold territory (including urban areas) and consequent large-scale defensive or clearing operations by Afghan national security forces, sustained the continued increase in women and child casualties from ground engagements in 2016.<sup>149</sup> Women and children comprised 57 per cent of civilian casualties

<sup>147</sup> Cross border firing from Pakistan caused 12 civilian casualties (four deaths and eight injured) (less than one per cent).

<sup>148</sup> By using the terminology “indirect and/or explosive weapons” in this context, UNAMA refers specifically to two categories of weaponry: (1) ground-to-ground use explosive weapons with wide-area impact effects, such as mortars or rocket attacks; and (2) ground-to-ground use of indirect weapons systems, such as artillery and mortars, which are also often explosive weapons with wide-area impact effects. The use of such weapons – mainly mortars and artillery – causes the majority of ground engagement civilian casualties in Afghanistan and raise serious concerns regarding the protection of civilians and civilian objects from collateral damage.

<sup>149</sup> Following the transfer of full responsibility for security to Afghan national security forces Afghan national security forces on 1 January 2015, UNAMA has documented increases in civilian casualties from ground engagements as a consequence of an increase in Anti-Government Element offensives to take control of civilian-populated areas. In 2015, UNAMA documented a 25 per cent increase in women casualties and a 35

caused by ground engagements in 2016. The mission documented 1,761 child casualties (390 deaths and 1,371 injured), a 23 per cent increase compared to 2015, and 704 women casualties (173 deaths and 531 injured), a seven per cent increase compared to 2015.<sup>150</sup>



UNAMA remains extremely concerned by the high number of civilian casualties that continue to be generated by ground engagements. While civilian casualties from ground engagements remained consistent with figures recorded in 2015, the figures must be considered in the context of the spike in civilian casualties in October 2015 emanating from the Taliban's Kunduz offensive, which accounted for at least 896 civilian casualties alone, primarily from ground engagements.<sup>151</sup> For example, between 1 January and 31 September, the mission documented an 18 per cent increase in ground engagement civilian casualties compared to the same period in 2015.

Furthermore, civilian casualties from ground engagements increased in 20 of Afghanistan's 34 provinces compared to 2015, including nearly all provinces in the southern region (Helmand, Nimroz, Uruzgan, Zabul) as a consequence of increased clashes between Taliban and Afghan national security forces, including attempted Taliban offensives to take control of Lashkar Gah, the provincial capital of Helmand province, and Tirin Kot city, the provincial capital of Uruzgan province.<sup>152</sup> Civilian casualties caused by ground engagements also increased in all of the provinces in the northern region (Balkh, Faryab, Jawzjan, Samangan and Sari-Pul provinces) due to increased

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per cent increase in child casualties from ground engagements compared to 2014. See UNAMA 2016 Mid-Year Report on Protection of Civilians in Armed Conflict, p. 25; UNAMA 2015 Annual Report on Protection of Civilians in Armed Conflict, p. 29.

<sup>150</sup> In 2015, UNAMA documented 1,431 child casualties (293 deaths and 1,138 injured) and 657 women civilian casualties (153 deaths and 504 injured).

<sup>151</sup> See UNAMA 2015 Annual Report on Protection of Civilians in Armed Conflict, p. 30.

<sup>152</sup> Civilian casualties from ground engagements decreased by 13 per cent in Kandahar province.



Taliban presence and strength in the area.<sup>153</sup> Ground engagements caused most civilian casualties in Helmand, Uruzgan, Faryab and Kunduz provinces.<sup>154</sup>

Against this background and the potential for continued ground fighting between parties to the conflict in civilian-populated areas in 2017, UNAMA urges parties to the conflict to adhere to the principles of distinction and proportionality during ground engagements and to take all feasible precautions during the conduct of military operations to spare the civilian population.<sup>155</sup> Parties to the conflict must avoid and minimize incidental damage to civilians in compliance with the obligations imposed on them by international humanitarian law.<sup>156</sup>

UNAMA also highlights the collateral damage caused to civilian areas by aerial operations often accompanying ground operations by Pro-Government Forces, and the defensive use of IEDs by Anti-Government Elements, including direct and collateral damage to civilian property, health-care and education facilities and limitations on freedom of movement of the population. The heavy toll exacted on civilians by the use of indirect and/or explosive weapons during ground engagements in civilian-populated areas is further evidenced by the corollary increase in civilian casualties caused by unexploded ordnance. In 2016, UNAMA documented a 66 per cent increase in civilian casualties caused by such devices compared to 2015, of which children comprised 84 per cent.<sup>157</sup>

In this regard, the mission recalls the obligations of parties to the conflict to take all feasible precautions to protect the civilian population and civilian objects under their control against the effects of attacks, including by locating military objectives outside of densely populated areas and removing civilians and civilian objects from the vicinity of military objectives.<sup>158</sup>

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<sup>153</sup> Civilian casualties from ground engagement also increased in Kabul, Logar, Daikundi, Kunar, Laghman, Baghlan, Takhar, Khost, Paktika, Badghis, and Herat provinces. Of note, civilian casualties significantly increased in Herat province compared to 2015 due to increased fighting in Shindand district - in 2016, UNAMA documented 207 civilian casualties (72 deaths and 135 injured) in Herat province, more than triple that recorded in 2015 (57 civilian casualties (21 deaths and 36 injured), 82 per cent of which occurred in Shindand district. Increased fighting in Dehrawud district, Uruzgan province resulted in 520 civilian casualties (159 deaths and 366 injured) in Uruzgan province in 2016, more than triple that recorded in 2015 (141 civilian casualties (35 deaths and 106 injured), 48 per cent of which occurred in Dehrawud district. For more information on ground engagements in Uruzgan province in the first six months of 2016, see UNAMA 2016 Mid-Year Report on Protection of Civilians in Armed Conflict, p. 37.

<sup>154</sup> In 2016, UNAMA documented the following civilian casualties from ground engagements: Helmand province - 497 civilian casualties (164 deaths and 333 injured); Uruzgan province - 520 civilian casualties (154 deaths and 366 injured); Faryab province - 309 civilian casualties (84 deaths and 225 injured); and Kunduz province - 342 civilian casualties (75 deaths and 267 injured).

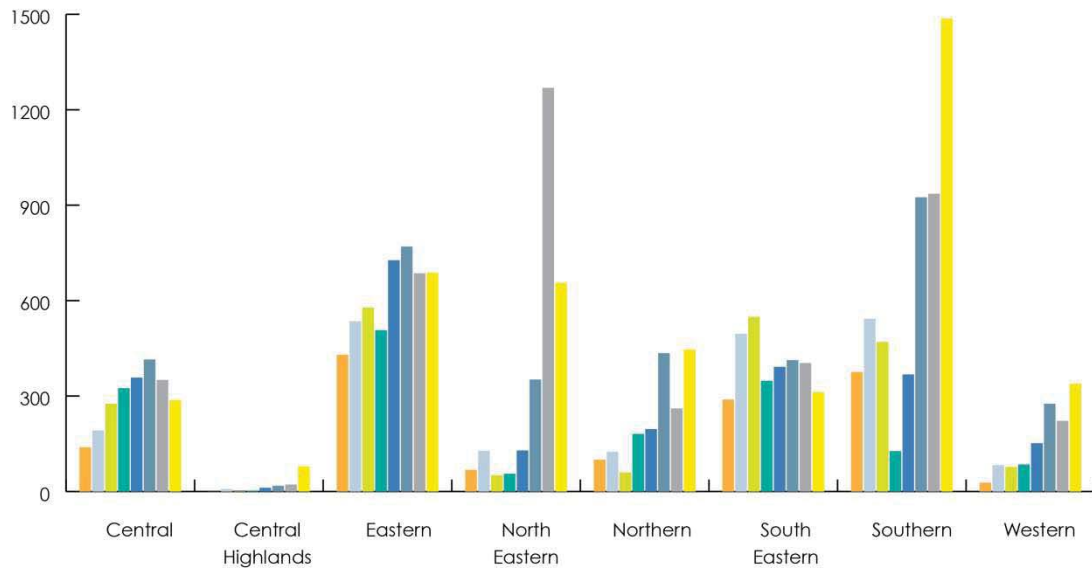
<sup>155</sup> Implicit in Common Article 3; Additional Protocol II, Articles 4, 13. For indiscriminate attacks, see Additional Protocol I, Articles 51 (not applicable to non-international armed conflict but accepted as customary international law – see ICRC Customary International Law Study Rule 11); *Prosecutor v. Dusko Tadić*, IT-94-1, Appeals Chamber Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, para. 127. For disproportionate attacks, see Additional Protocol I, Articles 85(3)(b) (not applicable to non-international armed conflict but accepted as customary international law – see ICRC Customary International Law Study Rule 14).

<sup>156</sup> Implicit in Common Article 3; Additional Protocol, Articles 4, 13. See also Additional Protocol I, Article 57 (not applicable to non-international armed conflict but accepted as customary international law – see ICRC Customary International Humanitarian Law, Rules 15-22).

<sup>157</sup> See Chapter on Explosive Remnants of War for further details. UNAMA documented 609 child casualties (183 deaths and 426 injured) as a result of explosive remnants of war in 2016.

<sup>158</sup> ICRC Customary International Humanitarian Law Study, Rules 22-24. See also Common Article 3; Additional Protocol II, Article 13 (in general, in relation to the principle of distinction) as well as ICRC Customary International Humanitarian Law Study, Rule 97 prohibiting the use of human shields.

**Civilian Deaths and Injuries: Ground Engagements by Region  
January to December 2009 - 2016**



	Central	Central Highlands	Eastern	North Eastern	Northern	South Eastern	Southern	Western
2009	139	0	430	68	100	289	376	28
2010	192	8	535	128	125	496	543	83
2011	276	1	578	51	60	549	470	77
2012	325	3	507	56	181	348	127	85
2013	358	12	727	129	196	392	368	152
2014	415	18	770	352	435	413	925	276
2015	351	22	686	1269	261	404	936	222
2016	288	79	688	656	446	312	1487	339

### **Taliban Offensive in Helmand Province, August to October 2016**

Helmand province recorded the highest number of civilian casualties caused by ground engagements in 2016 - documenting 497 civilian casualties (164 deaths and 333 injured), an increase of 40 per cent compared to 2015.<sup>159</sup> Ground engagements most affected Nad-e-Ali (120 civilian casualties - 41 deaths and 79 injured) and Nahr-e-Saraj districts (106 civilian casualties – 21 deaths and 85 injured). The Taliban's attempts to take control of Lashkar Gah city in August and October 2016 drove the increase in civilian casualties.

In August 2016, Taliban launched offensives in Lashkar Gah, Gamsir, Nahr-e-Seraj, Nad-e-Ali, Nawa-e-Barakzai, and Naw Zad districts in an attempt to encircle and take control of Lashkar Gah city. These operations took place in addition to ongoing offensives in Musa Qala, Naw Zad, and Kajaki districts in northern Helmand aimed at consolidating control over poppy harvesting areas and areas adjoining Uruzgan province (the latter in support of offensives targeting Tirin Kot city). Consequently, the frequency and intensity of armed engagements with Afghan national security forces increased significantly, resulting in a corollary 36 per cent increase in civilian casualties from ground engagements between 1 August and 31 October compared to the same period in 2015.

Between 1 August and 31 October 2016, UNAMA documented 123 civilian casualties (31 deaths and 92 injured) from ground engagements in Helmand province, 66 per cent of whom were women and children. The use of indirect and/or explosive weapons by parties to the conflict caused 80 per cent of these casualties. For example, on 12 October Taliban fired several rockets towards the provincial governor's compound in Lashkar Gah city, injuring 17 civilians (including 10 children and three women).<sup>160</sup> UNAMA also documented civilian casualties caused by the use of indirect weapons by Afghan national security forces. For example, on 7 August, a mortar round fired by Afghan National Army targeting Anti-Government Elements struck a civilian home in Nawa-e-Barakzai district, Helmand province, killing five children and three women from the same family.

Between 1 August and 31 October, UNAMA documented 71 civilian casualties (33 deaths and 38 injured) caused by pressure-plate improvised explosive devices used by Anti-Government Elements to defend the roads leading into areas under their control. UNAMA also documented high levels of civilian casualties caused by aerial strikes conducted by Pro-Government Forces during this period, recording 39 civilian casualties (21 deaths and 18 injured).

In addition to civilian casualties, the conflict displaced approximately 2,000 families in Helmand, of which 1,200 arrived in Lashkar Gah city, triggering a humanitarian crisis. The fighting caused the closure of the Lashkar Gah – Kandahar highway, preventing the delivery of humanitarian assistance and restricting the freedom of movement of the population. The clashes also damaged civilian homes and resulted in the closure of education and health-care facilities.

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<sup>159</sup> In 2015, UNAMA documented 354 civilian casualties (117 deaths and 237 injured) from ground engagements in Helmand province.

<sup>160</sup> Taliban claimed responsibility on Twitter on 12 October, formerly accessible at: <https://twitter.com/qyahmadi>, copy on record with UNAMA. Anti-Government Elements also fired rockets at Lashkar Gah city on 9 October (injuring two civilian men) and on 16 October (injuring one male civilian). No group claimed responsibility for these attacks.

## Civilian Casualties Attributed to Afghan National Security Forces

*“Heavy fighting erupted between Taliban and Afghan National Security Forces in our village. Taliban ordered people to leave their houses and then hid in the house of my neighbour. We were about to vacate the area to a safe location when a mortar fired by government forces impacted my house and killed my nephew and my neighbour. I also received serious injuries. The government forces intended to strike the Taliban at the time but the Taliban escaped and we civilians suffered instead.”<sup>161</sup>*

-- Victim of a mortar fired by Afghan National Security Forces during an engagement with Taliban in Murdyan district, Jawzjan province, on 27 August 2016 that killed two civilian men and injured another.

In 2016, Afghan national security forces caused 1,663 civilian casualties (457 deaths and 1,206 injured) during ground engagements, a 41 per cent increase compared to 2015.<sup>162</sup> These figures include 899 civilian casualties (254 deaths and 645 injured) caused by ANA during ground engagements, the ANP caused 135 civilian casualties (42 deaths and 93 injured), and the Afghan Local Police caused 35 civilian casualties (eight deaths and 27 injured).<sup>163</sup>

Most civilian casualties attributed to Afghan National Security Forces occurred collaterally in the context of offensive or defensive operations against Anti-Government Elements, primarily Taliban. Of concern, the overwhelming majority – 83 per cent – of civilian casualties caused by Afghan National Security Forces in 2016 occurred as a result of the use of indirect and/or explosive weapons in civilian-populated areas, mainly mortar and artillery rounds.<sup>164</sup>

UNAMA once again strongly urges the Government of Afghanistan to prioritize the adoption and implementation of its National Civilian Casualty Prevention and Mitigation Policy. The policy, which is intended to contain measurable objectives for the protection of civilians binding on all Government ministries, departments and elements of the armed forces is a crucial first step in strengthening the Government’s policies on, and implementation of, measures to protect civilians during the conduct of hostilities. This policy must include the establishment of robust, practical measures to reduce civilian casualties from the use of indirect and/or explosive weapons by Afghan national security forces, and ensure accountability for those personnel responsible for negligent or intentional harm caused to civilians.

The following incidents are examples of civilian casualties caused during ground engagements by Afghan national security forces:

- On 10 November, artillery fired by ANA targeting Anti-Government Elements hit a residential area in the Zirkoh valley, Shindand district, Herat province, killing eight civilians, including seven children, and injuring three others, including two girls.

<sup>161</sup> UNAMA interview with victim, Sheberghan public hospital, Jawzjan province, 31 August 2016.

<sup>162</sup> This figure does not include 103 civilian casualties (18 deaths and 85 injured) attributed to pro-Government armed groups or seven civilian deaths attributed to international military forces. In 2015, UNAMA attributed 1,177 civilian casualties (321 deaths and 856 injured) from ground engagements to Afghan national security forces (not including 81 civilian casualties - 19 deaths and 62 injured attributed to pro-Government armed groups).

<sup>163</sup> UNAMA attributed 494 civilian casualties (124 deaths and 370 injured) to Afghan National Security Forces where the specific actor could not be identified. Afghan Special Forces, Afghan National Border Police, Afghan National Civil Order Police caused the remaining 67 civilian casualties (20 deaths and 47 injured).

<sup>164</sup> Specifically, 91 percent of civilian casualties due to ground engagements and attributed to ANA were caused by the use of indirect and/or explosive weapons.

- On 31 October, artillery fired by ANA in response to an attack by Taliban hit a residential area in Dangam district, Kunar province, killing a 24-year-old woman and her one-year-old daughter, and injuring four boys.

### **Civilian Casualties from Ground Engagements Attributed to Anti-Government Elements**

*"[Anti-Government Elements] targeted the district administrative centre with mortars. One mortar impacted the bazaar, another an area behind the bazaar, and the third one impacted at the entrance to a livestock market. I saw the impact of the second mortar. I saw a boy running across the street. He fell down when he reached the other side of the street. I wanted to pick him up and take him to the clinic but then another mortar detonated and I got scared and ran away. Other people also started running from the area. I don't know who picked up the boy. I saw people place an old man on a small truck. He was covered in blood."<sup>165</sup>*

-- Witness of an Anti-Government Element mortar attack on the Dahna-e-Ghori district administration centre, Baghlan province, on 11 August. The attack killed a 70-year-old civilian man and injured two boys.

In 2016, UNAMA attributed 1,469 civilian casualties (308 deaths and 1,161 injured) from ground engagements to Anti-Government Elements, an increase of 44 per cent compared to 2015.<sup>166</sup>

UNAMA attributed 1,323 civilian casualties (277 deaths and 1,046 injured) from ground engagements to Taliban, a 67 per cent increase compared to 2015.<sup>167</sup> UNAMA documented 18 civilian casualties (nine deaths and nine injured) caused by *Daesh*/ ISKP during ground fighting.<sup>168</sup>

Civilian casualties caused by Anti-Government Elements during ground engagements generally occurred collaterally during offensive operations targeting the Afghan national security forces. However, UNAMA notes that Anti-Government Elements frequently targeted check-posts and convoys in areas used by civilians, including roads used by civilian vehicles. UNAMA also documented civilian casualties caused by Anti-Government Elements targeting provincial and district administration centres, including civilian governmental facilities, with indirect and/or explosive weapons. For example, during Independence Day celebrations on 18 August, Anti-Government Elements fired three mortar rounds towards the centre of Asadabad city, Kunar province, killing three civilians and injuring 53 others, including 18 children. No group claimed responsibility for the incident.<sup>169</sup>

The following are examples of civilian casualties from ground engagements caused by Anti-Government Elements:

- On 24 November, a mortar fired by Anti-Government Elements targeting an Afghan Local Police check-post impacted a residential area during a wedding party in Mehterlam city, Laghman province, and killed a 10-year-old girl and injured five other civilians, including three children under 10 years of age.

<sup>165</sup> UNAMA telephone interview with the witness, Pul-i-Khumri city, Baghlan province, 11 August 2016.

<sup>166</sup> In 2015, UNAMA attributed 1,018 civilian casualties (294 deaths and 724 injured) from ground engagements to Anti-Government Elements.

<sup>167</sup> In 2015, UNAMA attributed 792 civilian casualties (232 deaths and 560 injured) to Taliban as a result of ground engagements.

<sup>168</sup> Of the remaining civilian casualties, UNAMA attributed 114 civilian casualties (19 deaths and 95 injured) to undetermined Anti-Government Elements (where the specific Anti-Government Element perpetrator could not be identified), and one civilian casualty to Lashkar-i-Taiba.

<sup>169</sup> On 4 October and 5 November, Anti-Government Elements again fired mortar rounds towards the centre of the provincial capital, killing three civilians and injuring eight.

- On 30 October, a mortar round deployed by Anti-Government Elements struck a civilian house in Baghlan-e-Jadid district, Baghlan province, killing two women and five children, and injuring one girl. The victims belonged to the same family. Sources reported that the mortar might have been targeted at nearby ANA and Afghan Local Police check-posts.

### **Ground Engagements Causing Civilian Casualties in which Attribution to a Specific Party was not possible**

In 2016, UNAMA recorded 1,041 civilian casualties (276 deaths and 765 injured) caused by ground engagements in which attribution to a specific party was not possible. The majority of civilian casualties caused by crossfire occurred during armed engagements between Afghan national security forces and Anti-Government Elements, mainly Taliban. UNAMA also documented nine civilian casualties (nine injured) from ground engagements involving *Daesh*/ISKP and Afghan national security forces or Taliban; and 16 civilian casualties (three deaths and 13 injured) from unattributed ground engagements involving pro-Government armed groups and Anti-Government Elements.

### **Indirect and/or Explosive Weapons during Ground Engagements**

*“Conflict between Taliban and the Afghan national security forces reached our village. We were afraid so I left my home with my children and went to a nearby relative’s house which was far from the conflict area. We were sitting in one of the rooms of that house when mortar rounds reportedly fired by Afghan national security forces towards Taliban hit the house. As a result, two of my daughters – aged nine and five years-old – were killed, as well as the son of my relative, also a child. Seven other people were injured, including my two three-year-old twin sons, my eight-year-old daughter and another girl, and myself.”<sup>170</sup>*

-- Victim of Afghan National Army fired mortar round in Khwaja Ghar district, Takhar province, on 25 September that killed three children and injured six children and a woman.

UNAMA remains extremely concerned by the persistent use of indirect and/or explosive weapons by parties to the conflict in civilian-populated areas. In 2016, the use of mortars, rockets, and grenades, resulted in 2,620 civilian casualties<sup>171</sup> (629 deaths and 1,991 injured) – 61 per cent of all civilian casualties caused by ground engagements and 23 per cent of all civilian casualties.

UNAMA attributed 55 per cent of civilian casualties caused by indirect and/or explosive weapons to Pro-Government Forces, 34 per cent to Anti-Government Elements, and 11 per cent to cross-fire where the perpetrator could not be identified.<sup>172</sup>

Of the 2,620 civilian casualties (629 deaths and 1,991 injured) caused by indirect and/or explosive weapons during ground engagements in 2016, 68 percent comprised women and children, demonstrating the devastating impact the use of such weapons continued to have on civilians.<sup>173</sup> For example, on 3 November, a mortar round fired by Afghan national security forces impacted a group of civilians attending a wedding in Khwaja Sabz Posh district, Faryab province, killing 12 civilians, including 10 children, and injuring 13 others, including 10 children.

<sup>170</sup> UNAMA interview with victim, Taloqan city, Takhar province, 27 September 2016.

<sup>171</sup> These figures comprise the majority of the overall civilian casualty figures from ground engagements.

<sup>172</sup> Cross-border shelling by Pakistan Military Forces caused 11 civilian casualties (four deaths and seven injured – less than one per cent).

<sup>173</sup> Indirect and/or explosive weapons caused 512 women civilian casualties (123 deaths and 389 injured), and 1,267 child casualties (293 deaths and 974 injured).

In addition to civilian fatalities and injuries, the use of indirect and/or explosive weapons also caused damage to civilian property and infrastructure. UNAMA documented numerous cases in which education and health-care facilities suffered collateral damage from the use of this tactic.<sup>174</sup> For example, on 26 October, a rocket fired by Anti-Government Elements targeting the district administrative centre impacted Maidan Shahr provincial hospital in Maidan Shahr city, killing a boy and injuring seven civilians, as well as partially damaging the mortuary, walls of the hospital and the windows of the emergency ward.

Indirect weapons systems and explosive weapons with wide-area impact effects expose civilians to a severe risk of foreseeable harm when deployed in civilian-populated areas. Explosive weapons with wide-area impact contain high levels of explosive materials that cause significant damage to the area surrounding the target that cannot distinguish between civilians and military objectives. In addition, the users of indirect weapons systems such as mortars and artillery – also explosives with wide-area impact effects – do not rely on a direct line of sight and deploy weapons over long distances, risking inaccuracy.

As a consequence, the use of indirect and/or explosive weapons in civilian-populated areas may violate international legal prohibitions on attacks that cannot be directed at a specific military objective, including those that use weaponry in a manner that cannot distinguish military objectives and civilians and attacks that may disproportionately harm civilians.<sup>175</sup> In addition, parties to the conflict are obligated to take all feasible precautions to avoid or minimize incidental loss of civilian life, injuries, and damage to civilian objects during the conduct of military operations; and protect the civilian population and civilian objects under their control against the effects of attacks.<sup>176</sup> Attacks that fail to distinguish between civilian and military objectives – either intentionally or by nature of the weaponry used – may constitute war crimes.<sup>177</sup>

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<sup>174</sup> For more information, see Chapters on Children and Armed Conflict and Impact of Armed Conflict on Health-Care.

<sup>175</sup> For indiscriminate attacks, see Additional Protocol I, Article 51 (not applicable to non-international armed conflict but accepted as customary international law – see ICRC Customary International Law Study Rule 11); *Prosecutor v. Dusko Tadić*, IT-94-1, Appeals Chamber Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, para. 127. For disproportionate attacks, see Additional Protocol I, Article 85(3)(b) (not applicable to non-international armed conflict but accepted as customary international law – see ICRC Customary International Law Study Rule 14).

<sup>176</sup> Implicit in Common Article 3; Additional Protocol II, Articles 4, 13. For precautions, see also Additional Protocol I, Article 57 (not applicable to non-international armed conflict but accepted as customary international law – see ICRC Customary International Humanitarian Law, Rules 15-22). See also ICRC Customary International Humanitarian Law Study, Rules 22-24. See also Common Article 3; Additional Protocol II, Article 13 (in general, in relation to the principle of distinction) as well as ICRC Customary International Humanitarian Law Study, Rule 97 prohibiting the use of human shields.

<sup>177</sup> War crimes include the commission of the acts prohibited by Common Article 3(1) against those not taking part in hostilities, including violence to life and person; the acts prohibited by Additional Protocol II, Article 4(2); and attacks intentionally directed at civilians or civilian objects. See ICC Statute, Articles 8(2)(c), 8(2)(e)(i); ICRC Customary International Law Study, Rule 156. While, the ICC Statute does not expressly criminalize indiscriminate and disproportionate attacks in non-international armed conflicts, such attacks may give rise to inferences of a direct attack against civilians in some circumstances. See, for example, *Prosecutor v. Stanislav Galić*, Case No. IT-98-29-A, Appeal Judgement, 30 November 2006, paras. 132, 133. See also ICRC Customary International Humanitarian Law, Rule 156.

UNAMA recalls that it has repeatedly highlighted the correlation between increased ground clashes in civilian-populated areas characterized by the use of indirect and/or explosive weapons and an increase in civilian casualties caused by explosive remnants of war.<sup>178</sup>

UNAMA reiterates its call to parties to the conflict to cease firing mortars, rockets, grenades and other indirect and/or explosive weapons into civilian-populated areas, and to review procedures and rules of engagement on the use of indirect fire weapons and the use of explosive weapons with wide area impact effects.

UNAMA strongly recommends that the Government of Afghanistan prioritize the implementation of its National Civilian Casualty Prevention and Mitigation Policy as a matter of priority.

The mission calls again on Anti-Government Elements and Afghan national security forces to ensure that any use of indirect and/or explosive weapons that causes civilian casualties is investigated promptly, thoroughly and impartially, and that appropriate follow-up action is taken either through the application of lessons learned to the development of improved policies, procedures or rules of engagement, or to disciplinary or criminal action, if warranted.

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<sup>178</sup> See above and Chapter on Explosive Remnants of War. See also UNAMA 2016 Mid-Year Report on Protection of Civilians in Armed Conflict, pp. 27,42; UNAMA 2015 Annual Report on Protection of Civilians in Armed Conflict, p. 25.



### III. Anti-Government Elements & *Daesh*/Islamic State Khorasan Province

In 2016, UNAMA documented 6,994 civilian casualties (2,131 deaths and 4,863 injured) attributed to Anti-Government Elements, a two per cent increase compared to 2015.<sup>179</sup> Civilian casualties caused by Anti-Government Elements comprised 61 per cent of civilian casualties in 2016.<sup>180</sup>

Civilian Casualties from incidents publically claimed by Taliban	1,464 (358 deaths and 1,106 injured)
Civilian Casualties from incidents attributed to Taliban that were not publically claimed <sup>181</sup>	3,489 (1,260 deaths and 2,229 injured)
Civilian Casualties from incidents publically claimed by <i>Daesh</i> /ISKP	747 (166 deaths and 581 injured)
Civilian Casualties from incidents sources attributed to <i>Daesh</i> /ISKP affiliated persons but that were not publically claimed	152 (43 deaths and 109 injured)
Civilian casualties attributed to other Anti-Government Elements <sup>182</sup>	43 (18 deaths and 25 injured)
Civilian Casualties attributed to unidentified Anti-Government Elements where there was no public claim of attribution, or attribution to a specific group was not possible	1,099 (286 deaths and 813 injured)

#### *Tactics and Incident Types Causing Most Harm to Civilians*

Continuing trends identified in 2015, Anti-Government Elements caused most civilian casualties in 2016 using IEDs, which accounted for 31 per cent of civilian casualties attributed to Anti-Government Elements.<sup>183</sup> Suicide and complex attacks caused the second highest number of civilian casualties attributed to Anti-Government Elements, accounting for 28 per cent of Anti-Government Element perpetrated civilian casualties. UNAMA documented the highest number of civilian casualties from suicide and complex attacks since the mission began systematically documenting civilian casualties in 2009 – reflecting a seven per cent increase in civilian casualties caused by these tactics compared to 2015.

Ground engagements resulting in civilian casualties attributed solely to Anti-Government Elements caused the third highest number of Anti-Government Element-attributed civilian casualties in 2016,

<sup>179</sup> In 2015, UNAMA attributed 6,871 civilian casualties (2,324 deaths and 4,547 injured) to Anti-Government Elements.

<sup>180</sup> In 2015, civilian casualties caused by Anti-Government Elements accounted for 62 per cent of civilian casualties.

<sup>181</sup> In 2015, UNAMA attributed 2,549 civilian casualties to Taliban that were not publicly claimed and 2,738 civilian casualties to unidentified Anti-Government Elements. The increase in civilian casualties attributed to Taliban in 2016 should be viewed in context of the decrease in civilian casualties attributed to unidentified Anti-Government Elements.

<sup>182</sup> UNAMA attributed the remaining 45 civilian casualties as follows (none of which were publically claimed): Haqqani Network, four civilian casualties (one death and three injured); Hezb-i-Islami, seven civilians injured; Lashkar-i-Taiba, four civilian deaths; Taliban-Tehrīki Pakistan, 12 civilian casualties (eight deaths and four injured); and 16 civilian casualties (five deaths and 11 injured) jointly to Taliban and *Daesh*/ISKP ground fighting.

<sup>183</sup> In Afghanistan, most civilian casualties are caused by remote-controlled IEDs, pressure-plate IEDs and magnetic IEDs. For more information see Chapter on Improvised Explosive Devices.

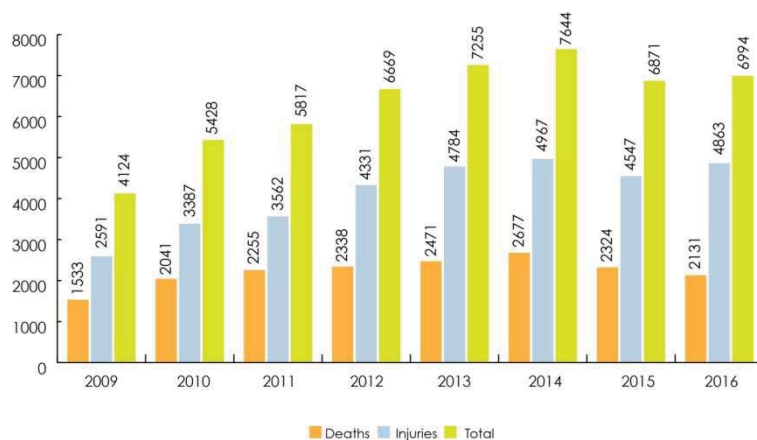
comprising 21 per cent of such casualties. Incidents of targeted and deliberate killings caused 16 per cent of Anti-Government Element-perpetrated civilian casualties, while civilians killed or injured after being abducted, during incidents of threat or intimidation, by unexploded ordnance left behind by Anti-Government Elements or as a result of punishments imposed by parallel justice structures accounted for the remaining three per cent of Anti-Government Element-attributed civilian casualties.<sup>184</sup>

Civilian casualties caused by Anti-Government Elements reduced by 34 per cent in relation to punishments imposed by parallel justice structures, by 16 per cent in relation to targeted and deliberate killings and by five per cent in the context of incidents of threats, intimidation and harassment. While the number of incidents of conflict-related abduction of civilians decreased by 33 per cent, the number of individual civilians abducted by Anti-Government Elements increased by 10 per cent in 2016.<sup>185</sup>

The number of civilian casualties occurring from incidents publicly claimed by Taliban – 1,464 civilian casualties (358 deaths and 1,106 injured) – decreased by two per cent compared to 2015.<sup>186</sup> Taliban continued to claim responsibility for attacks targeting civilians or civilian objects (82 incidents), including media professionals, civilian Government workers, judicial staff, tribal elders and humanitarian de-miners.<sup>187</sup>

In addition, the capacity of Anti-Government Elements identifying as *Daesh*/ISKP to conduct deadly attacks appeared to increase after it conducted four suicide and complex attacks in Kabul, three of which specifically targeted the Shia Muslim religious minority.<sup>188</sup>

**Civilian Deaths and Injuries by Anti-Government Elements  
January to December 2009 - 2016**



<sup>184</sup> UNAMA also documented the injury of one civilian during an incident of intentional destruction of civilian property.

<sup>185</sup> In 2016, UNAMA documented 360 incidents of abduction of civilians resulting in 135 civilian casualties (86 deaths and 49 injured) and 1,900 civilians abducted compared to 417 incidents of abduction of civilians resulting in 172 civilian casualties (145 deaths and 27 injured) and 1,713 civilians abducted in 2015.

<sup>186</sup> In 2016, UNAMA documented 1,464 civilian casualties (358 deaths and 1,106 injured) from incidents or attacks publicly claimed by Taliban compared to 1,490 civilian casualties (437 deaths and 1,053 injured) in 2015.

<sup>187</sup> See Chapter on Taliban Claims of Responsibility and Public Statements for more information.

<sup>188</sup> See Chapters on Deliberate Sectarian Attacks against the Shia Religious Minority; Deliberate Targeting of Civilians and Civilian Locations and *Daesh*/Islamic State Khorasan Province for more information.

## Improvised Explosive Devices

*“It was a normal day, another student and I were walking to the hospital for our internship. Children were on their way to school and the bazaar area was full of people buying and selling items. All of a sudden, there was an explosion. Many people were on the ground covered in blood and children were crying. My class-mate and I were injured and also on the ground. It was an improvised explosive device explosion. Since that day, my life has changed for the worse. My leg is injured and is often painful. I can no longer walk easily to attend lessons at university. Sometimes, I hear children crying as I remember that terrible day.”<sup>189</sup>*

-- Victim of a remote-controlled improvised explosive device detonation in the Sharana district bazaar, Paktika province, that injured 16 civilians (including two boys) on 26 October.

Despite a slight decline in 2016, civilian casualties caused by IEDs continued to kill and maim civilians throughout Afghanistan at unacceptably high levels.<sup>190</sup> UNAMA documented 2,156 civilian casualties (700 deaths and 1,456 injured) from IED detonations, reflecting a nine per cent decrease compared to 2015, mainly due to a reduction in civilian casualties caused by magnetic IEDs.<sup>191</sup> Notwithstanding, IEDs remained the second leading cause of all civilian casualties in 2016, accounting for 19 per cent, and the leading cause of civilian casualties attributed to Anti-Government Elements.<sup>192</sup>

In 2016, pressure-plate IEDs caused 51 per cent of all IED-related civilian casualties, remote-controlled IEDs caused 37 per cent and magnetic IEDs caused five per cent. Unknown types of IEDs caused the remaining seven per cent of civilian casualties from IEDs.<sup>193</sup> Civilian casualties caused by pressure-plate IEDs increased by four percent.<sup>194</sup>

Taliban claimed responsibility for 49 incidents of IED detonation that resulted in 140 civilian casualties (48 deaths and 92 injured).<sup>195</sup>

The continued deployment of IEDs in civilian-populated areas, including roads regularly used by civilian vehicles, remains of grave concern. For example, on 9 November, a civilian vehicle struck a

<sup>189</sup> UNAMA telephone interview with victim, Gardez city, Paktya province, 26 October 2016.

<sup>190</sup> UNAMA documented a 20 per cent decrease in IED-related civilian casualties in 2015 (2,375 civilian casualties – 719 deaths and 1,656 injured) compared to 2014 (2,955 civilian casualties – 925 deaths and 2,030 injured).

<sup>191</sup> In 2015, IEDs caused 2,375 civilian casualties (719 deaths and 1,656 injured).

<sup>192</sup> This chapter addresses IED tactics aimed at general targets as opposed to IEDs used to carry out targeted killings. In total, UNAMA documented 2,429 civilian casualties (747 deaths and 1,682 injured) from combined IED tactics i.e. both IED tactics aimed at general targets and IEDs used to carry out targeted or deliberate killings against specific individuals. UNAMA documented 273 civilian casualties from IEDs used during targeted killings in 2016 – primarily magnetic IEDs and remote-controlled IEDs, reflecting a one per cent reduction compared to 2015 when UNAMA documented 920 civilian casualties (158 deaths and 762 injured). Overall, UNAMA documented a 10 per cent reduction in civilian casualties from combined IED tactics in 2016. UNAMA also documents IEDs used in suicide and complex attacks – namely, body-borne IEDs and vehicle-borne IEDs: see the Chapter on Suicide and Complex Attacks for more information and statistics on the use of body-borne IEDs and vehicle-borne IEDs.

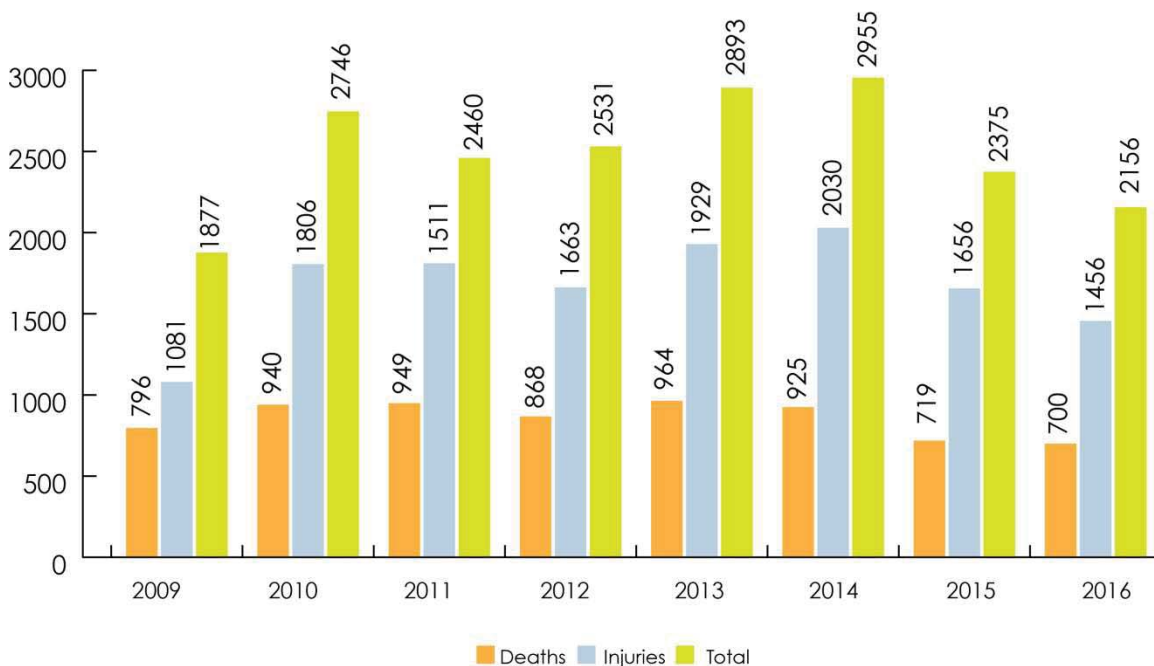
<sup>193</sup> See Glossary for definition of types of IEDs recorded by UNAMA.

<sup>194</sup> In 2016, UNAMA documented 1,100 civilian casualties (473 deaths and 627 injured) from pressure-plate IEDs compared to 1,058 civilian casualties (465 deaths and 593 injured) in 2015,

<sup>195</sup> Taliban claims published on its English (<http://alemarah-english.com/>), Pashto (<http://alemara1.org>), and Dari (<http://alemarah-dari.com>) website and on Twitter (<https://twitter.com/zmujaheed5>), all last accessed 9 January 2017.

pressure-plate IED in Shah Wali Kot district, Kandahar province, killing seven civilians, including two boys and four women.<sup>196</sup>

### Civilian Deaths and Injuries by Improvised Explosive Devices January to December 2009 - 2016



In 2016, pressure-plate IEDs caused 51 per cent of all IED-related civilian casualties, remote-controlled IEDs caused 37 per cent and magnetic IEDs caused five per cent. Unknown types of IEDs caused the remaining seven per cent of civilian casualties from IEDs.<sup>197</sup> Civilian casualties caused by pressure-plate IEDs increased by four per cent.<sup>198</sup>

Taliban claimed responsibility for 49 incidents of IED detonation that resulted in 140 civilian casualties (48 deaths and 92 injured).<sup>199</sup>

The continued deployment of IEDs in civilian-populated areas, including roads regularly used by civilian vehicles, remains of grave concern. For example, on 9 November, a civilian vehicle struck a pressure-plate IED in Shah Wali Kot district, Kandahar province, killing seven civilians, including two boys and four women.<sup>200</sup>

UNAMA urges Anti-Government Elements to cease the use of IEDs in areas with a civilian presence. International humanitarian law requires all parties to the conflict to respect the principles of distinction and proportionality and to take all feasible precautions to minimize incidental civilian

<sup>196</sup> See Chapter on Deliberate Targeting of Civilians and Civilian Objects .

<sup>197</sup> See Glossary for definition of types of IEDs recorded by UNAMA.

<sup>198</sup> In 2016, UNAMA documented 1,100 civilian casualties (473 deaths and 627 injured) from pressure-plate IEDs compared to 1,058 civilian casualties (465 deaths and 593 injured) in 2015,

<sup>199</sup> Taliban claims published on its English (<http://alemarah-english.com/>), Pashto (<http://alemara1.org/>), and Dari (<http://alemarah-dari.com>) website and on Twitter (<https://twitter.com/zmujahid5>), all last accessed 9 January 2017.

<sup>200</sup> See Chapter on Deliberate Targeting of Civilians and Civilian Objects .

deaths, injury or damage to civilian property.<sup>201</sup> UNAMA re-iterates that IED attacks intentionally targeting civilians may amount to war crimes.<sup>202</sup>

The mission urges – at a minimum – compliance with the obligations on the Prohibition or Restrictions on the Use of Mines, Booby-Traps and Other Devices laid down by Protocol II to the 1980 Convention on Certain Conventional Weapons.<sup>203</sup> Amongst other requirements, the protocol prohibits the indiscriminate and disproportionate use of IEDs, as well as the direction of such weapons offensively or defensively against individual civilians or civilian objects.<sup>204</sup> In addition, the protocol prohibits the use of IEDs designed or of a nature to cause superfluous injury or unnecessary suffering and requires that all feasible precautions be taken to protect civilians from the effects of such devices, including taking into account the availability and feasibility of using alternatives.<sup>205</sup> The protocol also obligates parties to the conflict to provide effective advance warning of any emplacement of IEDs which may affect the civilian population, unless circumstances do not permit.<sup>206</sup>

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<sup>201</sup> Implicit in Common Article 3; Additional Protocol II, Articles 4, 13. For indiscriminate attacks, see Additional Protocol I, Articles 51 (not applicable to non-international armed conflict but accepted as customary international law – see ICRC Customary International Law Study Rule 11); *Prosecutor v. Dusko Tadić*, IT-94-1, Appeals Chamber Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, para. 127. For disproportionate attacks, see Additional Protocol I, Articles 85(3)(b) (not applicable to non-international armed conflict but accepted as customary international law – see ICRC Customary International Law Study Rule 14). For precautions, see also Additional Protocol I, Article 57 (not applicable to non-international armed conflict but accepted as customary international law – see ICRC Customary International Humanitarian Law, Rules 15-22).

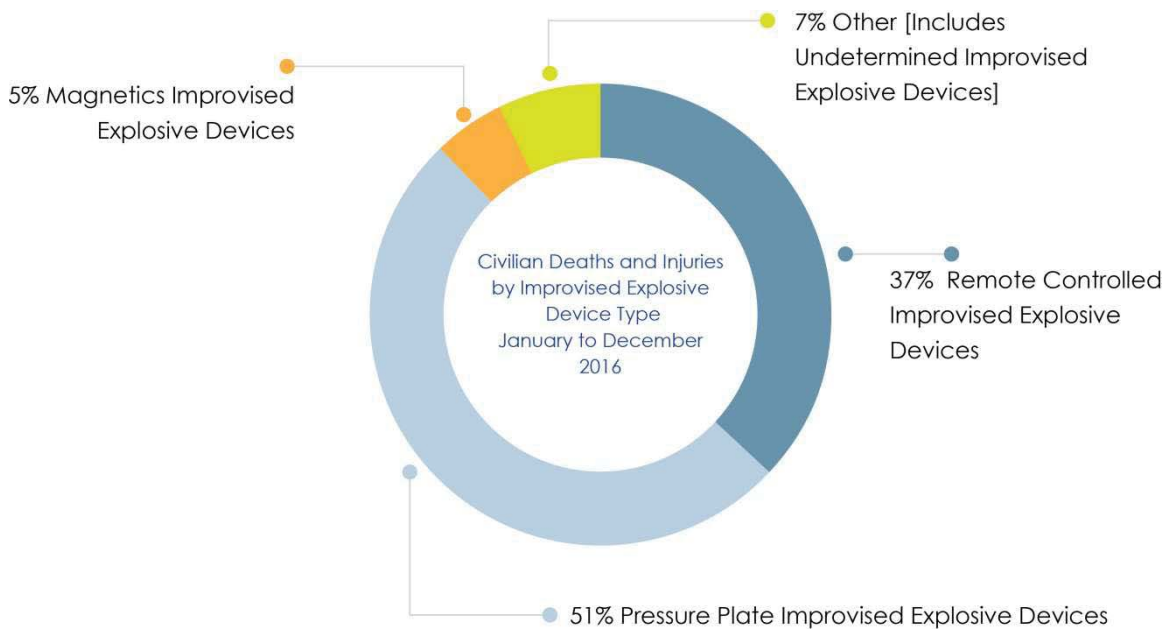
<sup>202</sup> War crimes include the commission of the acts prohibited by Common Article 3(1) against those not taking part in hostilities, including violence to life and person; the acts prohibited by Additional Protocol II, Article 4(2); and attacks intentionally directed at civilians or civilian objects. See ICC Statute, Articles 8(2)(c), 8(2)(e)(i); ICRC Customary International Law Study, Rule 156.

<sup>203</sup> The Minister of Foreign Affairs for Afghanistan signed an “Instrument of Accession” on 15 January 2017 ratifying the 1980 Convention on Conventional Weapons and Additional Protocols I, II (as amended in 1996), III, IV, and V) – copy of document on record with UNAMA. The Ministry of Foreign Affairs submitted the document to the office of the United Nations Secretary-General on 26 July in compliance with the procedure for ratification of the conventions and its protocols – information received in an email between UNAMA and the Directorate of Mine Action Coordination/Ministry of Foreign Affairs in January 2017. The conventions and its protocols therefore came in to effect in Afghanistan on 26 January 2017. Amended Protocol II (1996) to 1980 Convention on Certain Convention Weapons applies to the use of “mines, booby-traps and other devices”. Article 2(5) of the protocol defines “other devices” as including IEDs designed to kill, injure or damage and which are actuated manually, by remote control or automatically after a lapse of time.” Article 2(4) defines “booby-trap” as “any device or material which is designed, constructed or adapted to kill or injure, and which functions unexpectedly when a person disturbs or approaches an apparently harmless object or performs an apparently safe act”. This includes pressure-plate IEDs.

<sup>204</sup> Amended Protocol II (1996) to 1980 Convention on Certain Convention Weapons, Articles 3 (7),(8).

<sup>205</sup> Amended Protocol II (1996) to 1980 Convention on Certain Convention Weapons, Articles 3 (3),(10). See also Article 7 (prohibitions on use). UNAMA notes that these restrictions already applied in Afghanistan through international humanitarian law. Implicit in Common Article 3; Additional Protocol, Articles 4, 13.

<sup>206</sup> Amended Protocol II (1996) to 1980 Convention on Certain Convention Weapons, Article 3 (11). The protocol also prohibits the use of such devices in any area with a concentrated presence of civilians unless placed in close vicinity of a military objective or measures have been taken to protect civilian from their effects, including issuing warnings. See Amended Protocol II (1996) to 1980 Convention on Certain Convention Weapons, Article 7(3). See also footnote 33.



**Jalalabad city, 25 November: three separate IED attacks cause 37 civilian casualties**

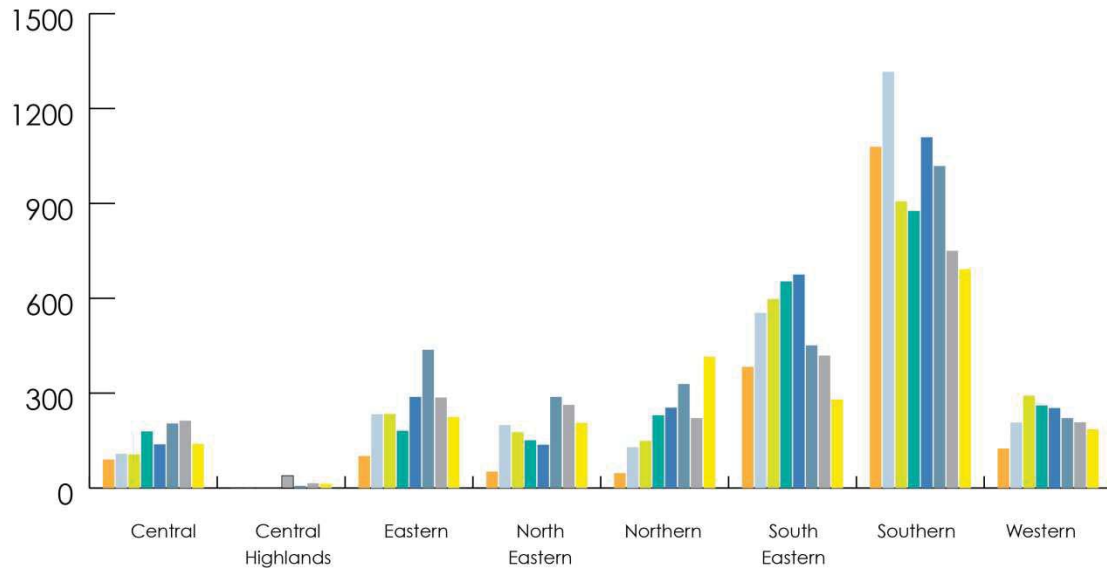
On 25 November, three IEDs targeting Afghan National Police detonated in Jalalabad city, Nangarhar province, killing five civilians (including one boy) and injuring 32 others (including 11 children). In addition to the 37 civilian casualties, the detonations killed a member of Afghan national security forces and injured three others.

Two remote-controlled IEDs detonated in close proximity in Zone 2 of Jalalabad city. The first IED detonated against an Afghan national security force vehicle, killing one civilian man and injuring eight others (including a girl). Approximately one hour later, the second IED detonated, targeting Afghan national security forces engaged in rescuing the victims of the first detonation, killing two civilian men and injuring 15 others (including two children). Around the same time, a third IED (of an unknown type) detonated in front of the home of a senior ANP staff member in Zone 4 of Jalalabad city, killing a male civilian and a boy and injuring eight boys. No party to the conflict claimed responsibility.

The civilian casualties generated through the tactical deployment of IEDs in densely populated areas, including as a means to attack rescuers, may amount to a war crime and underlines the severe effects of using this tactic in areas populated and used by civilians.<sup>207</sup> Anti-Government Elements must cease the use of IEDs in civilian-populated areas.

<sup>207</sup> War crimes include the commission of the acts prohibited by Common Article 3(1) against those not taking part in hostilities, including violence to life and person; the acts prohibited by Additional Protocol II, Article 4(2); and attacks intentionally directed at civilians or civilian objects. See ICC Statute, Articles 8(2)(c), 8(2)(e)(i); ICRC Customary International Law Study, Rule 156. While, the ICC Statute does not expressly criminalize indiscriminate and disproportionate attacks in non-international armed conflicts, such attacks may give rise to inferences of a direct attack against civilians in some circumstances. See, for example, Prosecutor v. *Stanislav Galić*, Case No. IT-98-29-A, Appeal Judgement, 30 November 2006, paras. 132, 133. See also ICRC Customary International Humanitarian Law, Rule 156. Indiscriminate attacks are implicitly prohibited by Common Article 3 and Additional Protocol II, Articles 4, 13., See also Additional Protocol I, Articles 51 (not applicable to non-international armed conflict but accepted as customary international law – see ICRC Customary International

**Civilian Deaths and Injuries: Improvised Explosive Devices by Region**  
**January to December: 2009 - 2016**



2009	90	0	101	52	47	383	1079	125
2010	108	0	233	199	129	554	1316	207
2011	106	0	234	176	149	597	906	292
2012	179	0	181	151	230	653	876	261
2013	138	39	288	137	254	675	1109	253
2014	204	7	437	288	329	451	1018	221
2015	213	15	286	263	221	419	750	208
2016	139	13	225	206	415	280	692	186

*Pressure-Plate IEDs*

*“I was transporting straw to Ghoryan district using a truck. Along the way, the road became bad so I started driving at the side of the road instead. Suddenly a pressure-plate improvised explosive device exploded against our vehicle. I lost consciousness for a few minutes and when I woke up, I found myself under the body of the truck. My left foot was gone and the passenger travelling with me – an elderly man from my village – was also injured.”<sup>208</sup>*

-- Victim of a pressure-plate improvised explosive device detonation that injured two civilians in Ghoryan district, Herat province, on 15 August.

Law Study Rule 11); *Prosecutor v. Dusko Tadić*, IT-94-1, Appeals Chamber Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, para. 127.

<sup>208</sup> UNAMA interview with witness, Takhar province, 18 October 2016.

UNAMA recorded 1,100 civilian casualties (473 deaths and 627 injured) caused by the detonation of 555 pressure-plate IEDs in 2016, a four per cent increase compared to 2015.<sup>209</sup> Pressure-plate IEDs caused nine per cent of all civilian casualties in Afghanistan in 2016.

Noting the indiscriminate nature of pressure-plate IEDs, the mission is extremely concerned by increases in both civilian casualties caused by pressure-plate IEDs, which reverses the decline in civilian casualties attributed to this tactic recorded by UNAMA in 2015, and the number of pressure-plate IED detonations causing civilian casualties.<sup>210</sup>

UNAMA emphasizes that, as victim-activated devices, the use of pressure-plates may violate international humanitarian law by virtue of their indiscriminate nature.<sup>211</sup> Once emplaced and activated, the user of a pressure-plate IED has no ability to direct its effects towards a particular target, placing civilians at severe risk.

In 2016, Anti-Government Elements continued to emplace pressure-plate IEDs on roads used by civilians. For example, on 5 December, a pressure-plate IED killed five civilians from one family (including a five-year-old boy and an 18 month old girl) when their vehicle hit it in Dila district, Paktika province, as they travelled to a funeral ceremony.

UNAMA is concerned by civilian casualties caused by Anti-Government Element emplacement of pressure-plate IEDs on roads into population centres under their control or areas that they seek to control, particularly in Helmand province. Between 1 August and 31 October, UNAMA documented 71 civilian casualties (33 deaths and 38 injured) from pressure-plate IEDs in Helmand province, a 48 per cent increase compared to the same period in 2015. These incidents coincided with major Taliban offensives across the province, particularly areas in proximity to Lashkar Gah city.<sup>212</sup> For example, on 30 September, a pressure-plate IED killed nine members of the same family (including six children and two women) in Nad-e-Ali district, Helmand province, after their vehicle hit the device while fleeing towards Lashkar Gah city to avoid fighting.<sup>213</sup>

In the strongest terms, UNAMA calls on Anti-Government Elements to immediately discontinue using pressure-plate IEDs and remove or make safe all emplaced devices.

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<sup>209</sup> In 2015, UNAMA documented 1,058 civilian casualties (465 deaths and 593 injured) from pressure-plate IEDs.

<sup>210</sup> UNAMA documented a 20 per cent decrease from civilian casualties in 2015. See UNAMA 2015 Annual Report on Protection of Civilians in Armed Conflict, p. 39. In 2015, UNAMA documented 479 separate incidents of pressure-plate IED detonations that caused civilian casualties compared to 555 in 2016.

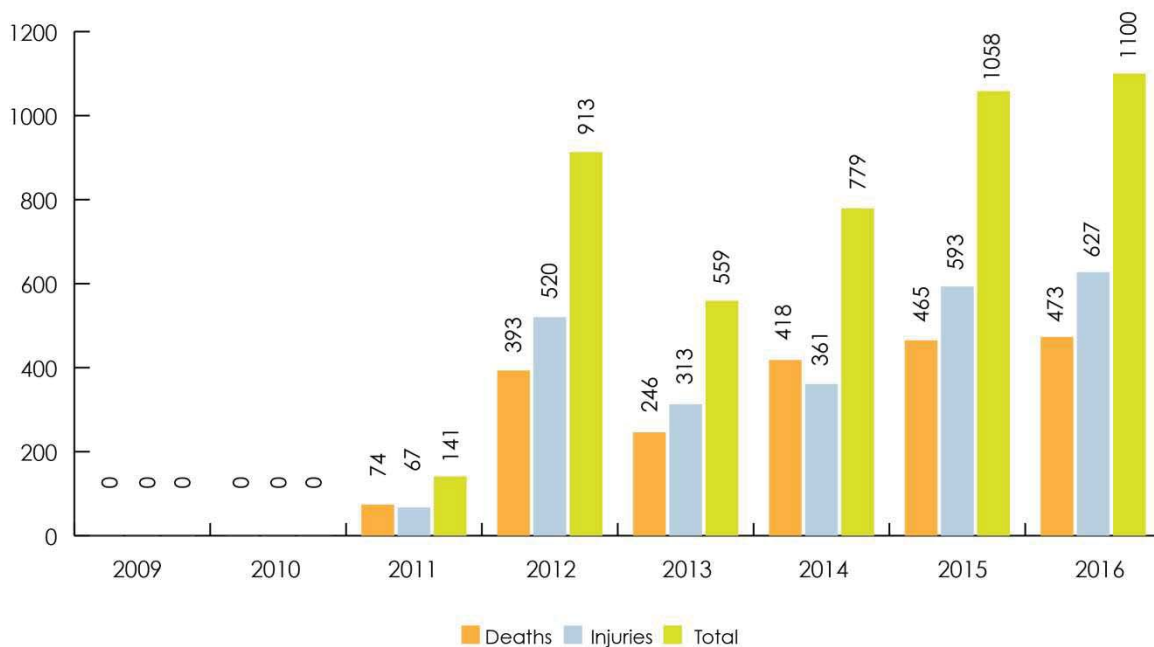
<sup>211</sup> Implicit in Common Article 3; Additional Protocol II, Articles 4, 13. For indiscriminate attacks, see also Additional Protocol I, Articles 51 (not applicable to non-international armed conflict but accepted as customary international law – see ICRC Customary International Law Study Rule 11); *Prosecutor v. Dusko Tadić*, IT-94-1, Appeals Chamber Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, para. 127. With respect to the obligation to take all feasible precautions in the choice of means and methods of warfare with a view to avoiding incidental loss of civilian life, injury to civilians, and damage to civilian objects, see also Additional Protocol I, Article 57(2)(a)(ii) (not applicable to non-international armed conflict but accepted as customary international law – see ICRC Customary International Humanitarian Law Study, Rule 17).

<sup>212</sup> Between 1 August and 31 October 2015, UNAMA documented 48 civilian casualties (29 deaths and 19 injured) from pressure-plate IEDs.

<sup>213</sup> On 2 October, UNAMA issued a press statement publically condemning this incident and another pressure-plate IED detonation in Badghis province on 29 September that killed 10 members of the same family (including four children and three women), accessible at: <http://unama.unmissions.org/unama-condemns-killing-19-civilians-pressure-plate-ied-incidents>, last accessed 5 December 2016.



### Civilian Deaths and Injuries by Pressure-Plate Improvised Explosive Devices January to December 2009 - 2016



#### *Remote-Controlled IEDs*

In 2016, UNAMA documented 805 civilian casualties (165 deaths and 640 injured) caused by remote-controlled IEDs, a six per cent increase compared to 2015.<sup>214</sup>

By design, remote-controlled IEDs enable the operator to detonate the device at a specific time against a particular target, permitting more accuracy in targeting compared to pressure-plate IEDs. Throughout 2016, however, Anti-Government Elements continued to target Afghan national security forces using remote-controlled IEDs in public locations, frequently resulting in significant civilian casualties. For example, on 3 October, a remote-controlled IED detonation targeting Afghan Local Police in the Darzab district bazaar, Jawzjan province, killed seven civilians (including four boys) and injured 53 others (including 16 boys).

UNAMA remains extremely concerned by the use of remote-controlled IEDs by Anti-Government Elements to direct attacks against civilians. On 9 December, a remote-controlled IED detonated inside a pharmacy in Darah Suf-e-Payin district, Samangan province, killing three civilians and injuring four others, including a girl. Anti-Government Elements detonated the device while a doctor – the intended target – examined patients.<sup>215</sup>

UNAMA once again urges parties to the conflict to abide by the obligations imposed on them by international humanitarian law to refrain from directly targeting civilians and to respect the principles of distinction and proportionality.<sup>216</sup> Failure to do so may constitute a war crime in certain

<sup>214</sup> In 2015, UNAMA documented 763 civilian casualties (144 deaths and 619 injured) from remote-controlled IEDs.

<sup>215</sup> See Chapter on Attacks Directed Against Civilians and Civilian Objects.

<sup>216</sup> Implicit in Common Article 3; Additional Protocol II, Articles 4, 13. For indiscriminate attacks, see also Additional Protocol I, Articles 51 (not applicable to non-international armed conflict but accepted as customary international law – see ICRC Customary International Law Study Rule 11); *Prosecutor v. Dusko Tadić*, IT-94-1,

contexts.<sup>217</sup> Parties to the conflict must minimize incidental damage to civilians during the conduct of hostilities.

### *Magnetic IEDs*

In 2016, UNAMA documented 103 civilian casualties (13 deaths and 90 injured) from magnetic IED detonations, a 34 per cent decrease compared to 2015.<sup>218</sup> UNAMA observed that Anti-Government Elements typically placed magnetic IEDs on the vehicles of Afghan national security forces. Most civilian casualties arose from the detonation of such devices in civilian areas or while civilians travelled in the targeted vehicle. For example, on 4 November in Khak-e-Safid district, Farah province, a magnetic IED attached to an ANP vehicle detonated in a bazaar area, killing three civilians (including two boys) and injuring 10 others.

### **Suicide and Complex Attacks**<sup>219</sup>

*“My grandfather and I attended the Arbaeen ceremony at the end of Ashura. A large number of devotees came to the mosque to eat lunch and hear statements by elders and Imams on Arbaeen. We were inside the mosque when I saw the attacker enter the mosque. He entered three or four metres inside the mosque and then detonated himself. After that, I cannot remember anything, and when I opened my eyes, I found myself here in hospital.”<sup>220</sup>*

-- 13-year-old boy seriously injured in a *Daesh*/ISKP claimed suicide attack that killed 40 civilians and injured 74 others in a crowded Shia mosque in Kabul city on 21 November.<sup>221</sup>

In 2016, UNAMA documented the highest number of civilian casualties from suicide and complex attacks since it systematically began recording civilian casualties in 2009.<sup>222</sup> UNAMA recorded 1,963

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Appeals Chamber Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, para. 127. For disproportionate attacks, see Additional Protocol I, Articles 85(3)(b) (not applicable to non-international armed conflict but accepted as customary international law – see ICRC Customary International Law Study Rule 14). For precautions, see also Additional Protocol I, Article 57 (not applicable to non-international armed conflict but accepted as customary international law – see ICRC Customary International Humanitarian Law, Rules 15-22).

See Additional Protocol 1 to the Geneva Conventions of 1949, Articles 48, 52 (not applicable to non-international armed conflict but accepted as customary international law); ICC Statute, Articles 8(2)(c) and 8(2)(e)(i); ICRC Customary International Humanitarian Law Study, Rules 7, 157; ICRC Revised Commentary to Common Article 3 (2016).

<sup>217</sup> War crimes include the commission of the acts prohibited by Common Article 3(1) against those not taking part in hostilities, including violence to life and person; the acts prohibited by Additional Protocol II, Article 4(2); and attacks intentionally directed at civilians or civilian objects. See ICC Statute, Articles 8(2)(c), 8(2)(e)(i); ICRC Customary International Law Study, Rule 156. While, the ICC Statute does not expressly criminalize indiscriminate and disproportionate attacks in non-international armed conflicts, such attacks may give rise to inferences of a direct attack against civilians in some circumstances. See, for example, Prosecutor v. *Stanislav Galić*, Case No. IT-98-29-A, Appeal Judgement, 30 November 2006, paras. 132, 133. See also ICRC Customary International Humanitarian Law, Rule 156.

<sup>218</sup> In 2015, UNAMA documented 157 civilian casualties (14 deaths and 143 injured) from magnetic IED detonations.

<sup>219</sup> UNAMA definition of “complex attack” refers to a deliberate and coordinated attack that includes a suicide device (i.e. body-borne IED, suicide vehicle borne-IED), more than one attacker and more than one type of device (i.e. body-borne IED and mortars). All three elements must be present for an attack to be considered complex.

<sup>220</sup> UNAMA interview with victim, Kabul City, 24 November 2016.

<sup>221</sup> *Daesh*/ISKP claimed responsibility for the 21 November attack via the Amaq News Agency, accessible at: <https://news.siteintelgroup.com/Jihadist-News/is-claims-killing-wounding-nearly-200-shi-ites-in-suicide-bombing-in-kabul-mosque.html>, last accessed 17 January 2017.

<sup>222</sup> UNAMA documented the following civilian casualties from suicide and complex attacks since 2009: 2015 – 1,840 civilian casualties (308 deaths and 1,532); 2014 – 1,582 civilian casualties (371 deaths and 1,211 injured);

civilian casualties (398 deaths and 1,565 injured) from these tactics, an increase of seven per cent compared to 2015.<sup>223</sup> Suicide and complex attacks remained the third leading cause of civilian casualties in 2016 and the second leading cause of Anti-Government Element-attributed civilian casualties - accounting for 17 per cent of all civilian casualties.

In 2016, UNAMA attributed 1,018 civilian casualties (190 deaths and 828 injured) caused by suicide and complex attacks to Taliban compared to 840 civilian casualties (154 deaths and 686 injured) in 2015. Between 1 January and 31 December, UNAMA attributed 266 civilian casualties (63 deaths and 203 injured) from suicide and complex attacks to Anti-Government Elements in general, where the particular group responsible could not be identified.<sup>224</sup>

Taliban claimed responsibility for 20 of 42 documented incidents of suicide and complex attacks in 2016, which resulted in 983 civilian casualties (182 deaths and 801 injured). *Daesh*/ISKP claimed responsibility for five incidents of suicide and complex attacks in 2016, which caused 661 civilian casualties (143 deaths and 518 injured).

Anti-Government Elements continued to conduct suicide and complex attacks against civilian targets and non-civilian targets in densely populated areas.<sup>225</sup> For example, 70 per cent of all civilian casualties arising from suicide and complex attacks occurred in Kabul city: 14 incidents resulting in 1,381 civilian casualties (262 deaths and 1,119 injured), a 68 per cent increase compared to 2015.<sup>226</sup> The sheer scale of the damage caused by such attacks in Kabul is illustrated in particular by the Taliban-claimed complex attack on the VIP Protection Directorate in the Pul-e-Mahmood Khan area of the city on 19 April that caused 393 civilian casualties (56 deaths and 337 injured), and the *Daesh*/ISKP-claimed suicide attack on a peaceful demonstration in Deh Mazang square on 23 July that resulted in 498 civilian casualties (85 deaths and 413 injured).<sup>227</sup> Other significant attacks in Kabul in 2016 included the Taliban attack on a convoy of vehicles transporting ANP cadets and graduates to Kabul on 30 June (112 civilian casualties – 34 dead and 78 injured),<sup>228</sup> the 24 August complex attack on the American University of Afghanistan – 61 civilian casualties (13 deaths and 48

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2013 – 1,236 civilian casualties (255 deaths and 981 injured); 2012 – 1,510 civilian casualties (328 deaths and 1,182 injured); 2011 – 1,656 civilian casualties (488 deaths and 1,168 injured); 2010 – 987 civilian casualties (238 deaths and 749 injured); 2009 – 1,179 civilian casualties (283 deaths and 896 injured).

<sup>223</sup> In 2015, UNAMA documented 1,840 civilian casualties (308 deaths and 1,532 injured) from suicide and complex attacks.

<sup>224</sup> In 2015, UNAMA attributed 996 civilian casualties (154 deaths and 842 injured) from suicide and complex attacks to Anti-government Elements in general, where the particular group responsible could be identified.

<sup>225</sup> Of 44 suicide and complex attacks: 19 intentionally targeted civilians or civilian objects, nine intentionally targeted Afghan National Police (ANP), 15 targeted non-civilian targets and one targeted an unknown target.

<sup>226</sup> In 2015, UNAMA documented 21 incidents of suicide and complex attacks in Kabul city resulting in 820 civilian casualties (92 deaths and 728 injured).

<sup>227</sup> *Daesh*/ISKP claimed responsibility for the 23 July attack in Deh Mazang square via the Amaq News Agency, accessible through the Terror Monitor Twitter account:

[https://twitter.com/Terror\\_Monitor/status/756895238975664128](https://twitter.com/Terror_Monitor/status/756895238975664128), last accessed 5 December 2016. Taliban claimed responsibility for the 19 April attack on the VIP Protection Directorate on its English website, formerly accessible at: (<http://shahamat-english.com/kabul-martyr-attack-final-report/>) and on Twitter, formerly accessible at: ([twitter.com/zmujahid2](https://twitter.com/zmujahid2)), copies on record with UNAMA. See Chapter on Deliberate Targeting of Civilians and Civilian Objects for more information on the 23 July attack and UNAMA 2016 Mid-Year Report on Protection of Civilians in Armed Conflict, p. 55 for more information on 23 April attack.

<sup>228</sup> Taliban claimed responsibility on its English website, accessible at: <http://alemarah-english.com/?p=887>, last accessed 5 December 2016, and on Twitter, formerly accessible at: <http://twitter.com/Zabihulla13>, copy on record with UNAMA. For more information on attacks targeting civilians, see Chapter on Deliberate Targeting of Civilians and Civilian Objects .

injured)<sup>229</sup> and a *Daesh*/ISKP-claimed suicide attack on Baqer-ul-Olum mosque (114 civilian casualties – 40 deaths and 74 injured) on 21 November.<sup>230</sup>

After Kabul city, suicide and complex attacks most affected Nangarhar province, which recorded nine incidents and a total of 126 civilian casualties (37 deaths and 89 injured) in 2016. Other significant attacks in 2016 included the Taliban attack on the German consulate in Mazar-e-Sharif city, Balkh province, on 10 November that resulted in 135 civilian casualties (four deaths and 131 injured, including 29 children and 19 women).<sup>231</sup>

UNAMA is extremely concerned by the trending rise in civilian casualties from suicide and complex attacks. The impact of such attacks on civilians and the larger civilian population is particularly devastating. Typically occurring in urban and civilian-populated areas, such attacks – when not directed against civilian targets in violation of international humanitarian law – are frequently indiscriminate in nature and commonly cause high numbers of civilian casualties, in addition to contributing to an atmosphere of fear and anxiety among the population.

UNAMA reiterates that attacks directed at the civilian population, as well as the indiscriminate use of suicide IED tactics, are serious violations of international humanitarian law that may amount to war crimes.<sup>232</sup> It once again reminds Anti-Government Elements, in particular Taliban, that international humanitarian law prohibits attacks which may cause incidental loss of civilian life, injury to civilians or damage to civilian objects, or a combination thereof, which would be excessive with respect to the concrete and direct military advantage anticipated.<sup>233</sup>

### **Taliban Suicide Attack targeting German Consulate in Mazar-e-Sharif kills four civilians and injures 131 others**

On the night of 10 November, Taliban detonated a suicide vehicle-borne IED targeting the German consulate in Mazar-e-Sharif, Balkh province. The size of the blast was such that it killed four civilians and injured 131 others – all Afghan civilians present in the vicinity of the explosion – despite occurring at around 11.00 p.m. when most local residents were asleep in their homes. The detonation also resulted in significant civilian property damage within a one-kilometre radius, causing extensive

<sup>229</sup> No party to the conflict claimed responsibility for the attack on the American University of Afghanistan on 24 August 2016.

<sup>230</sup> *Daesh*/ISKP claimed responsibility for the attack via the Amaq News Agency, accessible at: <https://news.siteintelgroup.com/Jihadist-News/is-claims-killing-wounding-nearly-200-shi-ites-in-suicide-bombing-in-kabul-mosque.html>, last accessed 1 December 2016. For additional analysis see Sectarian Attacks against the Shia Muslim Religious Minority.

<sup>231</sup> Taliban claimed responsibility for the attack on its English website and on Twitter, describing it as retaliation for the NATO conducted aerial strike in northern Kunduz province earlier in November, accessible at: <http://alemarah-english.com/?p=701> and <https://twitter.com/zmujahid5>, both last accessed 5 December 2016. See Chapter on Deliberate Targeting of Civilians and Civilian Objects and Aerial Operations for more information.

<sup>232</sup> War crimes include the commission of the acts prohibited by Common Article 3(1) against those not taking part in hostilities, including violence to life and person; the acts prohibited by Additional Protocol II, Article 4(2); and attacks intentionally directed at civilians or civilian objects. See ICC Statute, Articles 8(2)(c), 8(2)(e)(i); ICRC Customary International Law Study, Rule 156. While, the ICC Statute does not expressly criminalize indiscriminate and disproportionate attacks in non-international armed conflicts, such attacks may give rise to inferences of a direct attack against civilians in some circumstances. See, for example, Prosecutor v. *Stanislav Galić*, Case No. IT-98-29-A, Appeal Judgement, 30 November 2006, paras. 132, 133. See also ICRC Customary International Humanitarian Law, Rule 156.

<sup>233</sup> Implicit in Common Article 3; Additional Protocol II, Articles 4, 13. See also Additional Protocol I, Articles 51, 85(3)(b) (not applicable to non-international armed conflict but accepted as customary international law see ICRC Customary International Humanitarian Law Study, Rules 1, 14, 15, 154).

damage to the German consulate as well as partially damaging over 100 civilians houses and shops, two schools and a number of mosques.

A local resident residing in the vicinity of the German consulate described the aftermath of the detonation: *“I ran out of my room to look for my mother but couldn’t see anything as the house was full of dust and smoke. The doors and windows were broken. As I was looking for my mother, I heard the children of my neighbour crying and shouting repeatedly “our father died”. There was no one around to help them at that time. Their father was seriously injured by shrapnel and died of his wounds.”*

Taliban claimed responsibility for the attack, stating that the “martyr attack was carried out in retaliation for the U.S invader’s massive air strikes in the northern Kunduz province earlier this month that left a large number of civilians dead” in reference to international military airstrikes carried out against Boz-e-Qandahari village, Kunduz city, on the night of 2 to 3 November as part of a partnered operation with Afghan national security forces that killed 32 civilians (including 20 children) and injured 36 others (including 14 children).<sup>234</sup> The Taliban statement added that “the Germans were part of the perpetrators plotting recent Kunduz bombings on over 50 innocent and defenceless civilians”.<sup>235</sup>

UNAMA emphasizes that diplomatic missions and consulates are civilian objects and protected from attack, pursuant to international humanitarian law.<sup>236</sup> Furthermore, attacks directed at civilian objects are serious violations of international humanitarian law that may amount to war crimes.<sup>237</sup>

### **Complex attack on the American University of Afghanistan in Kabul city**

At 7.00 p.m. on 24 August, Anti-Government Elements conducted a complex attack against the American University in Afghanistan, killing 13 civilians and injuring 48 others, mostly students. The attack commenced with the detonation of a suicide vehicle-borne device at the gate of the university, after which two attackers entered the university and began indiscriminate shooting at students and throwing hand grenades. At the time of the attack, more than 700 students and staff were present at the campus. Eyewitness reported to UNAMA that the attackers chased and shot at students as they attempted to escape out of second or third floor windows or run out of the campus. The complex attack lasted until 4.00 a.m. the following morning. No group claimed responsibility for the attack.

One student described barricading himself in a classroom with other students: *“We put tables in front of the door of our classroom. After about 10 minutes, I heard shooting and the attacker threw grenades into our classroom. I was injured on my thigh by the grenade explosion, but could still walk, so we tied curtains together and*

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<sup>234</sup> “Martyr attack hits German consulate in northern Afghanistan”, available at: <http://alemarah-english.com/?p=7013>, posted on English language Taliban website on 11 November 2016, last accessed 4 December 2016. For more on this incident, see Chapter on Aerial Operations.

<sup>235</sup> “Martyr attack hits German consulate in northern Afghanistan”, available at: <http://alemarah-english.com/?p=7013>, posted on English language Taliban website on 11 November 2016, last accessed 4 December 2016.

<sup>236</sup> Common Article 3; Additional Protocol II, Articles 4, 13; ICRC Customary International Law Study, Rules 7-9.

<sup>237</sup> War crimes include the commission of the acts prohibited by Common Article 3(1) against those not taking part in hostilities, including violence to life and person; the acts prohibited by Additional Protocol II, Article 4(2); and attacks intentionally directed at civilians or civilian objects. See ICC Statute, Articles 8(2)(c), 8(2)(e)(i); ICRC Customary International Law Study, Rule 156.

*escaped by climbing down the window. One girl fell down and cried that her leg was broken. I tried to help her escape when I was shot in the foot. I was bleeding a lot and tried to wrap my shirt around my foot.”<sup>238</sup>*

In addition to civilian deaths and injuries, the initial explosion extensively damaged a neighbouring school for visually impaired students, destroying the braille-printing machine and the school’s new clinic.

UNAMA reiterates that attacks directed at civilian locations – including an educational facility, which was not used as a military objective at the time of attack – are serious violations of international humanitarian law and may amount to war crimes.<sup>239</sup> UNAMA once again urges Anti-Government Elements to cease the use of suicide and complex attacks, in particular against civilian objects and take precautions against the effects of such attacks on civilians.<sup>240</sup>

### Targeted and Deliberate Killings by Anti-Government Elements

*“[Anti-Government Elements] abducted my 13-year-old brother in the forest reserve area bordering our village where he had gone to conduct a forest-preservation patrol, as is expected in the area. They brought him to our village. My mother and our neighbours begged them to set him free but they did not listen to us and drove away with my brother. The next day, they called us to collect his dead body. We went to the area and saw his dead body with bullet wounds and a letter placed on his body. The letter stated that he was killed for being a Government spy. My 13-year-old brother was too young and innocent for that. He did not have any links with the Government. My mother cries everyday remembering my little brother.”<sup>241</sup>*

-- Family member of a boy killed by Anti-Government Elements on 16 September, on suspicion of being a Government spy in [district withheld], Paktya province.

In 2016, UNAMA documented 1,224 civilian casualties (655 deaths and 569 injured) as a result of targeted killings.<sup>242</sup> UNAMA attributed 79 per cent of civilian casualties from targeted killings to Anti-Government Element – 1,118 civilian casualties (574 deaths and 544 injured), a decrease of 16 per cent compared to 2015.<sup>243</sup> Targeted killings perpetrated by Anti-Government Element caused 10 per cent of all civilian casualties in 2016 and 16 per cent of civilian casualties perpetrated by Anti-Government Elements.

Taliban claimed responsibility for 149 civilian casualties (73 deaths and 76 injured) from targeted and deliberate killings. *Daesh*/ISKP claimed responsibility for 82 civilian casualties (21 deaths and 61 injured) from this tactic.

<sup>238</sup> UNAMA interview with victim, Kabul City, 29 August 2016.

<sup>239</sup> War crimes include the commission of the acts prohibited by Common Article 3(1) against those not taking part in hostilities, including violence to life and person; the acts prohibited by Additional Protocol II, Article 4(2); and attacks intentionally directed at civilians or civilian objects. See ICC Statute, Articles 8(2)(c), 8(2)(e)(i); ICRC Customary International Law Study, Rule 156.

<sup>240</sup> UNAMA publically condemned the incident in a press release issued on 25 August 2016, accessible at: <http://unama.unmissions.org/unama-condemns-attack-american-university-kabul>, last accessed 5 December 2016.

<sup>241</sup> UNAMA interview with relative, [location withheld], Paktya province, 2 October 2016.

<sup>242</sup> UNAMA documents civilian casualties that occur from incidents of targeted and deliberate killing directly targeting civilians as well as those that occur indirectly from targeted killings directed against non-civilian targets. The vast majority of civilian casualties from this tactic result from attacks deliberately targeting civilians.

<sup>243</sup> In 2016, UNAMA documented 106 civilian casualties (81 deaths and 25 injured) from Pro-Government Force perpetrated targeted or deliberate killings. See Chapter on Other Killings by Afghan national security forces Afghan national security forces. In 2015, UNAMA documented 1,425 civilian casualties (853 deaths and 572 injured) from targeted killings – of which Anti-Government Elements were responsible for 94 per cent: 1,337 civilian casualties (792 deaths and 545 injured).

UNAMA remains concerned that the majority of civilian casualties from targeted and deliberate killings arose from attacks intentionally targeting civilians. Of the 1,118 civilian casualties from targeted killings by Anti-Government Elements documented by UNAMA in 2016, the vast majority occurred as a result of attacks intended to kill civilians. Targets included tribal elders, judicial staff, civilian government administration staff and civilians alleged to be Government “spies”.<sup>244</sup> For example, on 15 June, Taliban shot dead the Sayghan district governor in Bamyan province.<sup>245</sup> Anti-Government Elements also targeted civilians for refusing to comply with their instructions. For example, on 28 August, Anti-Government Elements shot at a vehicle that tried to reverse after being ordered to stop at a check-post in Kamdish district, Nuristan province, killing six civilians (including a 32-year-old woman, three of her children and her niece) and injuring one woman.

UNAMA is very concerned by the continuing execution style killing of civilians in Kandahar city. In 2016, it verified the attempted or successful intentional killing of 29 civilians in Kandahar city working for, or perceived as having connections with, local authorities or security forces, resulting in 18 deaths and 11 injured). These killings were largely carried out with impunity.

UNAMA also documented 134 civilian casualties (86 deaths and 48 injured)<sup>246</sup> as collateral casualties of targeted and deliberate killings directed at non-civilian targets. In this context, civilian casualties primarily resulted from shooting or IED attacks on the vehicles or homes of Afghan national security forces staff.<sup>247</sup> For example, on 13 July, Taliban opened fire on the house of a former ANA member during his wedding party in Sar Hawzeh district, Paktika province, killing him and two male civilian guests and injuring another. Taliban claimed responsibility, citing ANA members attending the party as the intended target of the shooting.<sup>248</sup>

UNAMA reiterates again that the intentional killing of civilians is a serious violation of international humanitarian law that may amount to murder as a war crime.<sup>249</sup> UNAMA emphasizes that international humanitarian law also obliges Anti-Government Elements to refrain from conducting attacks of an indiscriminate nature,<sup>250</sup> and that such attacks may amount to war crimes.<sup>251</sup>

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<sup>244</sup> Of these statistics, targeted killings targeting ANP accounted for 137 civilian casualties (76 deaths and 61 injured). UNAMA did not include these figures in determining the number of incidents of targeted and deliberate killing incidents intentionally targeting civilians.

<sup>245</sup> Taliban claimed responsibility for the incident on Twitter, formerly accessible at: <https://twitter.com/Zabihulla13/status/743341450482507781>, copy on record with UNAMA.

<sup>246</sup> This figure does not include targeted killings directed at ANP or unknown targets.

<sup>247</sup> For more on IED tactics, see Chapter on Improvised Explosive Devices.

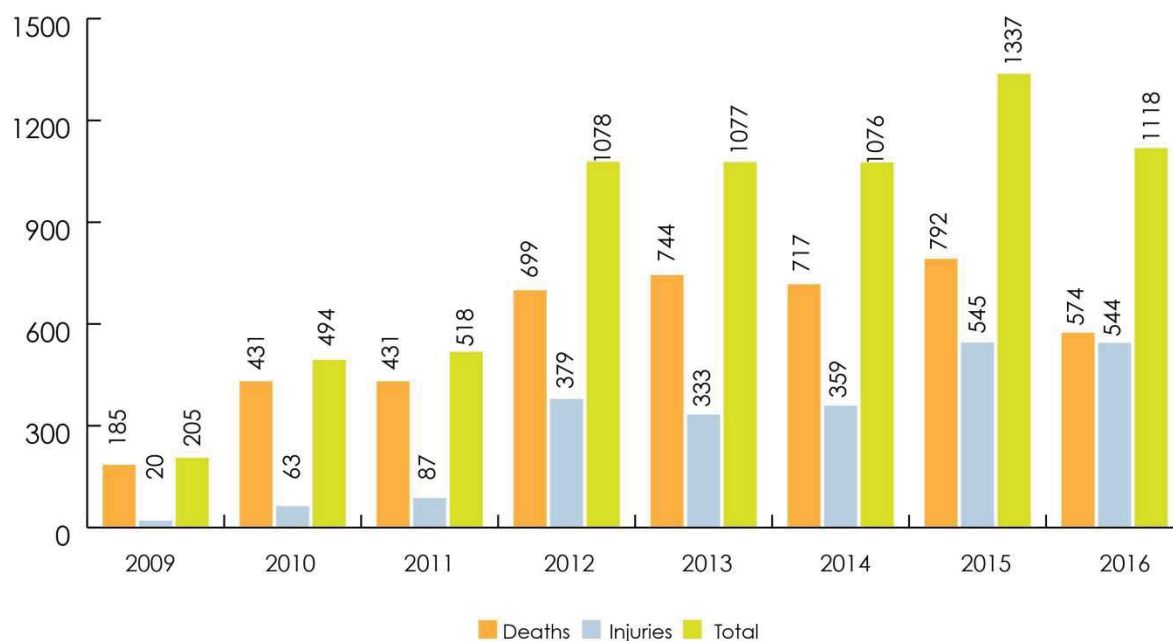
<sup>248</sup> Taliban claimed responsibility on its Pashto website, accessible at: <http://alemara1.org/?p=56435>, last accessed 2 December 2016.

<sup>249</sup> The acts prohibited by Common Article 3(1) committed against those not taking part in hostilities, including violence to life and person; Additional Protocol II, Article 4(2); and attacks intentionally directed at civilians or civilian objects are war crimes. See ICC Statute, Articles 8(2)(c)(i), 8(2)(c)(iii), 8(2)(e)(i); ICRC Customary International Law Study, Rule 156.

<sup>250</sup> For example, conducting a targeted attack against a member of the armed forces, using an IED weapon in a civilian-populated area. See Additional Protocol I, Article 51 (not applicable to non-international armed conflict but accepted as customary international law – see ICRC Customary International Law Study Rule 11); *Prosecutor v. Dusko Tadić*, IT-94-1, Appeals Chamber Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, para. 127.

<sup>251</sup> While, the ICC Statute does not expressly criminalize indiscriminate and disproportionate attacks in non-international armed conflicts, such attacks may give rise to inferences of a direct attack against civilians in some circumstances. See, for example, *Prosecutor v. Stanislav Galić*, Case No. IT-98-29-A, Appeal Judgement, 30 November 2006, paras. 132, 133. See also ICRC Customary International Humanitarian Law, Rule 156; ICC

## Civilian Deaths and Injuries by Anti-Government Element Targeted + Deliberate Killings January to December 2009 - 2016



### Execution of 26 civilians in Chaghcharan district, Ghor province on 25 October

*“Around 9.00 p.m. four motorbikes approached us and suddenly opened fire using AK47 and PK machine guns. Of the 28 people who were shot, 25 died, two of us were injured and one man remained unharmed. I don’t know how long it took me to get up but I remember it was horrible and I noticed that the armed men came close to the bodies and shot at those who they thought were still alive and then they left. I pushed away the bodies that were on me and dragged myself out and started walking from the area in an unknown direction. I was bleeding but kept walking until the next morning – resting when I became tired - when I found a local man on a motorbike and begged him to give me a lift to Kasi. I was admitted to hospital for five days and operated on to remove a bullet that penetrated my thigh and went into my stomach and damaged two of my ribs.”<sup>252</sup>*

On 25 October, in the Murghab valley area of Chaghcharan district, Ghor province, a group of Anti-Government Elements abducted 35 civilians – men and boys working as shepherds or collecting firewood and deliberately shot and killed 26 of them (21 men and five boys). The killings appeared to have been carried out in retaliation for the death of their commander during fighting with Afghan national security forces. One boy and five civilian men survived the mass shooting with injuries. The Anti-Government Elements released the remainder of the hostages unharmed.

In response to the incident, local pro-Government armed group members abducted around 10 civilians of the tribe to which the armed men belonged and later released them.

Statute, Articles 8(2)(c), 8(2)(e)(i); *Prosecutor v. Dusko Tadić*, IT-94-1, Appeals Chamber Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, paras. 120-127.

<sup>252</sup> UNAMA telephone interview, Herat city, 7 November 2016.



The group of armed men responsible for the killings identifies as “*Daesh*” and operates in the Murghab valley area of Chagcharan district, Ghor province. Sources reported to UNAMA that the group was formerly affiliated to the Taliban but separated in 2014. However, there appears to be no direct or formal link between the group of armed men and *Daesh*/ISKP in either Nangarhar province of Afghanistan or Syria. Taliban denied involvement in the incident.<sup>253</sup>

UNAMA emphasizes that all Anti-Government Elements are bound by and required to uphold international humanitarian law. Both the pre-meditated, intentional, and deliberate killing of civilians and the taking of hostages are serious violations of international humanitarian law that may amount to war crimes and crimes under domestic criminal law.<sup>254</sup> UNAMA calls on the Government of Afghanistan to conduct a thorough and impartial investigation into the killings and to hold the perpetrators fully accountable.

### Conflict-Related Abduction of Civilians

*“Just 13 minutes from Farah city centre, a group of long haired armed men blocked the road and took the keys from the bus driver. They quickly selected 13 students from the bus and interrogated them for a few minutes before taking them away to an unknown location. Thankfully, they did not pick me. I witnessed the horrible situation with fear. None of the Afghan national security forces took action while the Anti-Government Elements drove away with the 13 students.”*<sup>255</sup>

-- Witness to the abduction of 13 students on 7 September by Anti-Government Elements from a bus on the Herat to Farah highway in Bala Buluk district, Farah province. Anti-Government Elements released the abductees on 10 September following mediation by local elders and after determining the students had no affiliation with the Government.

UNAMA remains concerned by the continuing trend of abduction of civilians by Anti-Government Elements.<sup>256</sup> Between 1 January and 31 December 2016, UNAMA documented 360 such incidents involving the abduction of 1,900 civilians and resulting in 135 civilian casualties (86 deaths and 49 injured). While these figures reflect a decrease in the number of recorded incidents of abduction and related civilian casualties compared to 2015, the number of civilians abducted increased by 11 per cent.<sup>257</sup>

Of the 360 incidents, UNAMA attributed 350 to Anti-Government Elements that resulted in the abduction of 1,858 civilians and 130 civilian casualties (84 deaths and 46 injured).<sup>258</sup> Taliban claimed

<sup>253</sup> The Taliban posted a statement on the Twitter account of its spokesperson, formerly accessible at: <https://twitter.com/Zabihulla13>, copy on record with UNAMA. For more information on civilian casualties caused by groups self-identifying as *Daesh*/ISKP fighters, see Chapter on *Daesh*/Islamic State Khorasan Province.

<sup>254</sup> War crimes include the commission of the acts prohibited by Common Article 3(1) against those not taking part in hostilities, including violence to life and person; the acts prohibited by Additional Protocol II, Article 4(2); and attacks intentionally directed at civilians or civilian objects.

<sup>255</sup> UNAMA telephone interview with witness, Farah city, 12 September 2016.

<sup>256</sup> See Chapter on Children and Armed Conflict for information on abduction of children.

<sup>257</sup> In 2015, UNAMA documented 417 incidents of abduction resulting in 172 civilian casualties (145 deaths and 27 injured), and the abduction of 1,713 civilians. For information on the abduction of children, see Chapter on Children and Armed Conflict.

<sup>258</sup> Of the remaining nine incidents, UNAMA attributed one incident to Afghan Local Police, eight incidents to pro-Government armed groups, and one incident jointly to Afghan Local Police and pro-Government armed groups.

responsibility for 14 incidents of abduction that resulted in the abduction of 257 civilians and four civilian deaths.

UNAMA observed that Anti-Government Elements frequently kidnapped civilians based on suspicions that they had connections to, or worked for, the Government, in addition to the targeted abduction and kidnapping of civilian Government employees, including off-duty ANP. However, Anti-Government Elements also abducted civilians for financial gain, with release predicated on payment of a substantial ransom.

Anti-Government Elements released most abductees unharmed following payment of ransoms or negotiations with local elders. Notwithstanding, Anti-Government Elements often killed those abductees identified as off-duty members of the Afghan national security forces, their family members or civilian Government staff, as well as people perceived to be government spies. Anti-Government Elements injured civilians during abductions predominantly by beating or torturing abducted civilians or injuring them by shooting during the initial abduction.

UNAMA documented five situations of mass abduction in which Anti-Government Elements abducted large groups of civilians ranging from 45 to 200, with a view to identifying members of the Afghan national security forces or, in one case, people with links to Taliban.<sup>259</sup> For example, on 6 February, Anti-Government Elements stopped two private vehicles in Maimana district, Faryab province, and abducted 110 male passengers, subsequently releasing 104 who provided civilian identity cards. Anti-Government Elements released the remaining six detainees after conducting investigations into their identities and determining no connection to Afghan national security forces.

UNAMA is also concerned by the mass abduction of civilians by Anti-Government Elements in an attempt to leverage the Government. For example, on 21 March in Warduj district, Badakhshan province, Anti-Government Elements detained 200 male civilians, including at least four boys, believed to be relatives of members of the Afghan national security forces in response to the arrest of three family members of one of their local high-ranking members. All detainees were subsequently freed following the release of the Anti-Government member's relatives. Also in Badakhshan province, on 5 October in Raghistan district, Anti-Government Elements abducted more than a hundred people from the Darwaz area as they entered from Raghistan in response to the Government decision to stop fuel transport into Taliban-controlled areas to deter illegal gold mining. Anti-Government Elements released the abductees on 16 October after the Government removed the restrictions on fuel transport.

UNAMA documented a decline in the number of Hazara civilians abducted in 2016, recording 15 incidents involving the abduction of 82 Hazara civilians, in comparison to 25 incidents in 2015 in which Anti-Government Elements abducted 224 Hazara civilians. In 2016, UNAMA documented the abduction of Hazara civilians in Uruzgan, Sari Pul, Daikundi, Maidan Wardak and Ghor provinces. Anti-Government Elements released all abductees unharmed. In contrast to 2015, UNAMA documented no incidents of the abduction of Hazara civilians in Ghazni province, with

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<sup>259</sup> For more information on two incidents of mass abduction of civilians perpetrated by Taliban on the night of 30 to 31 May in Kunduz province (185 bus passengers initially detained and 157 civilian passengers subsequently released) and on 6 February in Helmand province (45 civilian bus passengers detained and subsequently released following an investigation by Taliban of any links with Afghan national security forces (Afghan national security forces) see UNAMA 2016 Mid-Year Report on Protection of Civilians in Armed Conflict, pp. 64, 65. Taliban publically claimed responsibility for both incidents. For more information on the abduction of 61 civilians by self-identified *Daesh*/ISK fighters on 19 October, see Chapter on *Daesh*/Islamic State Khorasan Province.

sources reporting that abductions in previously affected areas may have been deterred by the establishment of security check-posts by Afghan national security forces.<sup>260</sup>

Notwithstanding the general decrease in the number of incidents of abduction targeting Hazara civilians, UNAMA recorded seven incidents involving the abduction of 234 Hazara civilians in Maidan Wardak province, compared to two incidents in 2015, attributable to ongoing land disputes in the area between Hazara residents and Kuchi tribal members. UNAMA also documented an increase in incidents of abduction of Hazara civilians in Ghor province, recording three incidents in which Anti-Government Elements abducted nine Hazara civilians, despite an absence of incidents in 2015.<sup>261</sup> In Ghor and Maidan and Wardak provinces, members of the Hazara ethnic group carried out retaliatory counter-abductions of Tajik or Pashtun civilians in an attempt to secure the release of abducted Hazara civilians.

UNAMA emphasizes that international humanitarian law prohibits the taking of hostages and that it may amount to a war crime.<sup>262</sup> UNAMA calls on parties to the conflict to cease taking civilian hostages, regardless of the purpose of the abduction. The mission also urges the Government to protect the rights to liberty, life, physical integrity and freedom of movement to all persons within its territory as required by its international human rights obligations.<sup>263</sup>

### Parallel Justice Structure Punishments

*“Five Anti-Government Elements, including the shadow district governor, brought the woman near to our home in a black car with blacked out windows before removing her from the vehicle and shooting her dead with three shots. Her brother-in-law thanked the Anti-Government Elements for killing her and invited them to stay for tea but they declined and left. Her grave was already prepared because the Anti-Government Elements ordered the community to dig it before they killed her. The woman’s blood didn’t stop. Her dead body was left under a tree for half an hour before being buried. She was killed because of a false allegation made by her father-in-law due to domestic violence. She had a three-year-old daughter and a seven-month-old baby boy.”<sup>264</sup>*

- Witness to a parallel justice structure imposed execution of a woman by Anti-Government Elements in March 2016 after finding her guilty of adultery, [district withheld], Jawzjan province.

In 2016, UNAMA documented 41 incidents of punishments<sup>265</sup> imposed on civilians by parallel justice structures, resulting in 50 civilian casualties (38 deaths and 12 injured).<sup>266</sup> While this reflects a

<sup>260</sup> In 2015, UNAMA documented 10 incidents of abduction targeting Hazara civilians in Ghazni province (63 Hazara civilians abducted in addition to 16 Hazara civilian deaths and one Hazara civilian injured).

<sup>261</sup> Of the three incidents targeting ethnic Hazara civilians in Ghor province, UNAMA attributed two to Anti-Government Elements self-identifying as *Daesh*/ISKP fighters with no apparent connection to *Daesh*/ISKP in Nangarhar province (beyond sending men to fight on their behalf) or the Islamic State in the Levant. For more information see Chapter on *Daesh*/Islamic State Khorasan Province.

<sup>262</sup> Common Article 3; Additional Protocol II, Article 4(2)(c); ICC Statute, Article 8(2)(c)(iii); ICRC Customary International Humanitarian Law Study, Rule 96, 156.

<sup>263</sup> International Covenant on Civil and Political Rights, Articles 6, 7, 9, 10, 12.

<sup>264</sup> UNAMA telephone interview with witness in Mazar-e-Sharif city, Balkh province 28 March 2016.

<sup>265</sup> The use of terminology “parallel justice structures” in this report should not be understood to imply that UNAMA consider the parallel administration of law systems operated by Taliban/Anti-Government Elements to be legitimate or, that by using the term “justice”, UNAMA considered the mechanisms to be in any way “just” or part of a uniform, regulated system. The term “parallel justice structure punishments” refers to the deliberate killing and/or injuring of a person as punishment by Anti-Government Elements that results in the trial, conviction, and execution or punishment of a person suspected of a crime, based on the notions of the crimes as defined by Taliban or other Anti-Government Elements, including the crime of “collaboration” or spying for the Government.

34 per cent reduction in killings and injury imposed by parallel justice structures compared to 2015,<sup>267</sup> such cases are likely under-reported given limited access to areas controlled by Anti-Government Elements.

UNAMA documented summary executions by beheading, shooting and hanging, in addition to lashings, beatings, amputation and humiliating and degrading treatment carried out by Anti-Government Elements – including Taliban – predominantly as punishments for the alleged commission of acts deemed criminal or behaviour considered “immoral” by both men and women, including women running away from home.<sup>268</sup> For example, on 6 August in Nad-e-Ali district, Helmand province, Anti-Government Elements cut off the hand of a man in a public ceremony after they found him guilty of stealing property from civilian houses abandoned by persons forcibly displaced from the area due to ground fighting. On 3 June, Taliban publically beheaded a man in Shah Joy district, Zabul province, after finding him guilty of murdering a shopkeeper. During the same public proceeding, Taliban lashed a woman 80 times as punishment for adultery.

UNAMA also documented the imposition of punishments by parallel justice structures on civilians accused of having family or working relations with the Afghan national security forces or the Government.<sup>269</sup> For example, on 2 December, Taliban publically hanged a university student in Chak district, Maidan Wardak province, after finding him guilty of killing two Taliban commanders. The Taliban claimed to have carried out an “investigation”, “arrested” and questioned the student before killing him.<sup>270</sup>

Punishments such as executions, amputations, beatings and other forms of harm carried out by these parallel justice structures violate the Constitution of Afghanistan, are criminal acts pursuant to the laws of Afghanistan and amount to human rights abuses. Moreover, these acts constitute serious violations of international humanitarian law that may amount to war crimes.<sup>271</sup> Compounding the illegality of such proceedings is the absence of Government redress mechanisms for victims of human rights abuses carried out by parallel justice structures run by Anti-Government Elements. The

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<sup>266</sup> All incidents of civilian casualties from parallel justice structure punishments recorded by UNAMA were carried out by Anti-Government Elements. UNAMA recorded instances of deaths and injuries from such procedures, whether the punishment was directly linked to the conflict (i.e. execution of the father of an ANA soldier) or was carried out by Anti-Governments against a civilian in relation to a non-conflict-related infraction i.e. public lashing for adultery. UNAMA documents the beating or killing of civilians abducted by Anti-Government Elements in the Chapter on Conflict-Related Abductions, or the deliberate killing of civilians by Anti-Government Elements in the Chapter on Anti-Government Targeted Killings Resulting in Civilian Casualties. Where UNAMA records information that civilians are beaten, tortured, executed, or otherwise mistreated following a parallel justice process, the case is documented in this chapter.

<sup>267</sup> In 2015, UNAMA documented 76 civilian casualties (60 deaths and 16 injured) from parallel justice structure punishments.

<sup>268</sup> Due to the inherent illegality of these mechanisms, UNAMA views the existence of these structures and resulting punishments as abuses of human rights. Thus, the analysis by UNAMA analysis does not evaluate the procedural elements reported by communities according to recognised human rights standards, for example, fair trial standards.

<sup>269</sup> UNAMA documents the killing of civilians perceived to be government spies as targeted killings, or abductions (when the civilian was abducted prior to being killed).

<sup>270</sup> Taliban claimed responsibility on its Dari website on 4 December, see: <http://alemarah-dari.com/?p=44395>, last accessed 27 December 2016.

<sup>271</sup> Common Article 3 protects civilians through the explicit prohibition of murder, violence, passing of sentences and carrying out of executions without respect for fair trial standards, torture, mutilation, humiliating and degrading treatment and other forms of violence. These acts are prohibited at any time and in any place whatsoever. See the Legal Framework section of this report for further details on the applicability of Common Article 3 to Afghanistan.

Government's failure to prevent such violations and hold perpetrators accountable may amount to a violation of human rights where it fails to comply with due diligence.<sup>272</sup>

UNAMA urges Anti-Government Elements to immediately cease running parallel justice structures, which are illegal and stop imposing punishments on Afghan civilians and immediately release all detained persons. It reiterates that the Government bears the ultimate responsibility to protect fundamental human rights in Afghanistan and must prioritize the suppression of all such illegal procedures.

### **Punishments by parallel justice structures imposed on women for so-called “moral crimes”**

In an increasingly disturbing trend, punishments imposed by Anti-Government Element parallel justice structures for so-called “moral crimes” continued in 2016. Between 1 January and 31 December 2016, UNAMA documented 10 such incidents resulting in the death of five women and the injury of five others.

UNAMA documented the execution by shooting of five women and two men by Anti-Government Elements through parallel justice structures for adultery, “immoral activities” and running away from home. For example, on 16 July, Anti-Government Elements took an 18-year-old woman from her home in Hazrat-Sultan district, Samangan province and dragged her to the top of a hill where they shot her to death after accusing her of “immoral activities”. On 1 August, in Kohistanat district, Sari Pul province, Anti-Government Elements shot dead a 19-year-old woman as punishment for running away from home, when she had sought assistance from police after suffering domestic violence.

The mission also recorded the public lashing of five women and two men by Anti-Government Elements for adultery in Shahjoy district, Zabul province and Dara-i-Suf Payin district, Samangan province; “running away from home” in Chahar Sadra district, Ghor province; “friendship with a male” in Pashtun-Kot district; and for riding inappropriately together on a motor-bike in Kohistanat district, Sari Pul province.

In addition to the above cases of punishments imposed by parallel justice structures, UNAMA also documented the shooting to death of a 20-year-old woman in Pashtun Kot district, Faryab province, by her father-in-law after a pro-Government armed group commander ordered her death as punishment for “immorality” after she allegedly spoke to a stranger on the phone and ran away from home.

UNAMA notes that the imposition of such punishments – on women as well as men – amounts to a violation of the right to life and other fundamental human rights. Such punishments are cruel, inhumane and degrading, in violation of Article 7 of the International Convention on Civil and Political Rights, Article 16 of the United Nations Convention Against Torture, and Common Article 3 to the Geneva Conventions. It also violates rights to liberty and security, and equality before the law.

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<sup>272</sup> The due diligence standard states the following: “Although an illegal act which violates human rights and which is initially not directly imputable to a State (for example, because it is the act of a private person or because the person responsible has not been identified) can lead to international responsibility of the State, not because of the act itself, but because of the lack of due diligence to prevent the violation or to respond to it”. See Inter-American Court of Human Rights, 1988 judgment in the Velasquez-Rodriguez case (a series of disappearances committed by non-state actors).

UNAMA reiterates that Anti-Government Elements, including Taliban, must immediately dissolve any existing parallel justice structures and cease imposing parallel justice structure punishments for alleged infractions of Sharia Law. The same prohibitions apply to pro-Government armed groups

### Deliberate Targeting of Civilians and Civilian Objects

*“I was in the middle of saying my second Raqat prayer when I heard gun-fire coming from the women’s section of the mosque. I could not escape. I saw a man wearing an Afghan National Civil Order Police uniform carrying an AK-47 with extra magazines, hand grenades, and a pistol. He started shooting indiscriminately at people. He shot my brother. Hand grenades were also used during the attack. I tried to find a place to hide but couldn’t find one. Finally, I found a room that is used by Imams and hid there with two others until the shooting finally stopped around 45 minutes later. I saw two dead men inside the mosque and an injured woman by the door. There were more women than men at the mosque that night.”<sup>273</sup>*

-- Victim of a *Daesh*/ISKP claimed mass shooting at Karte Sakhī shrine, Kabul city on 11 October that killed 19 civilians and injured 60 others.<sup>274</sup>

Throughout 2016, Anti-Government Elements continued to intentionally target civilians by directing attacks against civilians and civilian objects.<sup>275</sup> Of all civilian casualties documented by UNAMA in 2016, 24 per cent occurred as a result of attacks intentionally directed at civilians or civilian objects, consistent with trends in 2015.<sup>276</sup> UNAMA reiterates that attacks intentionally directed at civilians and civilian objects, including judicial officials and prosecutors, civilian Government workers (such as civilian Government buildings in district administration centres), embassies and consulates, media professionals, humanitarian de-miners, non-governmental organization workers and religious minorities are serious violations of international law that may amount to war crimes.<sup>277</sup> In certain contexts, when conducted as part of a widespread or systematic attack against a specific civilian population, such attacks may also constitute crimes against humanity.<sup>278</sup>

In addition to documenting civilian casualties based on tactic type (discussed in the preceding chapters), UNAMA also records incidents in relation to the intended target of the attack. UNAMA defines civilian targets in accordance with international humanitarian law and does not include attacks targeting Afghan national security forces, pro-Government armed group, Anti-Government Elements, international military forces, civilians directly participating in hostilities or attacks against

<sup>273</sup> UNAMA interview with victim, Kabul City, 2 December 2016.

<sup>274</sup> *Daesh*/ISKP claimed responsibility for the 11 October attack via the Amaq News Agency as tweeted by the Terror Monitor Twitter account, accessible at:

[https://twitter.com/Terror\\_Monitor/status/786176073163694080](https://twitter.com/Terror_Monitor/status/786176073163694080), last accessed 16 January 2017.

<sup>275</sup> This chapter concerns attacks intentionally directed at civilians or civilian objects using the various tactics discussed in the preceding chapters and is derived from those statistics as opposed to forming a new tactic type. Additional Protocol I, Article 49(1) defines attack as “acts of violence against the adversary, whether in offence or defence” (generally accepted as customary international humanitarian law). In addition to attacks, UNAMA also includes acts of violence against civilians with a conflict nexus and other acts, such as incidents of threat, intimidation, and harassment as well as the military use of educational and health facilities.

<sup>276</sup> In 2015, 2,474 civilian casualties occurred as a result of attacks targeting civilians or civilian objects comprising 22 per cent of all civilian casualties. UNAMA does not include attacks against Afghan National Police in its calculations, which may be attacks against civilians or attacks against persons directly participating in hostilities depending on the facts.

<sup>277</sup> War crimes include the commission of the acts prohibited by Common Article 3(1) against those not taking part in hostilities, including violence to life and person; the acts prohibited by Additional Protocol II, Article 4(2); and attacks intentionally directed at civilians or civilian objects. See ICC Statute, Articles 8(2)(c), 8(2)(e)(i); ICRC Customary International Law Study, Rule 156.

<sup>278</sup> See Chapter on Sectarian Attacks Targeting the Shia Muslim religious minority.

civilian locations being utilized for military purposes in this category.<sup>279</sup> In doing so, the mission can distinguish civilian casualties occurring collaterally as a result of ground fighting or attacks against military objectives from those intentionally targeted by parties to the conflict – a war crime.<sup>280</sup>

In 2016, Taliban claimed responsibility for 82 attacks directed at civilians or civilian objects resulting in 464 civilian casualties (119 deaths and 345 injured). On some occasions, Taliban justified attacks against civilians – media and judicial officials and staff – by designating on its own terms targets deemed civilian pursuant to international humanitarian law as military objectives.<sup>281</sup> Other examples of Taliban claimed attacks targeting civilians included a suicide attack in Kabul city on 20 June targeting a bus carrying Nepalese security guards to work at the Canadian Embassy. The attack killed 15 civilians and injured seven others.<sup>282</sup>

*Daesh*/ISKP claimed responsibility for nine attacks targeting civilians or civilian objects in 2016, resulting in 743 civilian casualties (164 deaths and 579 injured), including three attacks targeting the Shia Muslim religious minority in Kabul city and one attack targeting civilian Government workers that caused a total of 712 civilian casualties (152 deaths and 560 injured).<sup>283</sup> *Daesh*/ISKP also targeted civilians in Nangarhar province. For example, on 21 June in Behsud district, Nangarhar province, *Daesh*/ISKP shot dead the son of an ALP commander who owned an auto-shop in a drive-by shooting and wounded a 14-year-old boy in the area at the time.<sup>284</sup>

In general, UNAMA observed increases in civilian casualties from attacks directed against humanitarian de-miners,<sup>285</sup> tribal elders,<sup>286</sup> and religious facilities in 2016.<sup>287</sup> Such attacks included an

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<sup>279</sup> UNAMA does not include attacks targeting ANP in its statistics on attacks directed at civilians or civilian objects because determination of the civilian protection afforded to Afghan National Police depends on a case-by-case analysis of their function and activities at the time of attack.

<sup>280</sup> War crimes include the commission of the acts prohibited by Common Article 3(1) against those not taking part in hostilities, including violence to life and person; the acts prohibited by Additional Protocol II, Article 4(2); and attacks intentionally directed at civilians or civilian objects. See ICC Statute, Articles 8(2)(c), 8(2)(e)(i); ICRC Customary International Law Study, Rule 156. This does not exclude the possibility that civilian casualties arising indirectly from attacks targeting military objectives may also constitute serious violations of international humanitarian law that may amount to war crimes, including indiscriminate and disproportionate attacks. See, for example, Prosecutor v. *Stanislav Galić*, Case No. IT-98-29-A, Appeal Judgement, 30 November 2006, paras. 132, 133. See also ICRC Customary International Humanitarian Law, Rule 156.

<sup>281</sup> For example, in a statement issued on 29 April prior to the Government's execution of six Taliban members convicted and sentenced to death, Taliban stated "[t]he enemy's supposed judicial bodies could possibly once again pay a hefty price for their crimes [...] their workers advocating implementation of such [executions] shall be categorically be classified as legitimate military targets". See "Statement of Islamic Emirate regarding intent of executing prisoners by Ghani administration", formerly accessible at: <http://shahamat-english.com/statement-of-islamic-emirate-regarding-intent-of-executing-prisoners-by-the-ghani-administration/>, copy on record with UNAMA. See also Chapter on Taliban Claims of Responsibility and Public Statements.

<sup>282</sup> Taliban claimed responsibility on its English website, formerly accessible at: <http://shahamat-english.com/?p=487>, copy on record with UNAMA. *Daesh*/ISKP also claimed responsibility for this incident; however, UNAMA recorded the civilian casualties under the Taliban category, reported at: <https://news.siteintelgroup.com/Jihadist-News/is-khorasan-province-claims-killing-16-nepalese-security-guards-in-suicide-bombing-in-kabul3.html>, last accessed 2 February 2016.

<sup>283</sup> See Chapter on *Daesh*/Islamic State Khorasan Province for full details.

<sup>284</sup> *Daesh*/ISKP claimed responsibility for the incident on 21 June on "Khilafat Ghab Radio" station.

<sup>285</sup> In 2016, UNAMA documented 19 civilian casualties (nine deaths and 10 injured) and the abduction of 110 civilians during Anti-Government Element attacks targeting humanitarian de-miners compared to 10 civilian casualties (two deaths and eight injured) and the abduction of 47 civilians in 2015.

<sup>286</sup> UNAMA recorded a reduction in the number of attacks targeting tribal elders in 2016 but a 55 per cent increase in the number of civilian casualties generated by such attacks. In 2016, UNAMA documented 69

Anti-Government Element suicide attack targeting a gathering of tribal elders in Asadabad district, Kunar province, on 27 February that killed 14 civilians and injured 37 others. In comparison, civilian casualties from attacks targeting civilian Government workers (including judges, prosecutors and judicial staff) decreased compared to 2015.<sup>288</sup> Notwithstanding, UNAMA remains concerned both by the expressed targeting of judicial officers and staff by Taliban following the Government's execution of six Taliban prisoners sentenced to death in May and persistent attacks against the civilian government administration.<sup>289</sup> For example, on 5 October, an Anti-Government Elements suicide attacker detonated a body-borne IED against a bus transporting staff members of the Ministry of Mines on Darulaman Road in Kabul city, injuring 20 civilians.

UNAMA also documented four attacks targeting embassies and consulates in 2016 that resulted in 177 civilian casualties (13 deaths and 164 injured). Anti-Government Elements attacked the Indian consulates in Jalalabad city, Nangarhar province, and Mazar-e-Sharif, Balkh province, while *Daesh*/ISKP claimed responsibility for an attack on the Pakistani consulate in Jalalabad city. Taliban also claimed responsibility for attacking the German consulate in Mazar-e-Sharif.<sup>290</sup>

***Daesh*/ISKP suicide attack on a peaceful demonstration in Kabul city, 23 July: killed 85 civilians and injured 413**

*"The leaders organized a press conference and delivered speeches about the protest in Deh Mazang square and what the next steps would be. I heard that some protestors wanted to leave so I moved from group to group to convince them to stay. At around 2.15 p.m., there was an explosion behind a truck. We all fell down. I tried to stand up but couldn't – my legs were bleeding. I saw that one of my friends was dead on my left side and that my other friend was dead on my right side. Immediately afterwards, while I was still on the ground, a second explosion took place. It created more panic among people – they were terrorised and they screamed and ran way in all directions."*<sup>291</sup>

On 23 July, two suicide attackers detonated body-borne IEDs in the middle of a peaceful demonstration in Deh Mazang square, Kabul city, causing 498 civilian casualties (85 deaths and 413 injured), the deadliest single incident recorded by UNAMA since 2001 (*for further contextual discussion see Chapter on Sectarian Attacks Against the Shia Muslim Religious Minority*).

Civil society activists organized the demonstration in protest of the Government's decision to re-route the construction of a trans-regional electricity line away from Bamyan province. Most of the

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attacks targeting tribal elders resulting in 185 civilian casualties (94 deaths and 91 injured) compared to 92 incidents resulting in 119 civilian deaths (71 deaths and 48 injured) in 2015.

<sup>287</sup> UNAMA documented 15 attacks targeting religious facilities and personnel in 2016 causing 377 civilian casualties (86 deaths and 291 injured) compared to 40 incidents in 2015 that resulted in 53 civilian casualties (39 deaths and 14 injured).

<sup>288</sup> UNAMA documented 148 incidents targeting civilian government officials (not including judges, prosecutors, and judicial staff) resulting in 409 civilian casualties (62 deaths and 347 injured) in 2016 compared to 182 incidents that caused 947 civilian casualties (154 deaths and 793 injured) in 2015. The mission recorded a 40 per cent decrease in civilian casualties from attacks targeting judges, prosecutors, and judicial staff in 2016 (333 attacks – 112 civilian casualties (41 deaths and 71 injured)) compared to 2015 (37 incidents – 188 civilian casualties (46 deaths and 142 injured)).

<sup>290</sup> For more information, see Chapter on Suicide and Complex Attacks.

<sup>291</sup> UNAMA interview with victim, Kabul city. See UNAMA Human Rights and Protection of Civilians in Armed Conflict Special Report: Attack on a Peaceful Demonstration in Kabul, 23 July 2016, available at [https://unama.unmissions.org/sites/default/files/23\\_july\\_suicide\\_attack\\_against\\_peaceful\\_demonstration\\_-\\_18\\_oct\\_2016.pdf](https://unama.unmissions.org/sites/default/files/23_july_suicide_attack_against_peaceful_demonstration_-_18_oct_2016.pdf), last accessed 28 December 2016.



participants in the demonstration – and victims of the attack - belonged to the Hazara ethnic group and Shia Muslim religious minority.

*Daesh*/ISKP claimed responsibility for the attack via the Amaq news agency. The claim stated that the organization targeted a group of “rejectionist polytheists”, also referring to the victims as “apostates”, ‘in response to their collaboration with the Nusayris [Shias] in the war on the Sunnis in the land of Syria, and in order to purify the land of Khurasan and all other lands of the Muslims of the impurity of their polytheism.’<sup>292</sup> *Daesh*/ISKP also claimed responsibility for two subsequent attacks targeting members of the Shia Muslim religious minority in Kabul city on 11 October and 21 October.<sup>293</sup>

UNAMA issued a special report “Attack on a Peaceful Demonstration in Kabul, 23 July 2016” on the incident addressing its human rights implications and providing recommendations to the Government.<sup>294</sup> Specifically, UNAMA concluded that the attack: (i) deliberately targeted civilians with the aim of spreading terror amongst the civilian population and was a serious violation of international humanitarian law that may amount to a war crime; (ii) appeared to deliberately target persons belonging to a specific ethnic and religious community and the claim of responsibility used language advocating religious hatred and incitement to violence; and (iii) had a serious negative impact on the demonstrator’s rights to freedom of opinion and expression, and peaceful assembly.<sup>295</sup>

UNAMA further concluded that the Afghan national security forces’ planning, deployment of forces and vehicles during the protest, and response to the attack was commensurate with its capabilities and resources and the information available to it at the time but that its efforts to systematically investigate the attack were limited, leading to potential violations of victims’ right to truth as well as preventing victims from accessing reparation/redress schemes.<sup>296</sup> It noted that despite the Government’s announcement of the establishment of a Truth Finding and Investigative Committee, insufficient information on the attack had been shared with the public and no tentative date for the release of its report has been announced.<sup>297</sup>

The mission made a number of recommendations to the Government, including, *inter alia*, that it should take into consideration the rights to freedom of expression and peaceful assembly when making decisions related to the management of demonstrations; strengthen its response to mass casualty incidents by recording the medical condition, cause of injury or death, and identity of each

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<sup>292</sup> *Daesh*/ISKP claimed responsibility for the 23 July attack in Deh Mazang square via the Amaq News Agency accessible through the Terror Monitor Twitter account:

[https://twitter.com/Terror\\_Monitor/status/756895238975664128](https://twitter.com/Terror_Monitor/status/756895238975664128);

<sup>293</sup> For more information, see Chapter on *Daesh*/Islamic State Khorasan Province.

<sup>294</sup> Accessible at:

[https://unama.unmissions.org/sites/default/files/23\\_july\\_suicide\\_attack\\_against\\_peaceful\\_demonstration\\_-\\_18\\_oct\\_2016.pdf](https://unama.unmissions.org/sites/default/files/23_july_suicide_attack_against_peaceful_demonstration_-_18_oct_2016.pdf), last accessed 28 December 2016.

<sup>295</sup> UNAMA Human Rights and Protection of Civilians in Armed Conflict Special Report” “Attack on a Peaceful Demonstration in Kabul, 23 July 2016”, para. 39.

<sup>296</sup> UNAMA Human Rights and Protection of Civilians in Armed Conflict Special Report, paras. 46, 52. States should endeavour to establish national programmes for reparation and other assistance to victims in the event that the parties liable for the harm suffered are unable or unwilling to meet their obligations. See Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (16 December 2005), Article 16.

<sup>297</sup> UNAMA Human Rights and Protection of Civilians in Armed Conflict Special Report, para. 53.

casualty; and strengthen efforts to protect all ethnic and religious communities in addition to mitigating ethnic, tribal, and sectarian tensions.<sup>298</sup>

To date, the Government has issued compensation of 100,000 Afghanis to 70 families of those killed and 50,000 Afghanis to 50 injured persons. The Government fact-finding commission established to investigate the attack has yet to publicly release its findings and no prosecutions have been initiated.

In the strongest terms, UNAMA urges *Daesh*/ISKP – and all Anti-Government Elements – to cease attacks directly targeting civilians. In addition, the mission calls on the Government to implement the recommendations contained in its special report and to hold accountable the perpetrators of all attacks directly targeting civilians as well as those employing suicide attack tactics in civilian-populated areas.

## Taliban Claims of Responsibility and Public Statements

### *Claims of Responsibility for Attacks Impacting Civilians*

In 2016, Taliban claimed responsibility for 225 incidents that caused 1,464 civilian casualties (358 deaths and 1,106 injured) and included the abduction of 260 civilians. The 1,464 civilian casualties include only those civilian deaths and injuries resulting from attacks publicly claimed by Taliban on their website or Twitter.<sup>299</sup> This number reflects a 36 per cent decrease in the number of incidents resulting in civilian casualties claimed by Taliban compared to 2015, however the number of civilian casualties occurring during those incidents claimed by the Taliban is comparable to that documented in 2015.<sup>300</sup>

Of the 225 incidents claimed by Taliban, 82 targeted civilians or civilian objects (including civilian Government workers and judicial staff, tribal elders and humanitarian de-miners); 77 targeted Afghan national security forces, international military forces or pro-Government armed groups; and 66 targeted ANP or Afghan National Border Police. *See Annex 1 for the breakdown of claimed attacks by target type.*

In 2016, most civilian casualties in attacks claimed by Taliban resulted from suicide and complex attacks targeting civilians or in civilian-populated areas. Twenty incidents of suicide and complex attacks claimed by Taliban caused 983 civilian casualties (182 deaths and 801 injured) – 67 per cent of all civilian casualties arising from attacks claimed by Taliban. The mission reminds Taliban once again that any attack deliberately targeting civilians is illegal under international humanitarian law and amounts to a war crime.

Attacks claimed by Taliban also included the deliberate targeting of individual civilians (including abduction) and civilian objects, indiscriminate IED attacks and attacks targeting Afghan national security forces that killed and injured civilians.

### *Statements on civilian protection*

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<sup>298</sup> See UNAMA Human Rights and Protection of Civilians in Armed Conflict Special Report, paras. 54-62 for the full list and elaboration of UNAMA recommendations to the Government and protest organizers.

<sup>299</sup> At the time of publication, the following links provided access to Taliban digital media: <http://alemarah-english.com/> (English), <http://alemara1.org/> (Pashto), <http://alemarah-dari.com/> (Dari). The Taliban spokesperson also used the following Twitter account: <https://twitter.com/zmujahid5>.

<sup>300</sup> In 2015, UNAMA recorded Taliban public claims of responsibility for 352 incidents that caused 1,490 civilian casualties (437 deaths and 1,053 injured).

Taliban released 34 public statements directly or implicitly related to the protection of civilians and civilian objects in 2016. Despite such statements, UNAMA continued to document indiscriminate attacks carried out by Taliban in public places that harmed civilians and other attacks directly targeting civilians.<sup>301</sup>

Taliban released four reports in 2016 detailing civilian casualty figures in which it acknowledged causing civilian casualties.<sup>302</sup> According to Taliban statements, its figures come from a recently established “Independent Organ of the Islamic Emirate for the Prevention of Civilian Casualties and Enquiry of Grievances” – that the Taliban also appear to refer to as the Department for Prevention of Civilian Casualties and Complaints – tasked with investigating and recording civilian casualties caused by all parties to the conflict.<sup>303</sup>

In its annual report for 2016, Taliban claimed to document 5,232 civilian casualties between January and December 2016, of which “Americans and the stooge administration” caused 71 per cent<sup>304</sup> (3,836 civilian casualties – 1,504 deaths and 2,332 injured); *Daesh*/ISKP, unidentified gunmen, and infighting among locals caused 17 per cent<sup>305</sup> (1,127 civilian casualties - 380 deaths and 747 injured); and Taliban caused 12 percent<sup>306</sup> – namely 269 civilian casualties (120 deaths and 149 injured).<sup>307</sup> In comparison, UNAMA documented 11,418 civilian casualties in 2016 (3,498 deaths and 7,920 injured), attributing 61 per cent to Anti-Government Elements (6,994 civilian casualties – 2,131 deaths and 4,863 injured) and 24 per cent to Pro-Government Forces (2,728 civilian casualties – 903 deaths and 1,825 injured). These figures include 1,464 civilian casualties (358 deaths and 1,106 injured) from incidents or attacks for which the Taliban publicly claimed responsibility.

In the same report, the Taliban also stated that its Department for Prevention of Civilian Casualties and Complaints conducted comprehensive investigations into all incidents of civilian casualties caused by “Mujahideen of Islamic Emirate”, forwarded the cases to the “Military Courts” for a verdict and punished those found guilty in accordance with “the decree and in light of Sharia”. It further stated that it meets with the family of victims for the purposes of peace and reconciliation.

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<sup>301</sup> UNAMA also documented public statements by Taliban criticizing media organizations that it considers to spread government propaganda. For more information see Chapter on Impact of Armed Conflict on Freedom of Expression.

<sup>302</sup> “Invaders and Kabul Regime are responsible for 78% civilian casualties”, 9 May 2016, accessible at: <http://alemarah-english.com/?p=240>; “Second Quarterly Report by Department for the Prevention of Civilian Casualties”, 28 August 2016, accessible at: <http://alemarah-english.com/?p=3430>; “Third Quarterly Report (of August, September, and October 2016) by the ‘Independent Organ of the Islamic Emirate for the Prevention of Civilian Casualties and Enquiry of Grievances’”, 18 November 2016, accessible at: <http://alemarah-english.com/?p=7290>; “Civilian Casualties Report 2016”, 6 January 2017, accessible at: <http://alemarah-english.com/?p=9372>. All last accessed 9 January 2017.

<sup>303</sup> See “Invaders and Kabul Regime are responsible for 78% civilian casualties”, 9 May 2016, accessible at: <http://alemarah-english.com/?p=240>, last accessed 18 December 2016: “A separate and independent organ has been established by the Leadership of Islamic Emirate which is fully autonomous in its surveys and investigations. It examines incidents of civilian losses and casualties caused by all sides, investigates them and records their numbers. This report is then sent to the executive organs of the Islamic Emirate and a copy is provided to media outlets on the regular basis.” It further states: “A special ‘Modus Operandi’ has been prepared to organize the activities of this organ.” For more information, see UNAMA 2016 Mid-Year Report on Protection of Civilians in Armed Conflict, pp. 69, 70. See also “Civilian Casualties Report 2016, 6 January 2017”, accessible at: <http://alemarah-english.com/?p=9372>, last accessed 9 January 2017.

<sup>304</sup> In its report Taliban stated this as 71 per cent, actual figure is 73 per cent.

<sup>305</sup> In its report Taliban stated this as 17 per cent, actual figure is 22 per cent.

<sup>306</sup> In its report Taliban stated this as 12 per cent, actual figure is five per cent.

<sup>307</sup> Civilian Casualties Report 2016, 6 January 2017, accessible at: <http://alemarah-english.com/?p=9372>, last accessed 9 January 2017.

UNAMA notes that the Taliban failed to provide any specific examples providing details of its responses to civilian casualties in this regard.<sup>308</sup>

Taliban issued public statements rejecting the findings of the UNAMA 2016 Mid-Year Report on Protection of Civilians in Armed Conflict and the UNAMA press releases covering civilian casualty statistics between January and September 2016.<sup>309</sup> In all statements, Taliban argued that American aerial operations and the indiscriminate use of heavy weapons by Afghan national security forces are the leading causes of civilian casualties as opposed to actions by Anti-Government Elements, in contradiction to UNAMA's findings.<sup>310</sup> The Taliban statements also accused UNAMA of bias in its reporting.

Despite continuing attacks against civilians and in civilian-populated areas, the Taliban also sought to explain efforts to minimize civilian casualties with respect to several of its attacks and displayed awareness of its obligation to protect of civilians in other public statements.<sup>311</sup> For example, in their public statement announcing the launch of the 2016 spring offensive Operation Omari, Taliban stated: “during the planning of this Operation, the Mujahideen have been unequivocally instructed to implement their operations in such a manner that takes pains to protect civilians and civil infrastructure”.<sup>312</sup> Taliban leader – Mullah Hibatullah – also stated in his Eid-ul-Adha message that

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<sup>308</sup> In its statement, the Taliban also stated that it recently integrated the “Commission for Hearing Complaints” into the Department for Prevention of Civilian Casualties and explained that the commission is tasked with hearing the claims against all “Mujahideen” regardless of rank and address the problem “as quickly as possible in the light of Shariah”. It further stated that “even if a high-ranking member Islamic Emirate is found guilty following the registration of a complaint against him, he will be dealt with as an ordinary individual.” See “Civilian Casualties Report 2016”, accessible at: <http://alemarah-english.com/?p=9372>, last accessed 9 January 2017.

<sup>309</sup> In 2016 – in addition to this report - UNAMA released: (i) a quarterly press release covering civilian casualty statistics from 1 January to 31 March in April 2016; (ii) a Mid-Year report covering civilian casualty statistics from 1 January to 30 June in July 2016; and (iii) a quarterly press release covering civilian casualties from 1 January to 30 September. All accessible at: <http://unama.unmissions.org/protection-of-civilians-reports>, last accessed 18 December 2016. The Taliban did not release an official response to UNAMA first quarter report on protection of civilians.

<sup>310</sup> While ground engagements caused most civilian casualties in 2016 and civilian casualties from aerial operations substantially increase, UNAMA identified Anti-Government Elements as causing the majority of civilian casualties in all of its 2016 public reports and press statements on protection of civilians in armed conflict.

<sup>311</sup> For example, in relation to the 19 April complex attack targeting a VIP Protection Directorate in Kabul city (UNAMA verified 56 civilian deaths and 337 injured), Taliban stated that: “Everyone is aware that no civilians are permitted to travel in close proximity to the 10<sup>th</sup> directorate building of the NDS and neither is this a civilian area. However due to the power of the huge explosion, glass of many far buildings was shattered which caused minor injuries to some people and there was no serious injury reported.” See Kabul Martyr Attack Final Report, 19 April 2016, formerly accessible at: <http://shahamat-english.com/kabul-martyr-attack-final-report/>, copy on record with UNAMA. In response to an Amnesty International criticism of a complex attack in Kabul city on 5 September that it believed directed at the NGO Care International, Taliban argued the attack was directed at a nearby NDS office and stated: ““We have always declared at launch of our spring operations that civilians and civilian compounds must keep their distance from the military and intelligence centers of foreign invaders and their stooges so that they are not harmed during attacks. Therefore it is not our responsibility that such NGOs brush aside our warnings.” See “Remarks by spokesman of Islamic Emirate regarding unjust condemnation and verdict by Amnesty International”, 7 September 2016, accessible at: <http://alemarah-english.com/?p=3988>, last accessed 18 December 2016.

<sup>312</sup> “Statement by Leadership Council of Islamic Emirate Regarding Inauguration of Spring Offensive Entitled Operation Omari”, 12 April 2016, formerly accessible at: <http://shahamat-english.com/statement-by-leadership-council-of-islamic-emirate-regarding-inauguration-of-spring-offensive-entitled-operation-omari/>, copy on record with UNAMA.

“Mujahideen know how to behave well with people, prevent civilian casualties”.<sup>313</sup> Taliban also issued statements disclaiming involvement in, or condemning, attacks, including those targeting the Shia Muslim religious minority in Kabul city claimed by *Daesh*/ISKP.<sup>314</sup>

UNAMA continued to monitor public reporting by all parties to the conflict, noting the Taliban’s establishment of an “independent commission” mandated to investigate civilian casualties and its public statements asserting its commitment to reducing civilian casualties. In this regard, UNAMA re-emphasizes that it attributed 4,953 civilian casualties (1,618 deaths and 3,335 injured) to Taliban in 2016, of which 1,464 civilian casualties (358 deaths and 1,106 injured) occurred in incidents publicly claimed by Taliban.

UNAMA urges the Taliban to reinforce efforts to reduce civilian casualties in line with the organization’s publicly stated commitment to protect civilians from harm. It further calls on the Taliban to ensure that meaningful steps are taken towards decreasing civilian casualties caused during its operations and urges it to apply a definition of “civilian” that complies with international humanitarian law – which applies equally to all parties to the ongoing armed conflict in Afghanistan, including Taliban.<sup>315</sup> UNAMA reiterates that the Taliban’s public statements must be directed internally to its members on the battle-field and in areas under its control in order that such statements are not simply a public relations exercise.

### ***Daesh*/Islamic State Khorasan Province**

In 2016, UNAMA documented a sharp increase in civilian casualties caused by groups belonging to, or claiming allegiance to the Islamic State Khorasan Province (ISKP) branch of the Islamic State in Iraq and the Levant – known in Afghanistan by the Arabic acronym “*Daesh*”, primarily as a result of several large-scale attacks in Kabul city.<sup>316</sup>

UNAMA attributed 899 civilian casualties (209 deaths and 690 injured) to *Daesh*/ISKP in 2016 as opposed to 82 civilian casualties (39 deaths and 43 injured) in 2015. *Daesh*/ISKP publically claimed responsibility for 11 separate incidents that resulted in 747 civilian casualties (166 deaths and 581 injured). In addition to these civilian casualties, UNAMA also documented an additional 107 civilian casualties (45 deaths and 62 injured) and the abduction of 12 civilians perpetrated by self-identified *Daesh*/ISKP fighters in Ghor, Jawzjan, and Sari Pul provinces.<sup>317</sup>

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<sup>313</sup> “Message of Felicitation of the Esteemed Amir-ul-Momineen, Sheikhul Hadith Hibatullah Akhundzada on the Eve of Eid-ul-Adha”, 9 September 2016: <http://alemarah-english.com/?p=4131>, last accessed 18 December 2016.

<sup>314</sup> For example, see “Sectarian Killings; A Dangerous Enemy Conspiracy”, 15 October 2016: “These attacks – no matter who perpetuated them and under what excuse – are primarily aimed at harming the Afghan people.”, accessible at: <http://alemarah-english.com/?p=5782>, last accessed 18 December 2016.

<sup>315</sup> For example, in a public statement issued on 21 May 2016, Taliban “invited” the “workers of invaders and Kabul administration” to take advantage of an amnesty to “protect themselves and their families from shame and harm in this world [...] to safeguard their li[v]es and wealth”. UNAMA emphasises that persons working for the Afghan government, NATO, embassies, or international organizations are civilians unless members of the armed forces or directly participating in hostilities and no “amnesty” is necessary for their protection, which is provided for pursuant to international humanitarian law. See Common Article 3 and Additional Protocol II, Article 13. See also Chapter on The Right to Freedom of Expression: Impact of the Armed Conflict.

<sup>316</sup> For more information, see Chapter on Sectarian Attacks against the Shia Muslim Religious Minority.

<sup>317</sup> UNAMA refers to “self-identified *Daesh*/ISKP fighters” where Anti-Government Elements identify or claim to be “*Daesh*” but there is no factual information supporting a formal link to *Daesh*/ISKP in Nangarhar province or the Islamic State in the Levant in Iraq and Syria. In 2016, such groups caused civilian casualties in Jawzjan, Sari Pul, and Ghor provinces. Civilian casualties resulting from attacks by these groups are not

UNAMA is extremely concerned by the expansion of Daesh/ISKP in Afghanistan in 2016, including its increased ability to conduct large, deadly attacks against civilian targets in Kabul city, a trend that emerged in July 2016, prior to which all *Daesh*/ISKP civilian casualties had occurred in Nangarhar province. In 2016, *Daesh*/ISKP carried out four major attacks directed against civilians in Kabul city, three of which targeted the Shia Muslim religious minority, resulting in 691 civilian casualties (144 deaths and 547 injured).<sup>318</sup> *Daesh*/ISKP claimed responsibility for a suicide attack on 16 November in the Pul-i-Mahmud Khan area of Kabul city in which a *Daesh*/ISKP-affiliated suicide attacker detonated a body-borne IED against a minibus transporting staff members of the Presidential Protection Service, killing eight civilians and injuring 13.<sup>319</sup>

In 2016, civilian casualties attributed to *Daesh*/ISKP more than doubled in Nangarhar province.<sup>320</sup> UNAMA documented 187 civilian casualties (57 deaths and 130 injured) compared to 80 civilian casualties (37 deaths and 43 injured) in 2015. UNAMA documented *Daesh*/ISKP public claims of responsibility for seven of these attacks that caused 35 civilian casualties (14 deaths and 21 injured).<sup>321</sup> Targeted killings caused most civilian casualties attributed to *Daesh*/ISKP in Nangarhar province (59 per cent),<sup>322</sup> followed by suicide and complex attacks (23 per cent) and ground engagements (10 per cent). UNAMA attributed 12 incidents resulting in the abduction of 116 civilians and 10 civilian deaths to *Daesh*/ISKP in Nangarhar province.

UNAMA notes with concern that *Daesh*/ISKP fighters frequently targeted civilians and civilian objects in Nangarhar province in 2016, including tribal elders and religious, education, and health-care facilities.<sup>323</sup> For example, on 24 June, *Daesh*/ISKP fighters entered several villages in Kot district, Nangarhar province, targeting Afghan Local Police and members of local uprising groups (community members who arm themselves against Anti-Government Elements). Sources reported that *Daesh*/ISKP fighters entered the family homes belonging to these categories, as well as those of families perceived to be pro-Government, and threatened and harassed those inside. While entering houses, the *Daesh*/ISKP fighters shot dead a five-year-old boy and injured two others by shooting, while an elderly lady died of a heart attack during the offensive.

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included in the *Daesh*/ISKP attributed figures; UNAMA attributes civilian deaths and injuries from ‘self-identified *Daesh*/ISK fighters’ to Anti-Government Elements without a specific group attribution. See Chapter on Anti-Government Elements Targeted Killings Resulting in Civilian Casualties for more information on Ghor province.

<sup>318</sup> See Chapters on Sectarian Attacks Against the Shia Muslim Religious Minority and Suicide and Complex Attacks for more information.

<sup>319</sup> *Daesh*/ISKP claimed responsibility for the attack on 17 November, accessible at: <http://www.didpress.com/index.php/fa/2016-10-10-07-21-08/8-2016-03-24-15-08-52/1033-2016-11-17-05-42-46>, last accessed 15 January 2017.

<sup>320</sup> These statistics include both attacks claimed by self-identified *Daesh*/ISKP members and un-claimed attacks attributed to *Daesh*/ISKP by UNAMA based on information received from at least three independent types of sources.

<sup>321</sup> Of the seven incidents, *Daesh*/ISKP publically claimed responsibility for four attacks on its “*Khilafat Ghab Radio*” station, for two attacks through written statements (accessible at: <https://news.siteintelgroup.com/Jihadist-News/is-claims-killing-wounding-40-in-jalalabad-suicide-operation.html>; <https://news.siteintelgroup.com/Jihadist-News/is-khorasan-province-claims-suicide-raid-on-pakistani-consulate-in-jalalabad.html>, both last accessed 15 January 2017), and for one attack in a letter issued to the community.

<sup>322</sup> This statistic includes the remote-controlled IED attack targeting the Mullah Imam of Hisarak Hami Mosque, in Rodat district on 10 June 2016 that killed three civilians (including one boy) and injured 78 civilians (including 31 boys).

<sup>323</sup> Of the 50 incidents, UNAMA attributed to *Daesh*/ISKP in Nangarhar province in 2016, 34 targeted civilians or civilian objects.

During the same offensive, *Daesh*/ISKP fighters also abducted 15 civilians, including six women and two children, as well as five Afghan Local Police and members of local uprising groups. The Anti-Government Elements subsequently killed five of the seven abducted adult male civilians by shooting and beheading (releasing the two that remained alive) and beheaded the five Afghan Local Police and members of local uprising groups. On 6 September, the *Daesh*/ISKP fighters released the six women and two children in exchange for the Government's release of two detained women *Daesh*/ISKP members. In addition, the fighters looted 24 civilian homes and set fire to another 50, affecting 95 families and contributing to the displacement of an undetermined number of civilians.<sup>324</sup>

UNAMA documented the mass abduction of 61 civilians from Pachir Agam district by *Daesh*/ISKP fighters on 19 October. At the time of publication of the report, 56 remained in captivity in the Shadal area of Achin district as negotiations for their release continued following the release of five abductees on 20 January 2017.<sup>325</sup>

### **Civilian casualties attributed to fighters self-identified as *Daesh*/ISKP**

For the first time, UNAMA attributed civilian casualties to fighters describing themselves as *Daesh*/ISKP with no apparent link to *Daesh*/ISKP in Nangarhar (or the Islamic State in the Levant), recording 107 civilian casualties (45 deaths and 62 injured). In Jawzjan province, UNAMA documented 71 civilian casualties (16 deaths and 55 injured) from eight incidents, four of which targeted Afghan Local Police, including a remote-controlled improvised explosive device detonation in Darzab district bazaar that killed seven civilians (including four boys) and injured 53 others (including 16 boys). UNAMA also recorded the beheading of a civilian man believed to have provided food to Afghan Local Police, the shooting to death of two elderly men accused of being related to Afghan Local Police, and the shooting to death of a mullah who condemned violent extremism. In Sari Pul province (neighbouring Jawzjan province), a group self-identifying as *Daesh*/ISKP fighters abducted and killed three ethnic Hazara male civilians (and members of the Shia Muslim religious minority) on 24 September.

In Chagcharan district, Ghor province, UNAMA documented the abduction and execution of 26 civilians and the injury of six others on 25 October by Anti-Government Elements identifying as *Daesh*/ISKP,<sup>326</sup> and the abduction of six civilian men on 4 November. The Anti-Government Elements released the six abductees on 26 November following negotiations with local elders. In Dawlat Yar district, Ghor province, Anti-Government Elements claiming allegiance to *Daesh*/ISKP killed two civilians and injured another during the attempted targeted killing of a Peace Council member on 27 July. On 23 August, in the same district, a group of self-identified *Daesh*/ISKP fighters abducted an ethnic Hazara man and released him on 17 September after payment of a ransom. On 1 September, the same group abducted five ethnic Hazara students from the same area and beheaded one after his family failed to pay a ransom. The Anti-Government Elements released the four other students around 25 October following protests by local people and action by the National Directorate of Security.<sup>327</sup>

<sup>324</sup> *Daesh*/ISKP claimed responsibility for this incident on its “*Khilafat Ghah Radio*” station.

<sup>325</sup> *Daesh*/ISKP did not claim responsibility for this incident. Attribution is based on UNAMA analysis.

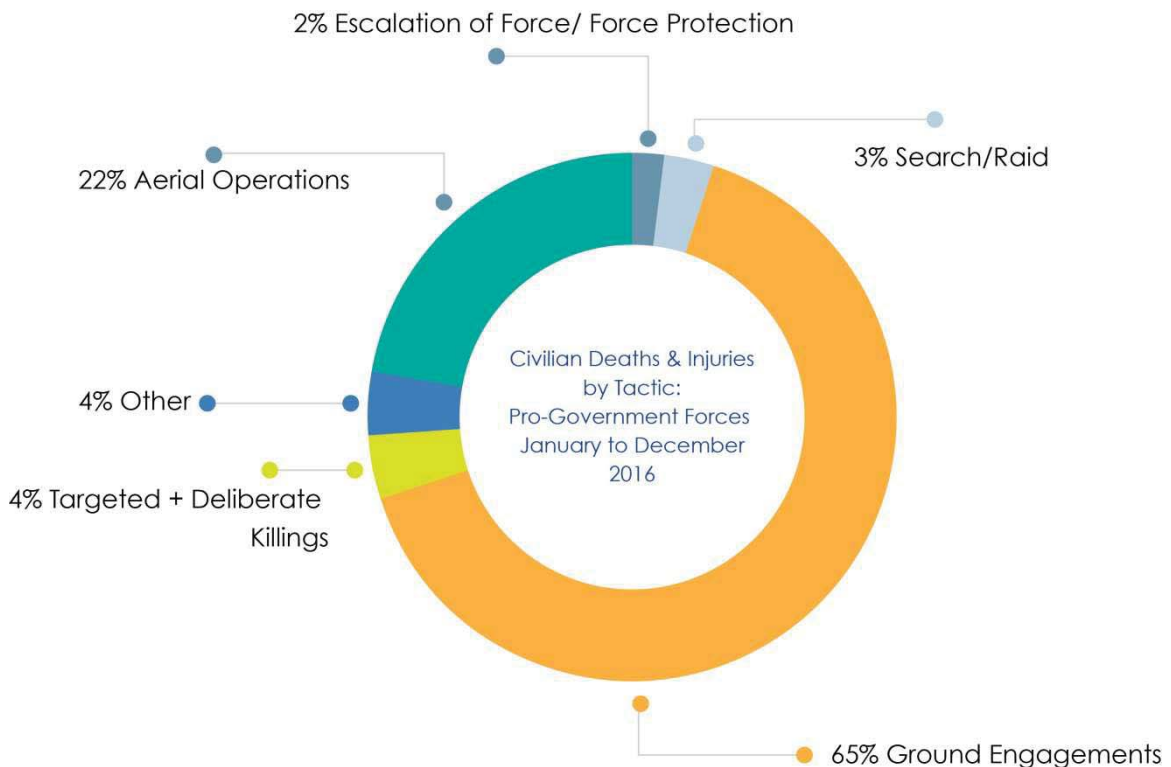
<sup>326</sup> For detailed information, see Chapter on Anti-Government Elements Targeted Killings Resulting in Civilian Casualties.

<sup>327</sup> In response to the abductions, local ethnic Hazara civilians abducted seven Tajik civilians from a passing vehicle and on 5 September, Tajik ethnic civilians abducted 14 Hazara civilians from a vehicle in Ferozokh city. Both groups released the abducted civilians on 11 October following negotiations. For more information on the abduction of ethnic Hazara civilians, see Chapter on Conflict-Related Abduction of Civilians.

## IV. Pro-Government Forces

### Tactics and Incidents Causing the Most Harm to Civilians

UNAMA attributed 2,728 civilian casualties (903 deaths and 1,825 injured) to Pro-Government Forces in 2016 – a 46 per cent increase compared to 2015 – accounting for 24 per cent of all civilian casualties.<sup>328</sup> UNAMA attributed 20 per cent of total civilian casualties to the Afghan national security forces 2,281 civilian casualties (706 deaths and 1575 injured); two per cent to international military forces, 262 casualties (145 deaths and 117 injured); and two per cent to pro-Government armed groups, 185 civilian casualties (52 deaths and 133 injured).



UNAMA attributed over half – 53 per cent – of civilian casualties caused by Pro-Government Forces, mainly Afghan national security forces, to the use of indirect and/or explosive weapons during ground engagements, mainly mortars and artillery, with 1,449 civilian casualties (379 deaths and 1,070 injured). UNAMA recalls that Pro-Government Forces caused at least 41 per cent of all civilian casualties during ground engagements in 2016.<sup>329</sup>

Aerial operations remained the second leading cause of civilian casualties by Pro-Government Forces in 2016, accounting for 22 per cent of all civilian casualties attributed to this actor. UNAMA highlights that civilian casualties caused by aerial operations involving Pro-Government Forces – not

<sup>328</sup> In 2015, UNAMA attributed 1,866 civilian casualties (628 deaths and 1,238 injured) to Pro-Government Forces. This does not include international military forces – see chapters on International Military Forces and Aerial Operations for more details.

<sup>329</sup> See Chapter on Ground Engagements: Civilians Caught in Cross-Fire.



including international military forces – increased by 111 per cent compared to 2016, while all civilian casualties from all aerial operations increased by 89 per cent.<sup>330</sup>

Pro-Government Forces<sup>331</sup> also caused 106 civilian casualties (81 deaths and 25 injured) during incidents of targeted and deliberate killings, while incidents of threats, intimidation and harassment caused 67 civilian casualties (three deaths and 64 injured). The mission emphasizes that the Government must hold accountable all Pro-Government Forces responsible for such incidents.

Civilian casualties occurring from Pro-Government Force search operations increased by 63 per cent compared to 2015. UNAMA documented 34 incidents resulting in 88 civilian casualties (49 deaths and 39 injured) compared to 29 incidents resulting in 54 civilian casualties (35 deaths and 19 injured) in 2015. Civilian casualties caused by escalation of force increased 27 per cent comparison to 2015. UNAMA recorded 47 civilian casualties (19 deaths and 28 injured) in 2016, mainly by National Directorate of Security personnel and ANA.

## Aerial Operations

*“My husband and I were working in our field when airplanes appeared. I remember hearing a loud noise but nothing else. I woke up and realized I had been injured by rockets fired from the airplanes. The rockets killed my five-year-old cousin, who was visiting our home. I feel so sad for his parents...they found him in two parts – his head separate from his body.”<sup>332</sup>*

-- Victim of an ANA aerial attack on 26 June in Dawlat Abad district, Faryab province that killed victim's five-year-old cousin and injured seven civilians, including one girl and four women.

UNAMA documented a sharp increase in civilian casualties caused by aerial operations in 2016. Between 1 January and 31 December 2016, UNAMA recorded 121 aerial operations that resulted in 590 civilian casualties (250 deaths and 340 injured), a 99 per cent increase compared to 2015.<sup>333</sup> This is the highest number of civilian casualties from aerial operations since 2009, when UNAMA documented 622 civilian casualties (388 deaths and 234 injured) in 74 separate incidents.<sup>334</sup>

Aerial operations conducted by the Afghan Air Force (AAF) caused 43 per cent of aerial operation civilian casualties - 252 civilian casualties (85 deaths and 167 injured); international military forces caused 40 per cent - 235 civilian casualties (127 deaths and 108 injured); and unidentified Pro-Government Forces (where the airstrike occurred but UNAMA was unable to specifically identify whether the AAF or international military forces carried it out) caused the remaining 17 per cent – 103 civilian casualties (38 deaths and 65 injured).

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<sup>330</sup> See Chapter on Aerial Operations.

<sup>331</sup> Incidents of civilian casualties resulting from targeted killings and threats, intimidation and harassment were attributed to the following groups of Pro-Government Forces: ANA, ANP, Afghan Local Police, Afghan National Border Police, Afghan special forces, and pro-Government armed groups.

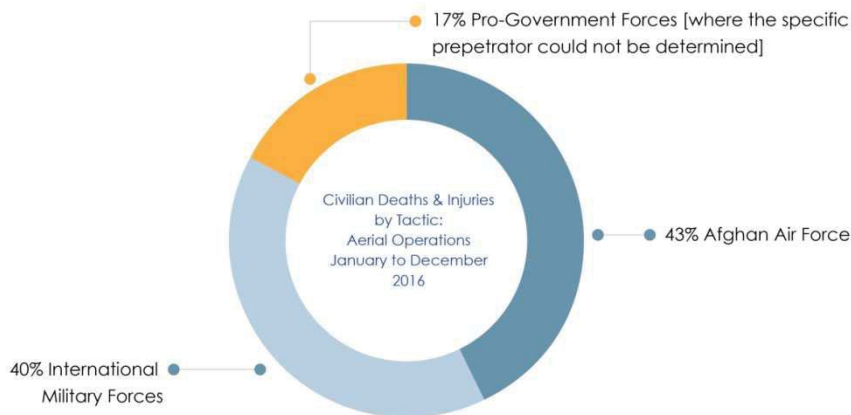
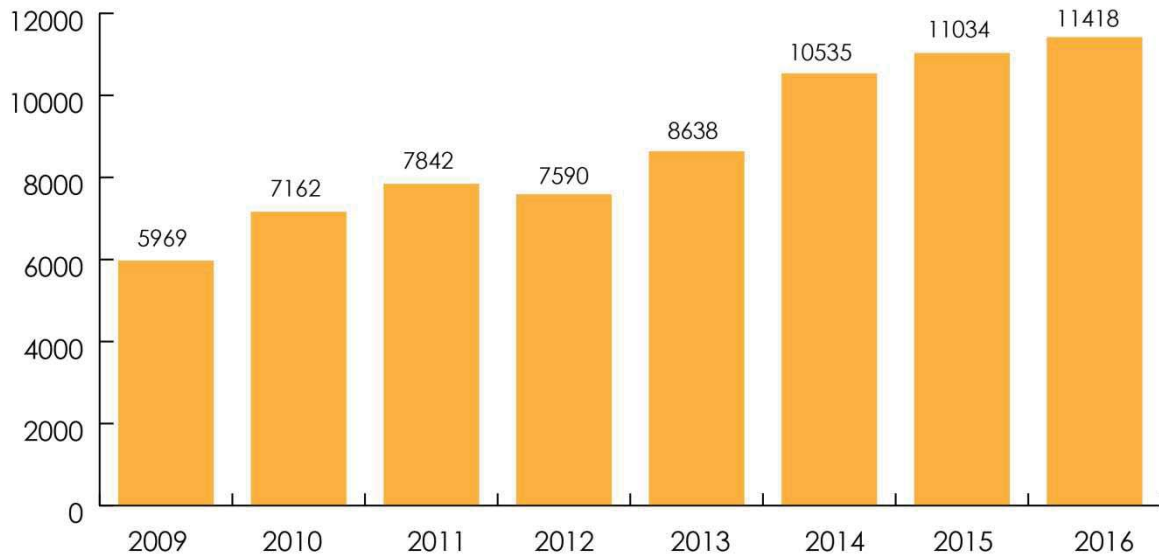
<sup>332</sup> UNAMA interview with victim, Jawzjan provincial hospital, Faryab province, 29 June 2016.

<sup>333</sup> In 2015, UNAMA documented 296 civilian casualties (149 deaths and 147 injured) from 63 aerial operations in Afghanistan.

<sup>334</sup> UNAMA documented the following civilian casualties caused by aerial operations since 2009: 2015 – 296 (149 deaths and 147 injured), 2014 – 162 (104 deaths and 58 injured), 2013 – 186 (122 deaths and 64 injured), 2012 – 202 (125 deaths and 77 injured), 2011 – 415 (262 deaths and 153 injured), 2010 – 306 (171 deaths and 135 injured), 2009 – 622 civilian casualties (388 deaths and 234 injured).

Nangarhar, Kunduz, and Helmand provinces suffered the highest number of civilian casualties caused by aerial operations, jointly accounting for over half of all civilian casualties caused by airstrikes in 2016.<sup>335</sup>

### Civilian Deaths and Injuries January to December 2009 - 2016



<sup>335</sup> In 2016, UNAMA documented 160 civilian casualties (52 deaths and 108 injured) in Kunduz province, 97 civilian casualties (38 deaths and 59 injured) in Nangarhar province, and 57 civilian casualties (31 deaths and 26 injured in Helmand province) as a result of aerial operations.

*Afghan Air Force Aerial Operations*

In 2016, UNAMA documented 252 civilian casualties (85 deaths and 167 injured) as a result of 68 AAF aerial operations, nearly double that recorded in 2015.<sup>336</sup> Of concern, UNAMA observes that women and children comprised 30 per cent of all civilian casualties caused by AAF aerial operations, highlighting the effect of aerial operations on women and children and the serious consequences of deploying airstrikes in civilian-populated areas.<sup>337</sup>

As of 30 November 2016, the AAF operated at least 48 aircraft capable of conducting offensive aerial operations, including eight fixed wing attack planes; 13 Mi-17 helicopters modified to include fixed forward firing machine guns (seven of which are capable of deploying rockets); and 27 MD-530 helicopters.<sup>338</sup> This reflects an increase in offensive aerial operation capable aircraft compared to 2015, following the receipt of eight A-29 light attack aircraft and additional MD-530 helicopters.<sup>339</sup> During 2016, helicopter strikes caused the majority – 90 per cent - of aerial operation civilian casualties attributed to AAF - 224 civilian casualties (70 deaths and 154 injured). In comparison, fixed wing aerial strikes caused 21 civilian casualties (10 deaths and 11 injured).<sup>340</sup>

The following are examples of civilian casualties caused by AAF aerial operations:

- On 9 August, an airstrike by AAF helicopters targeting Taliban in the Ainak area of Nawa Barakzai district, Helmand province, killed one woman and three children and injured a girl. Munitions fired in the airstrike impacted the house of the victims after Taliban fled into the compound while the AAF tracked their movements.
- On 22 September, an AAF Mi-35 helicopter conducted an airstrike targeting Taliban in the Such Bala area of Jurm district, Badakhshan province that killed an eight-year-old boy and injured six members of the same family, including one woman and four children.

Recalling that international humanitarian law requires parties to the conflict to take all feasible precautions to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects, including during the conduct of aerial operations,<sup>341</sup> UNAMA once again urges an immediate halt to the use of airstrikes in civilian-populated areas and calls for greater restraint in the use of airstrikes where civilians are likely to be present. In this regard, UNAMA welcomes the graduation of 130 Afghan Tactical Air Coordinators (ATACs) from NATO Resolute Support Train, Advise, and Assist Commands established programs with the stated goal of

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<sup>336</sup> In 2015, UNAMA documented 130 civilian casualties (50 deaths and 80 injured) as a result of AAF aerial operations in Afghanistan. Three civilian casualties (two deaths and one injured) could not be specifically attributed to either international military forces or AAF. AAF aerial operation civilian casualties specifically increased by 180 per cent,

<sup>337</sup> In 2016, UNAMA documented 65 women civilian casualties (19 deaths and 46 injured) and 110 child casualties (36 deaths and 74 injured) as a result of AAF aerial operations.

<sup>338</sup> See United States Department of Defense, 'Report on Enhancing Security and Stability in Afghanistan', December 2016, pp. 54-59.

<sup>339</sup> See United States Department of Defense, 'Report on Enhancing Security and Stability in Afghanistan', December 2016, p. 62.

<sup>340</sup> Partnered aerial operations attributed to both resulting in eight civilian casualties (seven deaths and one injured) could not be attributed specifically to an airplane or helicopter strike.

<sup>341</sup> Additional Protocol II, Article 13; ICRC Customary International Humanitarian Law Study, Rules 15, 22.

“improve[ing] air to ground integration and minimize civilian casualties”, including exercises enabling graduates to gain practical range experience coordinating aerial fires.<sup>342</sup>

*International Military Force Aerial Operations*

Between 1 January and 31 December, UNAMA documented 235 civilian casualties (127 deaths and 108 injured)<sup>343</sup> from aerial operations carried out by international military forces - a 44 per cent increase compared to 2015.<sup>344</sup> This increase is largely attributable to an airstrike carried out in Kunduz province on the night of 2nd to 3rd November (see case study on following page).

UNAMA notes considerable increases in civilian casualties caused solely by international military forces in Nangarhar province, documenting 89 civilian casualties (37 deaths and 52 injured) in 13 aerial operations in Nangarhar province throughout 2016 compared to 18 civilian casualties (11 deaths and seven injured) during 10 aerial operations in 2015.<sup>345</sup> For example, UNAMA documented an airstrike on 28 September in Achin district, Nangarhar province conducted by international military forces that, according to UNAMA's findings, impacted the house of a tribal elder who had recently returned from carrying out the *Hajj* pilgrimage. The airstrike killed 15 civilian men and injured a further 13, including two boys, who had gathered at his house to celebrate his return.<sup>346</sup>

Most of the other civilian casualties caused by international military force aerial operations (including partnered operations) occurred in Kunduz province (six incidents – 82 civilian casualties (37 deaths and 45 injured)).

While noting the ongoing efforts of military forces to minimize civilian casualties caused by aerial operations, UNAMA urges all military forces to further review current measures in place to prevent civilian harm. Recognizing the value in transparent dialogue about civilian protection, UNAMA urges Afghan Air Forces to routinely engage with UNAMA about aerial incidents causing civilian casualties, a practice well established between UNAMA and Resolute Support/ISAF. UNAMA also reiterates the need for adequate and timely redress for civilians impacted by their operations.

*Airstrikes on Boz-e-Qandahar village, Kunduz province, 2-3 November 2016*

*“I heard the terrible sound of an explosion. A hole was made in the roof of the room where we were sleeping and fire came from above. I heard my daughter-in-law screaming that she was injured. When I got closer to her, I saw that she was bleeding and then she passed away. Her two-year-old daughter lost both of her legs.”<sup>347</sup>*

-- Witness to airstrikes by international military forces on Boz-e-Qandahari village, Kunduz province on the night of 2 to 3 November 2016.

<sup>342</sup> See United States Department of Defense, ‘Report on Enhancing Security and Stability in Afghanistan’, December 2016, p. 60.

<sup>343</sup> In 2016, international military forces recorded 76 civilian casualties resulting from their operations. Source: email exchange between UNAMA and Resolute Support, 24 January 2017.

<sup>344</sup> In 2015, UNAMA documented 163 civilian casualties (97 deaths and 66 injured) from international military force aerial operations in Afghanistan.

<sup>345</sup> Civilian casualties in Nangarhar province attributed to international military force operations increased by 394 per cent in 2016 compared to 2015. Aerial operations caused a total of 97 civilian casualties (38 deaths and 59 injured) in Nangarhar province in 2016. The Afghan Air Force caused eight civilian casualties (one death and seven injured) during two aerial operations in Nangarhar province in 2016.

<sup>346</sup> Resolute Support shared the detailed findings of their internal investigation of the incident with UNAMA representatives, which found no civilian casualties resulted from this operation. UNAMA and Resolute Support findings differ on the status of those killed and the number and status of individuals injured.

<sup>347</sup> UNAMA interview with witness, Kunduz Provincial Hospital, 6 November 2016.

On the night of 2 to 3 November, international military forces conducted a series of airstrikes on Boz-e-Qandahari village, Kunduz province. The airstrikes killed 32 civilians and injured 36 others, mainly women and children.

According to a statement released by Resolute Support, the airstrikes occurred as a defensive measure in the context of a partnered international and Afghan military operation targeting Taliban leaders reported to be present in Boz-e-Qandahari village. International and Afghan special forces operating on the ground requested aerial support after encountering armed resistance from Anti-Government Elements which had resulted in the deaths of three Afghan commandos and two American soldiers, and the injury of 11 Afghan commandos and four American soldiers.<sup>348</sup>

UNAMA documented 68 civilian casualties (32 deaths and 36 injured) as a result of the airstrikes, including the deaths of 20 children and six women and the injury of 14 children and nine women. The majority of civilian casualties came from two adjacent residences accommodating large families. Of 68 civilian casualties, 25 (including 13 children aged under 11 years) belonged to the family of the Taliban commander that sources identified as the main target of the operation, while 15 civilian casualties came from a neighbouring family (including four children aged under eight years).

Local sources consistently stated that the airstrikes lasted for most of the night, trapping injured civilians in their homes and preventing them from seeking medical treatment. Satellite imagery and photographs of the village viewed by UNAMA indicated that damage centred on two main areas of the village and appeared to be caused by the use of air to surface weaponry.<sup>349</sup>

To date, the NATO-led Resolute Support Mission and Afghan National Army (including the Afghan Air Force) have declined to respond to UNAMA requests for information additional to the findings released in the press statements.<sup>350</sup>

#### *International Military Forces and Afghan Government Responses*

On 3 November 2016, President Mohammad Ashraf Ghani released a statement reporting that he appointed a team to investigate the full details of the incident.<sup>351</sup> Government and local sources reported to UNAMA that the Government paid 100,000 Afghanis in compensation to family

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<sup>348</sup> Update on Civilian Casualties, Nov. 5 2016: <http://www.rs.nato.int/article/press-releases/update-on-civilian-casualties-near-kunduz-nov.-5-2016.html>; “Civilian Casualties Confirmed in Boz Village, Kunduz”, 13 January 2017, accessible at: <http://www.rs.nato.int/article/press-releases/civilian-casualties-confirmed-in-boz-village-kunduz.html>, both last accessed 13 January 2017.

<sup>349</sup> Satellite Imagery of Boz-e-Qandahari Village, Kunduz, Afghanistan from 27 October and 15 November 2016 was used for comparative analysis. 15 November 2016 satellite data: Pleiades, resolution 50cm, copyright CNES 2015 – Distribution Astrium Services, source Airbus Defence and Space. 27 October 2016 satellite data: Worldview-1, resolution 50cm, copyright Digitalglobe, Inc., source EUSA. Satellite Imagery and Damage Assessments courtesy of UNOSAT.

<sup>350</sup> On 3 November, US Forces in Afghanistan released a press statement reporting the deaths of two American service members and wounding of two others after they “came under fire during a train, advise and assist mission with [...] Afghan partners to clear a Taliban position and disrupt the group’s operations in Kunduz district”. In a second press statement released on 5 November, US Forces in Afghanistan stated that “On Nov.3, Afghan forces advised by U.S. forces, conducted a mission in Boz village, Kunduz district, Kunduz targeting Taliban leaders who were planning additional attacks in Kunduz city. During the course of the operation, friendly forces encountered significant enemy fire from multiple locations and defended themselves with ground fire and U.S. air-to-ground engagements.” See “Kunduz casualty release”, 3 November 2016, accessible at: <http://www.rs.nato.int/article/press-releases/kunduz-casualty-release-nov.-3-2016.html>; “Update on Civilian Casualties”, Nov. 5 2016, accessible at: <http://www.rs.nato.int/article/press-releases/update-on-civilian-casualties-near-kunduz-nov.-5-2016.html>, both last accessed 8 January 2017.

<sup>351</sup> Accessible at: <http://president.gov.af/en/news/188180>, last accessed 25 January 2017.

members of those killed and 50,000 Afghans to those injured, three days after the incident. To date, the second phase of assistance to affected families consisting of restitution specific to the property and livestock damage suffered by each family has yet to be implemented.

On 5 November 2016, international military forces released a press statement acknowledging civilian casualties and expressing deep regret for the loss of innocent lives. The statement committed to work with Afghan partners to investigate and determine the facts and to work with the Government of Afghanistan to provide assistance.<sup>352</sup>

On 13 January 2017, international military forces issued a press statement detailing the findings of its investigation, concluding that U.S. and Afghan forces conducting a partnered operation intended to capture Taliban leaders responsible for prior violence in Kunduz killed 33 civilians and injured 28 others while using force in self-defence compliant with the law of armed conflict (or international humanitarian law).<sup>353</sup> Factors deemed relevant in reaching this conclusion included: that Taliban used civilian homes as firing positions and most civilian casualties likely arose in those homes; that U.S. and Afghan forces were “forced” to request aerial support in self-defence; that U.S. air assets used the “minimum amount of force required to neutralize the various threats”; and that the death of two U.S. soldiers and three Afghan Army soldiers, in addition to the injury of 11 commandos, reflected the “ferocity” of the engagement.<sup>354</sup>

### *Analysis*

UNAMA acknowledges that in the conduct of its operations, Resolute Support follows a standard operating procedure that considers the situation and application of force, in accordance with the laws of armed conflict, to ensure minimal chance of civilian casualties. With the aerial operations in Kunduz on the night of 2 to 3 November, UNAMA observes that the 13 January 2017 press statement detailing the results of the international military forces’ investigation does not provide sufficient information to fully substantiate its conclusion that the operation complied with international humanitarian law and provides no information demonstrating that the investigation was independent.

Parties to the conflict are obliged to use means and methods of combat capable of distinguishing military objectives from civilians.<sup>355</sup> Sustained airstrikes deploying explosive weapons targeting military objectives intermingled with civilians and civilian objects in a populated residential area with civilians and civilian objects may violate this requirement given the likely indiscriminate effects of such weaponry in this context. UNAMA recalls that 25 civilian casualties (including 13 children aged

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<sup>352</sup> Update on Civilian Casualties, Nov. 5 2016: <http://www.rs.nato.int/article/press-releases/update-on-civilian-casualties-near-kunduz-nov.-5-2016.html>, last accessed 8 January 2017.

<sup>353</sup> “Civilian Casualties Confirmed in Boz Village, Kunduz”, 13 January 2017, accessible at: <http://www.rs.nato.int/article/press-releases/civilian-casualties-confirmed-in-boz-village-kunduz.html>, both last accessed 13 January 2017.

<sup>354</sup> The 13 January 2017 press statement asserts that 26 Taliban were killed (including three commanders) and 26 Taliban injured during the partnered operation. See “Civilian Casualties Confirmed in Boz Village, Kunduz”, 13 January 2017, available at: <http://www.rs.nato.int/article/press-releases/civilian-casualties-confirmed-in-boz-village-kunduz.html>, last accessed 13 January 2017.

<sup>355</sup> Common Article 3; Additional Protocol II, Article 13; ICRC Customary International Humanitarian Law Study, Rule 11. See also Additional Protocol I, Articles 51 (not applicable to non-international armed conflict but accepted as customary international law – see ICRC Customary International Law Study Rule 11); *Prosecutor v. Dusko Tadić*, IT-94-1, Appeals Chamber Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, para. 127.

under 11 years) caused by the airstrikes belonged to the family of the targeted Taliban commander and 15 civilians affected from the same strikes lived in the adjacent compound.

Moreover, where parties to a conflict carry out an attack against a military objective, even in self-defense, international humanitarian law prohibits disproportionate attacks - namely, those that are expected to cause incidental loss of civilian life, injury to civilians, or damage to civilian objects, excessive in relation to the anticipated concrete and direct military advantage.<sup>356</sup> In this regard, the use of airstrikes in a densely populated village during the night that resulted in 68 civilian casualties, including the deaths of 26 women and children and the injury of 23 others raises serious concerns.

UNAMA notes that the statement released by the international military forces makes no reference to the principle of proportionality and does not provide detail on the anticipated military advantage of the partnered operation. Moreover, the statement does not refer to: prior consideration given to the risks associated with a targeting ground operation in an area populated by alleged Anti-Government Elements, their families and other civilian residents; analysis of anticipated civilian harm; any efforts taken to minimize civilian casualties prior to and during the ground operation.<sup>357</sup>

The press statement highlights that: Taliban chose to hide amongst civilians; the use of force was in self-defence; and international military force air assets used the minimum amount of force required to neutralize the various threats against them emanating from the civilian buildings in order to protect friendly forces. UNAMA notes that civilians present in an area being used by an armed group retain civilian status when not directly participating in hostilities. UNAMA also notes that the principle of proportionality applies regardless of whether the attacks in question were conducted offensively or as defensive measures in support of friendly forces. UNAMA's findings from its own investigation suggest that the international legal requirement to uphold the principle of proportionality, including in self-defence, may not have been given sufficient consideration.

Finally, international humanitarian law obliges all parties to the conflict to do everything feasible to cancel or suspend an attack if it becomes apparent that the target is not a military objective or the attack may be expected to cause disproportionate harm to civilians.<sup>358</sup> Customary international humanitarian law further provides that all feasible precautions must be taken to avoid, and in any event minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects.<sup>359</sup> The public statement released by international military forces provided no information on any such precautions taken prior or during the airstrikes to prevent harm to the civilian population.

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<sup>356</sup> Common Article 3; Additional Protocol II; ICRC Customary International Humanitarian Law Study, Rule 14. See also Additional Protocol I, Articles 85(3)(b) (not applicable to non-international armed conflict but accepted as customary international law – see ICRC Customary International Law Study Rule 14).

<sup>357</sup> UNAMA observes that U.S. Forces-Afghanistan claim that no civilians were seen or identified in the course of battle; however, no mention is made of whether intelligence efforts were undertaken to determine the presence of civilians in the village prior to the partnered operation. See “Civilians Casualties Confirmed in Boz Village, Kunduz”, 17 July 2016: <http://www.rs.nato.int/article/press-releases/civilian-casualties-confirmed-in-boz-village-kunduz.html>, last accessed 13 January 2017.

<sup>358</sup> See sections 5.32 to 5.33.5, The Conduct of Hostilities, Precautions in Attack, *The Manual of the Law of Armed Conflict*. UK Ministry of Defence, Oxford University Press, Oxford, 2004. See also: Boothby, William. “Part VI – Practical Aspects of Contemporary Targeting”, Section 20.10 to 20.10.4” in *The Law of Targeting*, Oxford University Press, February 2012

<sup>359</sup> Additional Protocol II, Article 13 (1); ICRC Customary International Humanitarian Law Study, Rules 14-21. Likewise, parties to the conflict also have the obligation to take all feasible precautions to protect the civilian population and civilian objects under their control against the effects of attacks, including by locating military objectives outside densely populated areas. See ICRC Customary International Humanitarian Law Study, Rules 22-24.

While UNAMA welcomes the international military forces' investigation into the events of 2 to 3 November and its acknowledgement that civilian casualties occurred, the mission urges the release of the full details of the investigation.

Given the severity of the incident, which resulted in 68 civilian casualties, primarily women and children, at a minimum, there must be an independent, clear and public accounting as to how the international military forces reached the conclusion that the operation involved no wrongdoing.

### **Partnered search operations**

UNAMA documented five partnered search operations involving international military forces and Afghan national security forces that resulted in seven civilian casualties (five deaths and two injured). For example, on 5 October, shots fired during a partnered search operation involving National Directorate of Security forces and international military forces in Kama district, Nangarhar province, resulted in the deaths of four civilian men.<sup>360</sup> Despite calls for an investigation into the incident by local people, the investigation findings have not been shared with the community.<sup>361</sup> UNAMA also notes with concern that at the time of the publication of this report, no investigation findings into the 18 February 2016 partnered search operation in Daimirdad district, Maidan Wardak province had been publically released.<sup>362</sup> On 20 October, Afghan and international military forces conducted a partnered search operation Chaparhar district, Nangarhar province that resulted in the injury of two children during a firefight with Anti-Government Elements.

International military forces caused civilian casualties during escalation of force incidents and ground engagements at levels consistent with 2015.<sup>363</sup> UNAMA documented three incidents of escalation of force that resulted in four civilian deaths attributable to international military forces. It recorded two incidents of ground engagement in Nangarhar province that caused seven civilian deaths. For example, on 7 August, international military forces fired several artillery rounds in Achin district, Nangarhar province, killing six civilian men.<sup>364</sup> Sources reported that the men recently returned to guard their properties after Anti-Government Elements recently used and abandoned them.

Other incidents in which international military forces caused civilian casualties included the detonation of unexploded ordnance left behind by an international military base in Shah joy district, Zabul province, that killed a boy and injured five others; the injury of a boy by a stray bullet fired in the air by international military forces in Daman district, Kandahar province, after children threw stones at their vehicle<sup>365</sup>; and the injury of a woman and boy by small arms fire in Kunduz district, Kunduz province when international military forces – while conducting training - fired towards an area near their home.

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<sup>360</sup> Following review of this incident, Resolute Support considers the allegations of civilian casualties as disproven. Meeting between UNAMA and Resolute Support, 3 January 2017, Kabul.

<sup>361</sup> In response to the incident, community elders from Kama district met with the district governor to demand a formal investigation into the incident.

<sup>362</sup> For information on the partnered search operation on 18 February in Daimirdad district, Maidan Wardak that resulted in killing of two injured Taliban fighters and a 15-year-old boy after they were removed from a health clinic, see UNAMA 2015 Mid-Year Report on Protection of Civilians, pp. 24, 81.

<sup>363</sup> In 2015, UNAMA documented five civilian casualties (two deaths and three injured) attributed to international military force escalation of force incidents and six civilian casualties (three deaths and three injured) attributed to international military forces during ground engagements.

<sup>364</sup> Following review of this incident, Resolute Support considers the allegations of civilian casualties as disproven. Meeting between UNAMA and Resolute Support, 3 January 2017, Kabul.

<sup>365</sup> Following review of this incident, Resolute Support considers the allegations of civilian casualties as disproven. Meeting between UNAMA and Resolute Support, 3 January 2017, Kabul.



UNAMA reiterates its recommendation to international military forces to redouble efforts to ensure that all feasible precautions have been taken to protect the civilian population, particularly during partnered search operations with Afghan national security forces.

### **Killings of Civilians by Afghan National Security Forces**

In 2016, UNAMA documented an increase in killings of civilians by regular Afghan national security forces (not including Afghan Local Police and pro-Government armed groups) outside the context of ground engagements or other formal operations.<sup>366</sup> UNAMA documented 37 incidents resulting in 43 civilian casualties (35 deaths and eight injured) compared to 20 incidents in 2015 that caused 28 civilian casualties (21 deaths and seven injured). Most incidents consisted of scenarios in which Afghan national security forces shot and killed or injured civilians believing them to be Anti-Government Elements, but UNAMA also documented incidents of extrajudicial killings and killings by Afghan national security forces abusing their positions of power. The majority of incidents occurred during the first six months of 2016.<sup>367</sup>

In this context, UNAMA attributed 20 civilian casualties (14 deaths and six injured) to ANA; 13 civilian casualties (11 deaths and two injured) to ANP; three civilian casualties (three deaths to Afghan national security forces where the specific actor involved could not be identified; one civilian death to Afghan National Border Police; and two civilian deaths to National Directorate of Security personnel; one civilian jointly to ANA and Afghan Local Police; two civilian deaths jointly to ANP and Afghan Local Police; and one civilian death to ANA, ANP, and a pro-Government armed groups.

Of the 37 documented incidents, 17 incidents concerned the killing of civilians by Afghan national security forces believing them to be Anti-Government Elements. For example, on 21 August in Chahar Darah district, Kunduz province, ANA shot dead a boy and injured a girl as they collected grass in a field situated in an area with heavy Taliban presence after mistaking them for Anti-Government Elements despite the lack of ground fighting at the time. In response, ANA apologized to the family, but provided no information on any formal investigation into the incident, claiming that the soldier shot and killed Anti-Government Elements. A relative of the victims filed a complaint with the Chahar Darah district governor.

Seven incidents concerned the extrajudicial killings of civilians by Afghan national security forces, generally in retaliation for earlier attacks against them. For example, on 27 October in Qarabagh district, Ghazni province, ANP accompanied by Afghan Local Police entered civilian homes in response to an Anti-Government Element attack on a joint check-post, killing an 18-year-old student in one home and arresting another, whose body was later found in the district bazaar. ANP in Ghazni province claimed to have conducted an investigation into the incident and determined that cross-fire during a ground engagement with Anti-Government Elements killed the civilians.

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<sup>366</sup> UNAMA records all incidents in which civilians are killed or injured by members of a party to the conflict whether in the context of hostilities or for other reasons – where the state agent or member of the Anti-Government Element has abused their position to enable them to carry out the act. UNAMA notes that Common Article 3 of the Geneva Convention provides: “[...] the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to [persons taking no active part in hostilities] [...] violence to life and person, in particular murder of all kinds [...] the passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court.”

<sup>367</sup> As highlighted in the UNAMA 2016 Mid-Year Report on Protection of Civilians in Armed Conflict, p. 82.

UNAMA also documented eight instances in which Afghan national security forces abused their positions which resulted in the death of civilians. For example, on 4 May, ANA shot dead a civilian man near a poppy field. Sources reported that local government and ANA frequently fired at the poppy fields with small arms and indirect weapons when the owner failed to pay tax. ANA claimed to have conducted an investigation into the incident and concluded that no information indicated that an ANA soldier had killed the civilian. On 30 December, an ANA shot at a car in Nahr-e-Seraj district, Helmand province, after the driver attempted to travel on the main road to Lashkar-Gah city in contravention of ANA orders, resulting in his death.

UNAMA recorded four instances in which Afghan national security forces killed civilians in unclear circumstances and one accidental killing of a civilian when a stray bullet accidentally discharged by ANP on patrol in Zherayi district, Kandahar province, caused by the death of a civilian man.

Based on information received from provincial authorities on the 37 incidents documented by UNAMA, nine resulted in the arrest, detention and subsequent investigation and/or prosecution of the accused, six of which are ongoing at various stages of the legal process.<sup>368</sup> Two cases of deliberate killing by Afghan national security forces resulted in conviction and sentencing of the accused. An Afghan National Border Police is serving a prison sentence of three and a half years imposed by a primary court for killing a civilian driver on 15 February in Zaranj district, Nimroz province, after mistaking him for a suicide attacker. The ANA city primary court convicted an ANA soldier of murder in relation to the shooting death of a civilian repairing a road in Sabari district, Khost province, on 24 May, after mistaking him for an Anti-Government Element. The perpetrator is serving his sentence.

Of the remaining cases, mediation resolved two incidents and four incidents underwent apparent investigation with no ultimate finding of wrongdoing. Of concern, 11 cases resulted in no subsequent investigation of the incident. In relation to at least two incidents, authorities reported that no investigation was commenced because no petitions were filed by families of the victims, in contravention of its obligation to investigate.

UNAMA emphasizes that extrajudicial killings of civilians by any party to the conflict are explicitly prohibited by Common Article 3 at any time and any place. It also reiterates that under international human rights law, States must investigate the use of lethal force by their agents, particularly those involved in law enforcement, as well as those arising during armed conflict.<sup>369</sup> The Government bears the burden of initiating such investigations when they become aware of credible allegations. Claims of requirements – at any level – that victims and family members must first submit written complaints are contrary to both international human rights law and Afghan law.<sup>370</sup>

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<sup>368</sup> UNAMA shares all cases of civilian casualties involving Afghan national security forces with the Ministry of Defence (ANA) and Ministry of Interior (ANP, National Directorate of Security, Afghan National Civil Order Police, Afghan National Border Police). At the time of publication of this report, UNAMA received no information on accountability efforts at the national level, with incidents either being rejected as not perpetrated by Afghan national security forces without further explanation or no information provided.

<sup>369</sup> See Paragraphs 9, 10 and 17 of the United Nations Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted on 24 May 1989 by the Economic and Social Council Resolution 1989/65. See also United Nations Security Council and General Assembly resolutions concerning non-international armed conflict, calling for all parties to respect international human rights law.

<sup>370</sup> Article 57(1) of the Afghanistan Criminal Procedure Code (CPC), “Duties of Citizens and Officials When Informed of a Crime”, states “The citizens by observing the other provisions of this law, when informed of or witness to a crime, are required to inform the police or other judicial officer or prosecution either verbally or in writing, or with the use of electronic devices.” Article 58 of the CPC, “Obligations of the Notified

UNAMA calls on the Government to launch comprehensive and fully transparent investigations into all incidents and to ensure accountability for those responsible for violations of international humanitarian law or human rights law.

### Pro-Government Armed Groups

*“I was at home with eight members of my family when heavy fighting erupted between two pro-government commanders and their supporters. Mortars were being fired from both sides. A mortar impacted on my house and injured me and all my family members including six children, four boys and two girls. Pro-government armed groups were fighting to gain political influence in the area. These clashes are common in our village, affecting civilians and spreading fear and insecurity. The intense fighting lasted for five hours, leaving the injured members of my family without medical treatment. We could not leave the house for fear of being caught between the intense fighting between the two groups.”<sup>371</sup>*

-- A victim of mortar attack on 24 September 2016 that also injured eight members of his family during fighting between pro-government armed groups of rival political parties in Pashtun Kot district, Faryab province.

In 2016, UNAMA documented 185 civilian casualties (52 deaths and 133 injured) by pro-Government armed groups<sup>372</sup> a 42 per cent increase compared to the same period in 2015.<sup>373</sup> This is the highest number of civilian casualties caused by pro-Government armed groups since UNAMA began systematic documentation of civilian casualties in 2009. The majority – 73 per cent – of civilian casualties caused by pro-Government armed groups occurred in the northern region of Afghanistan, documenting 135 civilian casualties (31 deaths and 104 injured). Of concern, pro-Government armed group actions particularly affected Faryab province, which recorded 102 civilian casualties (24 deaths and 78 injured), 55 per cent of all pro-Government-attributed civilian casualties in 2016.<sup>374</sup>

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Organization”, states, “The notified organization is required to receive the complaints and notifications about the committed crime, make a decision as soon as possible or submit it to the relevant organization for making decision and inform informer of the date and time of the decision along with his/her identity and position.” Article 63 of the CPC, “Preventing the Initiation of a Criminal Case”, only requires a written complaint by the victim when the perpetrator is a relative of the victim for certain crimes. Official Gazette of the Islamic Republic of Afghanistan (OG/117), 7 October 2013, UNAMA unofficial translation.

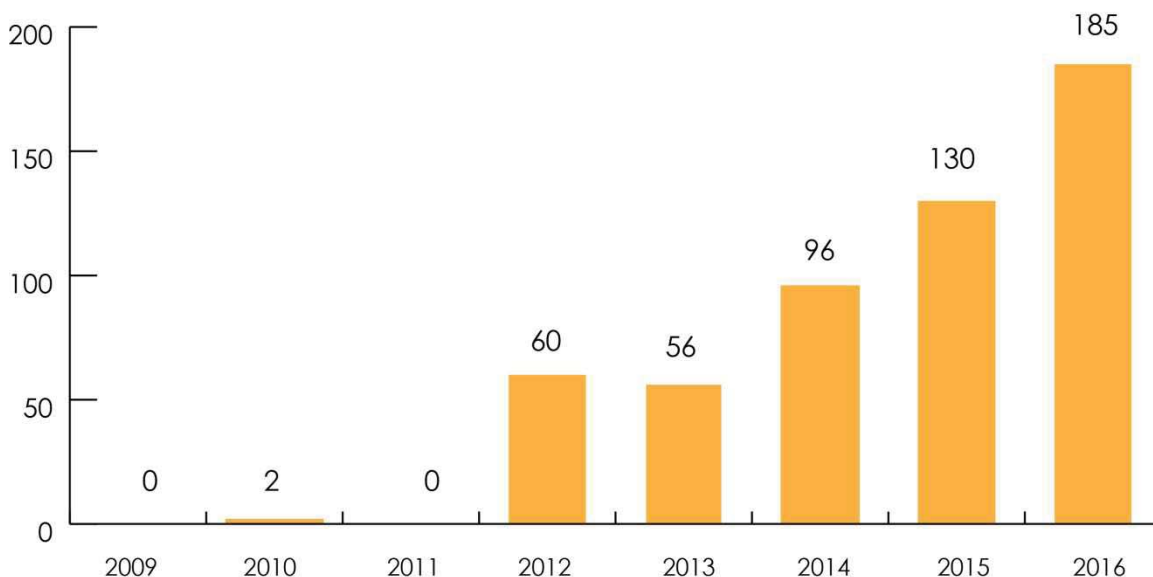
<sup>371</sup> Interview with victim, Maimana city, Faryab province, 25 September 2016.

<sup>372</sup> The term ‘pro-Government armed group’ refers to an organized armed non-State actor engaged in conflict and distinct from Government forces, rebels and criminal groups. Pro-Government armed groups do not include the Afghan Local Police, which fall under the command and control of the Ministry of Interior. These armed groups have no legal basis under the laws of Afghanistan. Armed groups have the potential to employ arms in the use of force to achieve political, ideological or economic objectives; are not within the formal military structures of States, State-alliances or intergovernmental organizations; and are not under the control of the State(s) in which they operate. In some cases, armed groups receive direct/indirect support of the host Government or other States. This definition includes, but is not limited to, the following groups: national uprising movements, local militias (ethnically, clan or otherwise based), and civil defence forces and paramilitary groups (when such groups are clearly not under State control).

<sup>373</sup> In 2015, UNAMA documented 130 civilian casualties (48 deaths and 82 injured) from the activities of pro-Government armed groups.

<sup>374</sup> In 2016, UNAMA documented 67 incidents attributed to pro-Government armed groups in the northern region – with 40 incidents in Faryab province, five incidents in Jawzjan province, four incidents in Samangan province, four incidents in Balkh province and two incidents in Sari-Pul province. For more information on the situation in Faryab province with respect to pro-Government armed groups, see UNAMA 2016 Mid-Year Report on Protection of Civilians in Armed Conflict, pp. 87, 88.

### Civilian Deaths and Injuries by Pro-Government Armed Groups January to December 2009 - 2016



Most civilian casualties caused by pro-Government armed groups occurred during ground engagements between pro-Government armed groups or between Anti-Government Elements and pro-Government groups during operations against Anti-Government Elements. In 2016, UNAMA documented 41 incidents of ground engagements involving pro-Government armed groups that resulted in 103 civilian casualties (18 deaths and 85 injured), a 27 per cent increase compared to the same period in 2015.<sup>375</sup> Of these 41 incidents of ground engagement, 24 concerned ground engagements between pro-Government armed groups affiliated to rival political parties, resulting in 73 civilian casualties (14 deaths and 59 injured). The majority – 23 incidents – occurred in Faryab province. UNAMA received consistent reports that rival pro-Government groups frequently engaged in fighting in an attempt to enhance their political influence. Due to linkages with local powerbrokers, such groups escaped liability for any harm caused to civilians during these clashes. Provincial security officials repeatedly informed UNAMA that they lack the ability to control such groups and hold them accountable for such abuses.

In 2016, pro-Government armed groups continued to conduct ground operations against Anti-Government Elements alongside, or with the complicity of, the Afghan government and security forces, resulting in 27 civilian casualties (two deaths and 25 injured). For example, on 9 September in Gizab district, Daikundi province, a mortar fired by a pro-Government armed group targeting Anti-Government Elements landed on a residential home and seriously injured three children and a woman. The increased practice of using untrained and unregulated pro-Government armed groups in such operations, sometimes to compensate for a lack of Afghan security force personnel, raised serious protection concerns for civilians both during such operations and during the post-operation phase. Pro-Government armed groups lack the training provided to Afghan national security forces and the discipline and accountability imposed through a formal command structure.

<sup>375</sup> In 2015, UNAMA documented 81 civilian casualties (19 deaths and 62 injured) caused by pro-Government armed groups as a result of ground engagements.

UNAMA documented 25 incidents of targeted and deliberate killings by pro-Government armed groups in 2016 that resulted in 38 civilian casualties (29 deaths and nine injured), a 52 per cent increase compared to 2015.<sup>376</sup> Most civilian casualties from pro-Government armed group targeted and deliberate killings occurred in the northern region (18 civilian casualties – 14 deaths and four injured) and the north-eastern region (15 civilian casualties – 11 deaths and four injured). For example, on 23 December in Qaysar district, Faryab province, a pro-Government sub-commander and three members of his group acting in retaliation against an Anti-Government Element member abducted a 12-year-old boy, stabbed him and then shot him dead inside a pro-Government armed group check-post. UNAMA received reports that local authorities arrested three perpetrators on 23 December following demands for justice by the local community. Due to the influence of the pro-Government armed group commander, the case had not been submitted to the prosecutor.<sup>377</sup>

Acts of targeted and deliberate killings by pro-Government armed groups are often carried out with impunity, exacerbating the suffering of the victims and their families. During 2016, UNAMA observed a consistent failure by authorities to protect civilian communities from human rights abuses and harm perpetrated by pro-Government armed groups. For example, on 28 October, a pro-Government armed group killed seven civilians (five men and two boys) in Burka district, Baghlan province, in a retaliatory attack against the family members of an Anti-Government Element group. The relatives of the victims lodged a complaint with district authorities. To date, no perpetrators have been arrested.

UNAMA also documented 33 civilian casualties (two deaths and 31 injured) as a result of 17 incidents of threat, intimidation and harassment by pro-Government armed groups. For example, on 12 September, a pro-Government armed group commander in Bil Cheragh district, Faryab province, illegally arrested six civilians and detained them in his private jail where he ill-treated three of them, resulting in the death of one from severe beating and the injury of two others to the extent that they required medical treatment. UNAMA received information that the local authorities made no arrests with respect to the incident.

In 2016, UNAMA also documented eight incidents involving the abduction of 36 civilians by pro-Government armed groups, most of which occurred in Faryab province (18 civilians abducted). Pro-Government armed groups also abducted two civilians in Kunduz province and one civilian in Takhar province. On 24 May, a pro-Government armed group commander aligned to a political party abducted eight civilians in Pashtun Kot district, Faryab province, as an act of revenge against a rival pro-Government armed group commander. The pro-Government armed group commander released all abductees unharmed following mediation by local elders.

UNAMA continued to receive reports of Government authorities' unwillingness or inability to control the illegal activities of pro-Government armed groups due to their reliance on such groups to fight against Anti-Government Elements and the protection provided to some groups by powerful political figures. The use of irregular government armed groups operating outside a well-defined chain of command increases the risk that such groups exploit a fragile security environment, further compounding the protection risks faced by civilians and the possibility of human rights abuses.

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<sup>376</sup> Between 1 January and 31 December 2015, UNAMA documented 25 civilian casualties (22 deaths and three injured) from pro-Government armed group-perpetrated targeted killings.

<sup>377</sup> UNAMA received reports that the three perpetrators were released from the district police lockup on 10 January 2017.

UNAMA urges the Government once again to disband pro-Government armed groups and dismantle the political patronage of such groups.

The mission remains particularly concerned by the Government's failure to investigate allegations of human rights abuses by pro-Government armed groups and to prosecute those identified as alleged perpetrators. Given the documented increase in human rights abuses committed by pro-Government armed groups in 2016, UNAMA reiterates its call to the Government to investigate these abuses, as well as ensure that the results of investigations by Government-established delegations are made public and that their recommendations to hold perpetrators accountable are fully implemented.

### **Afghan Local Police**

*"It was 11 a.m. on Friday, many boys, including my 19-year-old son, were playing a cricket match at a playground in my village. From the nearby check post, an Afghan Local Police fired many rounds from his AK-47 rifle towards those boys. All of them rushed to escape but my son remained in the ground to find his clothes. He was hit by a bullet on his chest and died on the spot. I spoke to an Afghan Local Police personnel who told me that the attack was carried out based on false intelligence. I urge Afghan Local Police to determine their target prior to carrying out an attack to avoid harm to civilians."<sup>378</sup>*

--Father of the victim of an ALP shooting that killed one civilian in Alishang district, Laghman province, on 22 January.

UNAMA continued to document reports of violations of international humanitarian law and human rights law by Afghan Local Police in 2016.<sup>379</sup> Between 1 January and 31 December, the mission attributed 65 civilian casualties (25 deaths and 40 injured) to Afghan Local Police, a decrease of 52 per cent compared to 2015.<sup>380</sup> Despite this decrease, UNAMA notes that Afghan Local Police targeted civilians in 23 of the 52 documented incidents in which they caused civilian casualties for personal reasons or because they believed the civilians to be Anti-Government Elements or related to Anti-Government Elements. The majority of civilian casualties caused by Afghan Local Police in 2016 arose from ground fighting and targeted and deliberate killings. Most civilian casualties attributed to Afghan Local Police occurred in the eastern region of Afghanistan, which recorded 26 civilian casualties (four deaths and 22 injured).

Afghan Local Police perpetrated 15 incidents of targeted and deliberate killings that caused 20 civilian casualties (15 deaths and five injured), mainly against civilians suspected of Anti-Government Element involvement or affiliation. For example, on 14 February, an Afghan Local Police officer arrested and shot dead a civilian man in Khak-e-Safid district, Farah province, on suspicion of being a member of an Anti-Government Element group. On 13 September, in Qush Tapa district, Jawzjan province, Afghan Local Police shot and killed a 17-year-old boy on suspicion of being a Taliban fighter.

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<sup>378</sup> UNAMA telephone interview with the victim's relative, Jalalabad city, 25 January 2016.

<sup>379</sup> As of 4 December 2016, the total number of Afghan Local Police personnel stood at 28,367 covering 190 districts in 30 provinces. Information received at meeting with Afghan Local Police Directorate in Kabul city, 4 December 2016.

<sup>380</sup> In 2015, UNAMA attributed 136 civilian casualties (38 deaths and 98 injured) to Afghan Local Police. documented 32 civilian casualties (17 deaths and 15 injured) from targeted killings by Afghan Local Police. UNAMA attributed an additional 37 civilian casualties (19 deaths and 18 injured) to operations in which Afghan Local Police operated in conjunction with other Afghan security force or pro-Government armed groups, mainly from ground engagements, but also including two incidents of targeted and deliberate killings resulting in three civilian deaths and one search incident resulting in three civilian deaths.

Civilian casualties attributed to Afghan Local Police during ground engagements remained consistent with 2015: UNAMA documented 35 civilian casualties (eight deaths and 27 injured) from 16 incidents of ground engagement.<sup>381</sup> For example, on 26 April, during an armed clash in Chemtal district, Balkh province, Afghan Local Police fired a rocket targeting Anti-Government Elements that struck a public road, injuring a civilian man. On 10 July, Afghan Local Police fired shots against Anti-Government Elements in response to an attack against their check-point in Mehterlam city, Laghman province, killing one civilian man and injuring another.

UNAMA documented ten incidents of threat, intimidation and harassment perpetrated by Afghan Local Police, including severe beatings, extortion, theft, threats and two incidents of sexual abuse, including one incident of sexual violence involving a child.<sup>382</sup> For example, on 24 September, eight Afghan Local Police personnel riding on four motorbikes stopped a civilian car and confiscated it in Shah Joy district, Zabul province. On 4 December, in Tagab district, Laghman province, an Afghan Local Police commander severely beat up a civilian man in public after accusing him of being a relative of an Anti-Government Element member.

UNAMA emphasizes that attacks deliberately targeting civilians are serious violations of international humanitarian law that may amount to war crimes, including murder as a war crime.<sup>383</sup>

In 2016, UNAMA continued to share accounts of allegations against Afghan Local Police personnel with the Afghan Local Police Directorate on a quarterly basis and monitored accountability measures taken at the national and provincial levels. UNAMA observed increased efforts of the Afghan Local Police Directorate in the area of accountability, which may have contributed in the decrease of civilian casualties attributed to Afghan Local Police.<sup>384</sup> In 2016, the Afghan Local Police Directorate arrested 108 Afghan Local Police personnel and referred them to the Attorney-General's Office for prosecution on the charge of abuse of authority.<sup>385</sup> For example, on 4 June, the ANP prosecution office arrested an Afghan Local Police officer alleged to have shot and killed a man in Pul-e-Alam district, Logar province, on 25 May after robbing him of 150,000 afghanis.

UNAMA notes that in June 2016, the Afghan Local Police Directorate issued a directive to its field commanders to conduct training for all the Afghan Local Police members on their roles and responsibilities, rules of engagement and international human rights and humanitarian law.<sup>386</sup> As of 4

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<sup>381</sup> In 2015, UNAMA attributed 38 civilian casualties (12 deaths and 26 injured) to Afghan Local Police during ground engagements. These statistics do not include civilian casualties from ground engagements involving Afghan Local Police against Anti-Government Elements and/or including operations with other Afghan national security forces where the exact perpetrator could not be identified - UNAMA documented an additional 135 civilian casualties (23 deaths and 112 civilian casualties) involving ALP during such ground engagements.

<sup>382</sup> See Chapter on Children and Armed Conflict for more information on sexual violence and children.

<sup>383</sup> War crimes include the commission of the acts prohibited by Common Article 3(1) against those not taking part in hostilities, including violence to life and person; the acts prohibited by Additional Protocol II, Article 4(2); and attacks intentionally directed at civilians or civilian objects. See ICC Statute, Articles 8(2)(c), 8(2)(e)(i); ICRC Customary International Law Study, Rules 1, 6, 156.

<sup>384</sup> UNAMA notes that the numbers of Afghan Local Police in Afghanistan did not significantly change from 2015 to 2016.

<sup>385</sup> UNAMA meeting with Afghan Local Police Directorate in Kabul on 4 December 2016.

<sup>386</sup> UNAMA meeting with Afghan Local Police Directorate in Kabul on 4 December 2016.

December, the Afghan Local Police Legal Unit completed such training for field Afghan Local Police personnel in eight provinces.<sup>387</sup>

While UNAMA welcomes the initiatives by the Government and specifically, the Afghan Local Police Directorate, it remains concerned at the prevailing lack of accountability for violations of human rights committed by Afghan Local Police. It encourages the authorities to ensure independent and objective investigations in good faith into all allegations of violations of international humanitarian and human rights law by Afghan Local Police personnel and continue efforts to promote concrete accountability.

### **Government Policies and Mechanisms for Civilian Casualty Mitigation**

UNAMA welcomes the efforts being undertaken by the Government of Afghanistan to mitigate civilian casualties and encourages Afghan national security forces to take additional measures to reduce civilian casualties during operations. As documented in this report, the continued rise in civilian casualties resulting from operations carried out by Afghan national security forces reinforces the need for the Government to maintain its momentum in the development and implementation of policies to increase protection for civilians and to take robust steps to ensure immediate implementation. The Government's commitment to reduce harm should be matched by additional actions at the operational and tactical level, including close scrutiny of the numbers of civilians killed and injured, the locations of these casualties and the reasons.

#### *Development of a National Policy on Civilian Casualty Prevention and Mitigation*

In its 2015 Annual Report on Protection of Civilians in Armed Conflict, UNAMA recommended that the Government finalize the National Policy on Civilian Casualty Prevention and Mitigation, prepare an action plan containing concrete objectives to prevent civilian casualties in the conduct of hostilities and ensure the establishment of a dedicated entity within the Government to investigate all incidents of conflict-related harm to civilians.

Pursuant to the recommendation, the Government reported that it had finalized the National Policy on Civilian Casualty Prevention and Mitigation and approved it at the deputy-minister level prior to the NATO Warsaw Summit on 8-9 July.<sup>388</sup> To date, the National Security Council has not endorsed the policy.

UNAMA welcomes the continuing commitment of the Government to strengthen policy to protect civilians in the conduct of hostilities. It reiterates its call for the Government to prioritize the implementation of this policy and the completion of the action plan, as well as for the international community to provide sufficient support to enable this process. UNAMA reminds the Government that the policy itself is only the first step and it must be supported by an action plan for implementation with measurable objectives, including monitoring to ensure compliance. It stands ready to assist the Government with technical advice in this regard.

#### *Afghan Air Forces Tactical Guidance*

In 2016, the AAF developed tactical guidance on “conducting airstrikes” that had been approved by the AAF Commander and circulated to all Field Commanders for implementation.<sup>389</sup> The tactical

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<sup>387</sup> On 4 December, the Afghan Local Police Directorate informed UNAMA that training has been completed in all provinces of the eastern and south-eastern regions of Afghanistan.

<sup>388</sup> UNAMA meeting with the Afghan Government-led Working Group, Kabul city, 13 November 2016.

<sup>389</sup> UNAMA meeting with AAF Commander in Kabul on 28 November 2016.



guidance includes provisions on planning an airstrike, ensuring target accuracy and approval mechanisms for launching airstrikes. It also includes tactical guidance on mitigation measures to prevent civilians and civilian objects from becoming a target.

In 2016, the AAF instructed its Legal Advisers to conduct trainings for AAF personnel in the field focused on rules of engagement and legal obligations under the Constitution and international human rights and humanitarian law, particularly on preventing civilians and civilian objects from becoming a target while carrying out airstrikes.<sup>390</sup>

*Afghan Civilian Casualties Avoidance and Mitigation Board*

As noted in the UNAMA 2015 Annual Report on Protection of Civilians in Armed Conflict, NATO Resolute Support and the Government transitioned the Civilian Casualties Avoidance and Mitigation Board (CAMB)<sup>391</sup> from NATO to Afghan Government auspices, with its inaugural meeting held on 26 January 2016. The board meets once in every three months.<sup>392</sup> UNAMA encourages the Government to ensure that the Afghan-led CAMB is used as a focused and operational mechanism to identify areas to improve civilian casualty mitigation efforts and welcomes the international community's support to strengthen this mechanism.

In its 2016 Mid-Year Report on Protection of Civilians in Armed Conflict, UNAMA reiterated its call for the Government to prioritize the completion of the action plan for implementation of the National Policy on Civilian Casualty Prevention and Mitigation.<sup>393</sup> UNAMA welcomes the establishment of a working group by CAMB to draft an action plan for the implementation of the national policy on civilian casualty mitigation and possible preventive measures to be taken by the Government forces to mitigate civilian casualties.

UNAMA notes that the CAMB working group held its inaugural meeting on 2 October 2016 and its second meeting on 13 November 2016.<sup>394</sup> The CAMB working group meets every month and is chaired by the Head of the Strategic Planning Unit of the Office of National Security Council, with representatives from the Ministries of Defense and Interior, National Directorate of Security, Independent Directorate for Local Governance and Afghanistan Independent Human Rights Commission. UNAMA is also a member of the working group and provides technical inputs with respect to international law and practices.

*Inauguration of the Senior Level Protection Working Group*

On 30 June, the Chief Executive (CE) of Afghanistan convened the first meeting of the Senior Level Protection working group, which aims to facilitate policy-led dialogue on protection of civilian concerns and support the implementation of improved practices to reduce civilian casualties. The working group is chaired by the CE and is meant to reinforce other Government-led initiatives to reduce civilian casualties by ensuring high-level Government engagement<sup>395</sup> outside primary security body-led forums outlined in this section. UNAMA provides technical support and assistance to this

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<sup>390</sup> UNAMA meeting with AAF Commander in Kabul on 28 November. The instruction for conducting training was circulated on 3 August 2016.

<sup>391</sup> See UNAMA 2015 Annual Report on Protection of Civilians in Armed Conflict, pp. 11,12,79.

<sup>392</sup> UNAMA attended both meetings as an observer.

<sup>393</sup> See UNAMA 2016 Mid-Year Report on Protection of Civilians in Armed Conflict, p. 91.

<sup>394</sup> UNAMA attended both meetings as a member.

<sup>395</sup> Participants included deputy ministers of all security ministers and other relevant ministers, the Afghanistan Independent Human Rights Commission (AIHRC), the Resolute Support Mission, the United Nations and international humanitarian organizations as observers.

group at the senior level. UNAMA encourages the Government to utilize this forum to contribute to civilian-led oversight of Afghan national security forces and ensure greater protection for civilians and respect for their human rights.

## V. Legal Framework

The legal framework used for this report includes international human rights law, international humanitarian law, international criminal law and United Nations Security Council resolutions, which are binding on Afghanistan.<sup>396</sup> All contain obligations relevant to protection of civilians during armed conflict in Afghanistan, detailed below.

### Definition of Civilian(s)

In determining the status of each conflict-related casualty, UNAMA applies the international humanitarian law definition of civilian as persons who are not members of the armed forces or of an organized armed group.<sup>397</sup> It does not document civilian casualties where the civilian(s) was (were) directly participating in hostilities at the time of death or injury nor does it document the death or injury of individuals protected from attack who are not civilians under international humanitarian law such as persons *hors de combat* or the medical and religious personnel of the armed forces.<sup>398</sup>

This report therefore documents attacks against categories of people whose regular activities do not amount to direct participation in hostilities, including public servants and Government workers, teachers, health clinic workers, election workers and others involved in public service delivery, political figures and office-holders, and employees of NGOs, as well as civilian police personnel who are not directly participating in hostilities and are not involved in counter-insurgency operations.

UNAMA notes that other actors and parties to the armed conflict in Afghanistan have been applying their own definition of the term, as described in this report.<sup>399</sup>

### Legal Responsibilities of Parties to the Armed Conflict

UNAMA takes the position that the armed conflict in Afghanistan is a non-international armed conflict between the Government of Afghanistan and its armed forces (Afghan national security forces supported by international military forces). These combined forces are referred to in this report and within Afghanistan as “Pro-Government Forces”, while non-State armed opposition groups are referred to in this report and within Afghanistan as “Anti-Government Elements”. (See Glossary for definition of Pro-Government Forces and Anti-Government Elements.

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

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<sup>396</sup> United Nations Security Council Resolution 2274 (2016) highlights the obligations of all parties to the armed conflict in Afghanistan to comply with international law “including international humanitarian and human rights law and for all appropriate measures to be taken to ensure the protection of civilians.”

<sup>397</sup> Common Article 3; ICRC Customary International Humanitarian Law Study, Rule 5. See also ICRC Commentary to Common Article 3 (2016), para. 523: “For their part, non-State Parties to a non-international armed conflict do not have armed forces in the sense established under domestic law. However, the existence of a non-international armed conflict requires the involvement of fighting forces on behalf of a non-State party to the conflict that are capable of engaging in sustained armed violence, which requires a certain level of organization. Such organized armed groups constitute the ‘armed forces’ of a non-State Party to the conflict in the sense of Common Article 3” at: <https://ihl-databases.icrc.org/ihl/full/GCi-commentary> (last accessed: 23 October 2016).

<sup>398</sup> See also ICRC ‘Interpretive Guidance on the Notion of Direct Participation in the Hostilities under International Humanitarian Law’, ICRC, Geneva, 2009.

<sup>399</sup> See the Chapters on Deliberate Sectarian Attacks against the Shia Muslim Religious Minority and Taliban Claims of Responsibility and Public Statements.

Resolution 1325 (2000) of the Security Council underlined that it is critical for all States to fully apply the relevant norms of international humanitarian law and international human rights law to women and girls, and to take special measures to protect them from gender-based violence during armed conflict.<sup>400</sup>

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

Afghanistan is a party to the four Geneva Conventions of 1949 and to Additional Protocol II of 1977,<sup>401</sup> which addresses the protection of civilians in a non-international armed conflict and prohibits attacks against civilians and objects indispensable to the survival of the civilian population.

Article 3 common to the four Geneva Conventions of 1949 establishes minimum standards that parties, including State and non-State actors, shall respect in non-international armed conflict. Common Article 3 explicitly prohibits violence to life and person, including murder,<sup>402</sup> mutilation, cruel treatment and torture, as well as outrages against personal dignity and extrajudicial executions,<sup>403</sup> at any time and in any place.

The contents of the four Geneva Conventions of 1949 and several rules similar to those found in their Additional Protocols are also largely part of customary international humanitarian law.<sup>404</sup> The following are amongst the most relevant principles that apply to the conduct of all the parties to Afghanistan's non-international armed conflict:

- Distinction: The civilian population as such, as well as individual civilians, shall not be the object of attack.<sup>405</sup>
- Proportionality: "an attack against a military objective which may be expected to cause incidental loss

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<sup>400</sup> S/RES/1325 (2000). *See also* S/RES/1820 (2008), S/RES/1888 (2009), S/RES/1889 (2009), and S/RES/1960 (2010).

<sup>401</sup> Afghanistan ratified Additional Protocol II 1977 on 10 November 2009. It entered into force on 24 December 2009.

<sup>402</sup> UNAMA records civilian deaths and injuries with a nexus in the ongoing armed conflict under different tactic-types, including targeted killing, suicide and complex attacks, IEDs, etc. In doing so, UNAMA documents both alleged acts that amount to the war crimes pursuant to the Rome Statute and/or customary international law - including the war crime of murder pursuant to Article 8(c)(i) of the Rome Statute - and civilian deaths caused during the conduct of hostilities that may be lawful. UNAMA distinguishes conflict-related civilian deaths and injuries from the domestic criminal offences such as murder or assault committed by a private actor outside the context of the armed conflict. Incidents lacking the requisite nexus with the ongoing armed conflict are not included in this report.

<sup>403</sup> Common Article 3 of the Geneva Conventions of 12 August 1949 is applicable during conflicts of a non-international character. "In the case 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 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."

<sup>404</sup> See ICRC Customary International Humanitarian Law Study.

<sup>405</sup> Additional Protocol II, Article 13(2); ICRC Customary International Humanitarian Law Study, Rule 1. *See also* ICRC Customary International Law Study, Rules 1-24.

of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated is prohibited.”<sup>406</sup>

- Precautions in attack: “...civilians shall enjoy general protection against the dangers arising from military operations”.<sup>407</sup> “In the conduct of military operations, constant care must be taken to spare the civilian population, civilians and civilian objects” and all feasible precautions must be taken with the “view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects.”<sup>408</sup>

All States contributing to the international military forces in Afghanistan are signatories to the four Geneva Conventions of 1949. While not all troop-contributing States are signatories of Additional Protocol II 1977, they are still bound by the relevant rules of customary international humanitarian law applicable in non-international armed conflicts. Afghanistan deposited its instrument of accession to the 1980 Convention on Certain Conventional Weapons and all five of its protocols with the United Nations Secretary General on 1 July 2016. It should therefore come into force on 1 February 2017.<sup>409</sup> The convention bans or restricts the use of specific weapons considered to indiscriminately affect civilians or cause unnecessary or unjustified suffering to combatants. Amended Protocol II on mines, booby traps, and other devices, and Protocol V relating to explosive remnants of war are particularly relevant to Afghanistan.<sup>410</sup>

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

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

Afghanistan is a party to numerous international human rights treaties,<sup>411</sup> including the International Covenant on Civil and Political Rights, which obligates the Government to provide basic human rights protections to all persons within the territory or jurisdiction of the State.

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<sup>406</sup> ICRC Customary International Humanitarian Law Study, Rule 14.

<sup>407</sup> Additional Protocol II, Article 13(1); ICRC Customary International Humanitarian Law Study, Rule 15.

<sup>408</sup> ICRC Customary International Humanitarian Law Study, Rules 15 to 21.

<sup>409</sup> The Minister of Foreign Affairs for Afghanistan signed an “Instrument of Accession” on 15 January 2017 ratifying the 1980 Convention on Conventional Weapons and Additional Protocols I, II (as amended in 1996), III, IV, and V) – copy of document on record with UNAMA. The Ministry of Foreign Affairs submitted the document to the office of the United Nations Secretary-General on 26 July in compliance with the procedure for ratification of the conventions and its protocols – information received in an email between UNAMA and the Directorate of Mine Action Coordination/Ministry of Foreign Affairs in January 2017. The conventions and its protocols therefore came in to effect in Afghanistan on 26 January 2017.

<sup>410</sup> Amended Protocol on Mines, booby-traps, other devices (Amended Protocol II to the 1980 Convention on Conventional Weapons), 3 May 1996; Protocol on Explosive Remnants of War (Protocol V to the 1980 Convention on Certain Conventional Weapons), 28 November 2013. For more information on how the obligations contained in these two protocols relate to Afghanistan, see Chapter on Improvised Explosive Devices and Chapter on Explosive Remnants of War.

<sup>411</sup> Afghanistan is a party to the following human rights treaties and conventions: International Covenant on Civil and Political Rights, ratified on 24 April 1983; International Covenant on Economic, Social and Cultural Rights, ratified on 24 April 1983; International Convention on the Elimination of all Forms of Racial Discrimination, ratified on 5 August 1983; Convention on the Elimination of all Forms of Discrimination against Women, ratified on 5 March 1983; Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, ratified on 26 June 1987; Convention on the Rights of the Child, ratified on 27 April 1994; Optional Protocol to the Convention of the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, ratified on 19 October 2002; Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, ratified on 24 September 2003; and Convention on the Rights of Persons with Disabilities, acceded to on 18 September 2012. See

While they cannot become parties to international human rights treaties, non-State actors, including armed groups, are not precluded from being subject to human rights obligations under customary international law. Non-state actors are increasingly deemed to be bound by certain international human rights obligations, particularly those exercising *de facto* control over some areas, such as Taliban.<sup>412</sup>

Under international human rights law, States must investigate the use of lethal force by their agents,<sup>413</sup> particularly those involved in law enforcement. This duty, together with potential liability for failure to comply, flows from the obligation to protect the right to life.<sup>414</sup> For State investigations to be effective, they must be as prompt as possible, exhaustive, impartial, independent<sup>415</sup> and open to public scrutiny.<sup>416</sup> A State's duty to investigate applies to all law enforcement contexts, including those arising during armed conflict.<sup>417</sup>

### (iii) Obligations under International Criminal Law

Afghanistan has the primary responsibility to investigate and prosecute international crimes, i.e. war crimes, crimes against humanity and genocide, within its jurisdiction.<sup>418</sup> As Afghanistan became a State party to the Rome Statute of the International Criminal Court (ICC) in 2003, to the extent Afghanistan is unable or unwilling to exercise its jurisdiction, the Court can exercise its jurisdiction over Afghanistan.<sup>419</sup> The situation in Afghanistan is currently under preliminary examination by the Office of the Prosecutor of the International Criminal Court to determine whether there is a

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[http://www.aihrc.org.af/English/Eng\\_pages/X\\_pages/conventions\\_af\\_z\\_party.html](http://www.aihrc.org.af/English/Eng_pages/X_pages/conventions_af_z_party.html), last accessed 15 January 2017.

<sup>412</sup> See United Nations Secretary-General, Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka, 31 March 2011, para. 188. See also Report of the International Commission of Inquiry to investigate all Alleged Violations of International Human Rights Law in the Libyan Arab Jamahiriya A/HRC/17/44, 1 June 2011; the Report of the International Commission of Inquiry on the Situation of Human Rights in the Syrian Arab Republic, A/HRC/19/69, para. 106; United Nations Mission in the Republic of South Sudan (UNMISS), Conflict in South Sudan: A Human Rights Report, 8 May 2014, para. 18.

<sup>413</sup> See Paragraphs 9, 10 and 17 of the *United Nations Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions*, adopted on 24 May 1989 by the Economic and Social Council Resolution 1989/65. See also United Nations Security Council and General Assembly resolutions concerning non-international armed conflict, calling for all parties to respect international human rights law.

<sup>414</sup> UNHRC, General Comment No. 31 (2004), § 15; UNHRC, General Comment No. 6 (1982), § 4; ECtHR, *McCann case*, § 169; ECtHR, *Kaya case*, § 86; ECtHR, *Ergi v. Turkey*, Application No. 23818/94, Judgment of 28 July 1998, §§ 82, 86; ECtHR, *Isayeva v. Russia*, Application No. 57950/00, Judgment of 24 February 2005, §§ 208-9, 224-5; IACiHR, *Abella (La Tablada) case*, § 244; IACiHR, *Alejandre case*, § 47; IACiHPR, *Civil Liberties case*, § 22.

<sup>415</sup> IACiHR, *Abella (La Tablada) case*, § 412; ECtHR, *Özkan case*, § 184; ECtHR, *Orhan v. Turkey*, Application No. 25656/94, Judgment of 18 June 2002, § 335; ECtHR, *Isayeva et al. case*, § 210-11; ECtHR, *McCann case*.

<sup>416</sup> ECtHR, *Hugh Jordan v. the United Kingdom*, Application No. 24746/94, Judgment of 4 May 2001, § 109; ECtHR, *Özkan case*, § 187; ECtHR, *Isayeva et al. case* § 213; ECtHR, *Isayeva case*, § 214. See also Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law at:

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx>, last accessed 15 January 2017.

<sup>417</sup> See C. Droege, "Distinguishing Law Enforcement from Conduct of Hostilities", pp. 57-63, contained in the Report on the Expert Meeting "Incapacitating Chemical Agents", Law Enforcement, Human Rights Law and Policy Perspectives, held in Montreux, Switzerland 24-26 April 2012, at:

<http://www.icrc.org/eng/assets/files/publications/icrc-002-4121.pdf>, last accessed 15 January 2017; Nils Melzer, "Conceptual Distinction and Overlaps between Law Enforcement and the Conduct of Hostilities," in *The Handbook of the International Law of Military Operations* (Oxford: Oxford University Press, 2010), pp. 43-44

<sup>418</sup> ICC Statute, *preamble*, Articles 1, 17. See also ICRC Customary International Law Study, Rule 158.

<sup>419</sup> ICC Statute, Articles 1, 12-17;

reasonable basis to request the Pre-Trial Chamber of the court for authorization to commence a criminal investigation into crimes of sufficient gravity within the jurisdiction of the court, including war crimes perpetrated by “Afghan authorities” and “Anti-government groups” connected to the ongoing non-international armed conflict.<sup>420</sup>

States whose military forces are among the international military forces party to the conflict in Afghanistan also have a responsibility to investigate and prosecute alleged crimes that may have been committed by their nationals in Afghanistan.<sup>421</sup> For example, these States have an obligation to investigate and prosecute violations of Article 8(2)(e)(i) of the ICC Statute which stipulates that “intentionally directing attacks against the civilian population as such, or against individual civilians not taking direct part in hostilities” constitutes a war crime in non-international armed conflict. At the time of publication of this report, the ICC has identified the actions of international military forces during the interrogation of conflict-related detainees in the context of the non-international armed conflict in Afghanistan form as potentially admissible international criminal cases that would arise from an investigation of the situation, should one be authorized.<sup>422</sup>

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<sup>420</sup> See ICC Report on Preliminary Examination Activities 2016 (14 November 2016), pp. 43-51.

<sup>421</sup> Irrespective of whether States are parties to the ICC statute, they all have obligations under customary law to investigate serious violations of international human rights and international humanitarian law when they are operating on the territory of Afghanistan. See ICRC Customary International Law Study, Rules 144, 157, 158.

<sup>422</sup> See ICC Report on Preliminary Examination Activities 2016 (14 November 2016), pp. 44, 47-50.

## VI. Glossary<sup>423</sup>

**AAF:** Afghan Air Force.

**Aerial attack or airstrike:** Firing ordnance from aircraft, including close air support (CAS) from fixed-wing aircraft, and close combat attack (CCA) from rotary-wing aircraft, and attacks using remotely piloted aircraft (RPA).

**ABP:** Afghan Border Police, also known as ANBP (Afghan National Border Police).

**Abduction:** UNAMA defines abduction as an incident wherein a party to the conflict forcibly takes and holds a civilian or civilians against their will whether to compel a third party or the detained individual or individuals to do or abstain from doing any act as an explicit or implicit condition for the release of the individual or individuals. In many instances, it also includes abduction with the intent to murder the individual or individuals. The term also encompasses criminal abductions carried out by a party to the conflict or a person taking direct part in hostilities.

**ALP:** Afghan Local Police.

**ANA:** Afghan National Army.

**ANP:** Afghan National Police.

**ANCOP:** Afghan National Civil Order Police.

**ANSF:** Afghan national security forces; an umbrella term that includes ABP, Afghan Local Police, ANA, ANCOP, ANP, Afghan Special Forces and the National Directorate of Security.

**Anti-Government Elements:** ‘Anti-Government Elements’ encompass all individuals and armed groups involved in armed conflict with or armed opposition against the Government of Afghanistan and/or international military forces. They include those who identify as ‘Taliban’ as well as individuals and non-State organized armed groups taking a direct part in hostilities and assuming a variety of labels including the Haqqani Network, Islamic Movement of Uzbekistan, Islamic Jihad Union, Lashkari Tayyiba, Jaysh Muhammed, groups identifying themselves as ‘*Daesh*’ and other militia and armed groups pursuing political, ideological or economic objectives including armed criminal groups directly engaged in hostile acts on behalf of a party to the conflict.

**Armed Group:** Organized armed non-State actor engaged in conflict and distinct from a Government force, such as militias, rebels, and criminal groups. These armed groups have no legal basis under the laws of Afghanistan. Armed groups are not within the formal military structures of States, State-alliances or intergovernmental organizations; and are not under the control of the State(s) in which they operate. In some cases though, armed groups may receive direct/indirect support of the host Government or other States. This definition includes, but is not limited to the following groups: rebel opposition groups, local militias (ethnically, clan or otherwise based), insurgents, terrorists, guerrillas, and civil defence forces and paramilitary groups (when such are clearly not under State control).<sup>424</sup> Some armed groups operate in a manner generally aligned with the Government, although not under their control, and are referred to as pro-Government armed groups.

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<sup>423</sup> Definitions contained in this Glossary are only for the purposes of this report.

<sup>424</sup> *United Nations Humanitarian Negotiations with Armed Groups: A Manual for Practitioners*, Gerard McHugh and Manuel Bessler, United Nations Office for the Coordination of Humanitarian Affairs (OCHA), New York, January 2006. See Section 2.3 on *Characteristics of Armed Groups*.



UNAMA considers ‘Anti-Government Elements’ described in this report as non-State armed groups but distinguishes them on the basis of their armed opposition against the Government of Afghanistan.

**AXO:** Abandoned Explosive Ordnance. Refers to explosive ordnance that has not been used during an armed conflict, that has been left behind or dumped by a party to an armed conflict, and which is no longer under the latter’s control. Abandoned explosive ordnance may or may not have been primed, fused, armed or otherwise prepared for use (*Convention on Certain Conventional Weapons Protocol V*).

**Civilian Casualties:** Killed or injured civilians.

UNAMA documents civilian casualties resulting from conflict-related violence including: civilian deaths and injuries resulting directly from armed conflict – including those arising from military operations by Afghan national security forces and/or international military forces such as force protection incidents, aerial attacks, search and seizure operations, counter-insurgency or counter-terrorism operations. It includes casualties from the activities of non-State armed groups such as targeted killings (assassinations), deliberate killings, improvised explosive devices or direct engagement in hostilities with Pro-Government Forces. It also includes civilian deaths and injuries resulting from the conflict-related violence, including: casualties caused by explosive remnants of war, deaths from probable underlying medical conditions that occurred during military operations or due to unavailability or denial of medical care.

**Children:** The Convention on the Rights of the Child, ratified by Afghanistan in 1994, defines a “child” as any person under the age of 18 (0-17 inclusive). The Rome Statute of the International Criminal Court, ratified by Afghanistan in 2003, establishes as a war crime the conscription or enlisting of children under the age of 15 years into State armed forces or non-State armed groups and using children to participate actively in hostilities (*see* Articles 8(2)(b) (xxvi) and 8(2) (e) (vii)).

**Civilian:** For the purposes of the principle of distinction, international humanitarian law defines ‘civilians’ as those persons who are not members of military/paramilitary forces or members of an organized armed group with continuous combat function. Civilians may lose protection against attacks for such time as they take direct part in hostilities. Civilians participating directly in hostilities and are not counted as ‘civilian casualties’ in this report.

Person *hors de combat* or protected personnel: A person who is *hors de combat* (wounded, sick, shipwrecked, detained or surrendering) or who belongs to the medical or religious personnel of the armed forces must be protected from attack. If killed or wounded, individuals with *hors de combat* status are not counted as “civilian casualties” in this report.

**Complex attack:** UNAMA defines complex attack as a deliberate and coordinated attack which includes a suicide device (i.e., body-borne IEDs or suicide vehicle-borne IEDs), more than one attacker and more than one type of device (i.e., body-borne-IEDs and mortars). All three elements must be present for an attack to be considered complex.

**COM-RS:** Commander of the NATO-led Operation Resolute Support Mission and other US Forces Afghanistan.

**EOF Incidents:** Escalation of Force incidents also referred to as “force protection” incidents. Situations where civilians do not pay attention to warnings from military personnel when in the

proximity of, approaching or overtaking military convoys or do not follow instructions at check points.

ISAF defines EoFs as “a defensive process which seeks to determine the presence of a threat, its eventual extent and when applicable to match the threat with an appropriate defensive response for Force protection.”<sup>425</sup>

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

**Explosive weapons:** Explosive weapons are not explicitly defined by international law. Explosive weapons generally consist of a casing with a high-explosive filling and whose destructive effects result mainly from the blast wave and fragmentation produced by detonation. Mortars, artillery shells, aircraft bombs, rocket and missile warheads, and many improvised explosive devices (IEDs) fall under this term. Certain types of explosive weapons may be categorized as **light weapons** (e.g. hand-held under-barrel and mounted grenade launchers, portable launchers of anti-tank missile and rocket systems; portable launchers of anti-aircraft missile systems; and mortars of calibres of less than 100 mm). Many explosive weapons, such as aircraft bombs, rockets systems, artillery and larger mortars are categorized as **heavy weapons**.<sup>426</sup>

**Ground engagements:** Ground engagements include kinetic ground operations, stand-off attacks, crossfire and armed clashes between parties to the conflict. Ground engagements include attacks or operations in which small arms, heavy weapons and/or area weapons systems, i.e. mortars and rockets are fired.

**Heavy weapons:** Although the term ‘heavy weapons’ is widely used, there is no commonly agreed international definition.<sup>427</sup> Typical examples include large mortars, rockets systems and artillery. (See Explosive weapons above).

**High Explosive Training Range:** A range used by military or security forces to employ weapon systems that use explosive ammunition, including heavy weapons.

**IDP:** Internally Displaced Person(s). According to the Guiding Principles on Internal Displacement, internally displaced persons (also known as "IDPs") are "persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized border."

**IED:** Improvised Explosive Device. A bomb constructed and deployed in ways other than in conventional military action. IEDs can broadly be divided into four categories: Command-Operated IEDs, Victim-Operated IEDs, Suicide IEDs, and Other IEDs.

*Command-Operated IEDs* – Radio or remote controlled IEDs (RC-IEDs) operated from a distance that can enable operators to detonate a pre-placed device at the precise time a target moves into the target

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<sup>425</sup> UNAMA interview with ISAF HQ, 31 January 2014, Kabul.

<sup>426</sup> Borrie, J. and Brehm, M., ‘Enhancing civilian protection from use of explosive weapons in populated areas: building a policy and research agenda’, in *International Review of the Red Cross*, Volume 93, Number 883. See also footnotes 33 and 196.

<sup>427</sup> Heavy weapons are not mentioned in international human rights or international humanitarian law standards. Moyes, R., Brehm, M. and Nash, T., *Heavy weapons and civilian protection*, Article 36 (2012).

area.<sup>428</sup> RC-IEDs include user-detonated IEDs, such as roadside IEDs, and objects and animals rigged with IED devices, such as vehicles, bicycles, motorcycles and donkeys. Magnetic-IEDs are IEDs attached by a magnetic or other device and are a sub-category of command-operated IEDs; UNAMA records these devices separately due to the common delivery method in Afghanistan, *i.e.*, placement on vehicles of targeted individuals.

*Victim-Operated IEDs* – A victim-operated IED detonates when a person or vehicle triggers the initiator or switch which could be a pressure plate (PP-IED) or pressure release mechanism, trip wire or another device, resulting in an explosion.<sup>429</sup>

*Other IEDs* – This category includes command-wired IEDs and timed-IEDs (since 2009, UNAMA has recorded very few incidents from these switch types), and IEDs where the trigger/switch type for detonation could not be determined.

*Suicide IEDs* – Separately from data on IEDs, UNAMA documents civilian casualties resulting from complex and suicide attacks. Suicide IEDs are generally either Body-Borne IEDs (BB-IEDs) or Suicide Vehicle-Borne IEDs (SVB-IEDs). Body-Borne IEDs refer to situations where a suicide bomber wears an explosive vest or belt while Suicide Vehicle-Borne IEDs is defined as the detonation of a vehicle rigged with explosives by a driver or passenger inside the vehicle, or the detonation of a BB-IED by the driver or a passenger while inside the vehicle.

**IED Exploitation:** IED Exploitation is the process of identifying, collecting, processing and disseminating information and material gathered from an IED incident site to gain actionable intelligence, to improve counter-IED procedures and methods, to decrease the resources of insurgents and to support prosecutions. It includes preservation, identification and recovery of IED components for technical, forensic and biometric examination and analysis and is carried out by authorised specialist facilities. IED exploitation is a critical component of effective and sustainable counter-IED measures.

**Incidents:** Events with a nexus to the armed conflict resulting in civilian casualties, civilian abductions, or damage to civilian property, as well as threats/intimidation/harassment related to the armed conflict and the military use of medical and health-care facilities by parties to the conflict.

**Imam:** A religious scholar who leads prayers.

**International military forces :** “international military forces” include all foreign troops forming part of NATO-led Operation Resolute Support (formerly International Security Assistance Force, ISAF) and other US Forces Afghanistan (including Operation Freedom’s Sentinel, which replaced Operation Enduring Freedom on 1 January 2015) who are under the Commander of Resolute Support (COM-RS), who is also Commander of the US Forces in Afghanistan. The term also encompasses Special Operations Forces and other foreign intelligence and security forces.

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

**ISAF:** International Security Assistance Force in Afghanistan. ISAF operated under a peace enforcement mandate pursuant to Chapter VII of the United Nations Charter. ISAF was deployed under the authority of the United Nations Security Council. In August 2003, at the request of the

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<sup>428</sup> Small Arms Survey, *Improvised Explosive Devices*, Chapter 10 ‘Infernal Machines,’ pp. 220-221.

<sup>429</sup> *Ibid.*

Government of Afghanistan and the United Nations, NATO took command of ISAF. From November 2008, the Commander of ISAF served as Commander of US Forces Afghanistan, although the chains of command remained separate. United Nations Security Council resolution 2120 (2013) reaffirmed previous resolutions on ISAF and extended the authorisation of ISAF for 14 months until 31 December 2014. As of 1 January 2015, ISAF was replaced by the Resolute Support Mission (see Resolute Support Mission).

**Light weapons:** Weapons designed for use by two or three persons serving as a crew, although some may be carried and used by a single person. They include, *inter alia*, heavy machine guns, hand-held under-barrel and mounted grenade launchers, portable anti-aircraft guns, portable anti-tank guns, recoilless rifles, portable launchers of anti-tank missile and rocket systems, portable launchers of anti-aircraft missile systems, and mortars of a calibre of less than 100 millimetres.<sup>430</sup>

**Mahram:** A woman's husband, or her immediate male relative (i.e., father, brother, paternal and maternal uncles and her nephews) with whom marriage is proscribed for her under Shari'a law.

**MoI:** Ministry of Interior.

**NATO:** North Atlantic Treaty Organization. Members of NATO are the main troop-contributing States to the Resolute Support Mission (see Resolute Support Mission and ISAF).

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

**NGO:** Non-Governmental Organization.

**Pro-Government armed groups:** The term "pro-Government armed group" refers to an organized armed non-State actor engaged in conflict and distinct from Government Forces, rebels and criminal groups. Pro-Government armed groups do not include the Afghan Local Police, which fall under the command and control of the Ministry of Interior. These armed groups have no legal basis under the laws of Afghanistan. Armed groups have the capacity to employ arms in the use of force to achieve political, ideological or other objectives; are not within the formal military structures of States, State-alliances or intergovernmental organizations; and are not under the control of the State(s) in which they operate. In some cases, armed groups receive direct/indirect support of the host Government or other States. This definition includes, but is not limited to, the following groups: "national uprising movements"<sup>431</sup>, local militias (ethnically, clan or otherwise based), and civil defence forces and paramilitary groups (when such groups are clearly not under State control).

**Pro-Government Forces:** Afghan Government National Security Forces and other forces and groups that act in military or paramilitary counter-insurgency operations and are directly or indirectly under the control of the Government of Afghanistan. These forces include, but are not limited to, the ABP, Afghan Local Police, ANA, ANP, NDS and other Pro-Government local defence forces.

Afghanistan National Security Forces include: ANA, which reports to the Ministry of Defence and is formally incorporated into the armed forces of Afghanistan; and forces under the authority of the Ministry of Interior which include: Afghan Local Police, which are considered a *de facto* part of the armed forces because of their function and do not have the legal protection afforded to civilians; and

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<sup>430</sup> International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons, Adopted by the United Nations General Assembly on 8 December 2005, A/CONF.192/15, accessible at: [http://www.un.org/events/smallarms2006/pdf/international\\_instrument.pdf](http://www.un.org/events/smallarms2006/pdf/international_instrument.pdf).

<sup>431</sup> See Protection of Civilians in Armed Conflict Annual Reports 2014 for definitions and details of engagement of members of national uprising movements in the conflict.

ANP, ANCOP and ABP, which are law enforcement agencies not formally incorporated into the armed forces of Afghanistan and report to the Ministry of Interior. Members of law enforcement agencies lose their protection as civilians when they function as part of the armed forces or directly participate in hostilities. For members of police units that never have combat functions, the use of force in self-defence is not considered to result in a loss of protection as a civilian.

Pro-Government Forces also include international military forces and other foreign intelligence and security forces (*see* international military forces).

**Pro-Government Militia:** See pro-Government armed groups.

**Resolute Support (RS):** On 1 January 2015, the North Atlantic Treaty Organization (NATO) transitioned from its International Security Assistance Force (ISAF) mission in Afghanistan to its non-combat Resolute Support mission (to train, assist and advise Afghan national security forces). Unlike ISAF, which was authorized by the United Nations Security Council, the legal basis for Resolute Support is provided by a Status of Forces Agreement (SOFA), signed in Kabul on 30 September 2014 and ratified by the Afghan Parliament on 27 November 2014. United Nations Security Council resolution 2189 (2014) welcomed the bilateral agreement between the Islamic Republic of Afghanistan and NATO to establish RSM. As of December 2016, the Resolute Support force comprised 13,332 soldiers from 39 Troop Contributing Nations, organized in five regional Train, Advise Assist Commands (TAACs) – Capital, North, East, South, West. The Commander of Resolute Support also serves as Commander of US Forces Afghanistan, although the chains of command remain separate.

**Small arms:** Weapons designed for individual use. They include, *inter alia*, revolvers and self-loading pistols, rifles and carbines, sub-machine guns, assault rifles and light machine guns.<sup>432</sup>

**SOPs:** Standard Operating Procedures.

**Targeted Killing:** Intentional, premeditated and deliberate use of lethal force by States or their agents acting under colour of law (or by an organized armed group in armed conflict) against a specific individual who is not in the perpetrator's physical custody.<sup>433</sup> UNAMA documents civilian casualties arising directly and collaterally from such attacks. See Chapter on Anti-Government Targeted Killings Resulting in Civilian Casualties.

**Tashkil:** Dari word meaning “structure” that refers to the official staffing table and equipment allocations authorized by the Government of Afghanistan for a particular Government entity, including security forces and civilian Government.

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<sup>432</sup> International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons, Adopted by the United Nations General Assembly on 8 December 2005, A/CONF.192/15, accessible at:

[http://www.un.org/events/smallarms2006/pdf/international\\_instrument.pdf](http://www.un.org/events/smallarms2006/pdf/international_instrument.pdf).

<sup>433</sup> Although in most circumstances targeted killings violate the right to life, in the exceptional circumstance of armed conflict, they may be legal provided that relevant provisions of IHL and human rights law are respected. *See* United Nations General Assembly, Human Rights Council 14th Session, Agenda item 3, Report of the Special Rapporteur on Extra-Judicial, Summary or Arbitrary Executions, Philip Alston. Addendum, ‘Study on Targeted Killings’. A/HRC/14/24/Add.6. 10 May 2010. In UNAMA, for database recording purposes, the category of targeted killings also includes some cases of killings where the victim was briefly in the perpetrator's custody at the time of the killing but the custody did not amount to an abduction, i.e. the person identified to be killed is stopped by armed individuals, their identity is confirmed, and then the attackers kill the person, commonly at illegal checkpoints,

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

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

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

**USSOF:** United States Special Operations Forces.

**UXO:** Unexploded Ordnance.

**War Crimes:** War crimes are serious violations of treaty or customary international humanitarian law. Under the definition of “war crimes” of the Statute of the International Criminal Court (Rome Statute), war crimes<sup>434</sup> include serious violations of common Article 3 of the Geneva Conventions, including violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; outrages upon personal dignity, in particular humiliating and degrading treatment; taking of hostages; the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable.

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<sup>434</sup> ICC Statute, Article 8. Customary international law applicable in both international and non-international armed conflicts defines war crimes as serious violations of international humanitarian law. Rule 156. Definition of War Crimes. ICRC, Customary International Humanitarian Law, Volume 1, Rules ed. Jean-Marie Henckaerts and Louise Doswald-Beck (CU P/ICRC, Cambridge 2005) {ICRC Study}.

**Annex 1: Attacks Claimed by Taliban: Breakdown by Target Type**

<b>Attacks directed at Afghan national security forces , international military forces and pro-Government armed groups</b>	
Afghan National Police	59
Afghan Local Police	25
Afghan National Army	18
Afghan national security forces	19
National Directorate of Security	10
Afghan Border Police	7
International military forces and other	3
Pro-Government militia	2
Total attacks against security/military forces resulting in civilian casualties and claimed by Taliban on website or twitter:	<b>143</b>
<b>Attacks directed at civilians and civilian objectives</b>	
Other civilian target	28
Civilian Government Administration	22
Judges, prosecutors and judicial staff	16
Tribal Elders	5
Contractors / Labourers	4
Healthcare	1
Humanitarian de-miners	2
Private Security Company	2
Education	1
United Nations	1
Total attacks claimed by Taliban directed at civilians or civilian locations which resulted in civilian casualties:	<b>82</b>
<b>Total attacks claimed by Taliban which resulted in civilian casualties:</b>	<b>225</b>

**Annex 2: Table of Taliban Allegations of “War Crimes”**

TOTAL	UNAMA Documentation	Results	Attribution	
254	139 cases documented by UNAMA prior to publication of the Taliban statements	39 cases had the same number of casualties 07 case had the same number of casualties with different ratio between killed and wounded	36 to Pro-Government Forces 05 to Pro-Government Forces and Anti-Government Elements 05 to AGEs	
		47 cases had a lower number of casualties	39 to Pro-Government Forces 04 to Pro-Government Forces and Anti-Government Elements 04 to AGEs	
		30 cases had a higher number of casualties	20 to Pro-Government Forces 01 to Pro-Government Forces and Anti-Government Elements 09 to AGEs	
		04 case was not related to armed conflict		
		12 case casualties were not civilian or did not have casualties at all.		
	65 cases documented by UNAMA after publication of the Taliban statements	22 cases had the same number of casualties 05 case had the same number of casualties with a different ratio between killed and wounded	15 to Pro-Government Forces 08 to Pro-Government Forces and Anti-Government Elements 04 to AGEs	
		12 cases had a lower number of casualties	08 to Pro-Government Forces 02 to Pro-Government Forces and Anti-Government Elements 02 to AGEs	
		04 case had a higher number of casualties	03 to Pro-Government Forces 01 to Pro-Government Forces and Anti-Government Elements	
		03 case was not related to armed conflict		
		19 cases the casualties were not civilian or did not have casualties at all.		
	50 cases could not be confirmed by UNAMA.			



### **Annex 3: Press statements by USFOR-A PUBLIC AFFAIRS**

#### **Update on civilian casualties near Kunduz (Nov. 5, 2016)**

**KABUL, Afghanistan** (Nov. 5, 2016) - An initial investigation has determined that efforts near Kunduz Nov. 3 to defend Afghan National Defense and Security Forces likely resulted in civilian casualties.

"I deeply regret the loss of innocent lives, regardless of the circumstances. The loss of innocent life is a tragedy and our thoughts are with the families," said Gen. John W. Nicholson, commander of U.S. Forces - Afghanistan. "We will work with our Afghan partners to investigate and determine the facts and we will work with the Government of Afghanistan to provide assistance."

On Nov. 3, Afghan forces advised by U.S. forces, conducted a mission in Boz Village, Kunduz district, Kunduz targeting Taliban leaders who were planning additional attacks in Kunduz city. During the course of the operation, friendly forces encountered significant enemy fire from multiple locations and defended themselves with ground fire and U.S. air-to-ground engagements. Initial reports indicate several Taliban leaders and Taliban members were killed in the engagement.

As of the Government of Afghanistan has said, the presence of Taliban in Kunduz province continues to present a threat to the people. We will continue to support our Afghan partners as they defend the people of Afghanistan.

#### **USFOR-A Public Affairs Office**

<http://www.rs.nato.int/article/press-releases/update-on-civilian-casualties-near-kunduz-nov.-5-2016.html>

#### **Civilian casualties confirmed in Boz Village, Kunduz**

**KABUL, Afghanistan (Jan. 12, 2017)** — U.S. Forces – Afghanistan completed its investigation into an allegation that civilian casualties were caused by U.S. and Afghan forces during a partnered military operation in Boz Village, Kunduz, Nov. 2-3, 2016. The investigation determined, regretfully, that 33 civilians were killed and 27 wounded. To defend themselves and Afghan forces, U.S. forces returned fire in self-defense at Taliban who were using civilian houses as firing positions.

"Regardless of the circumstances, I deeply regret the loss of innocent lives," said Gen. John Nicholson, commander of U.S. Forces – Afghanistan. "On this occasion the Taliban chose to hide amongst civilians and then attacked Afghan and U.S. forces. I wish to assure President Ghani and the people of Afghanistan that we will take all possible measures to protect Afghan civilians. We will continue to assist the Afghan national security forces in their efforts to defend their country."

The operation was conducted to capture Taliban leaders responsible for October's violence in Kunduz. It was carried out by Afghan special operation forces with a smaller U.S. element to provide advice and assistance. Upon arrival at the village, friendly forces were soon engaged by the Taliban from multiple civilian buildings. As the engagement progressed and friendly forces began to take casualties from Taliban fire coming from civilian buildings, U.S. and Afghan forces were forced to request aerial fire support from U.S. platforms in self defense. Aerial fires were also used to suppress Taliban who were firing on U.S. medical evacuation assets as the dead and wounded were evacuated.

The investigation concluded that U.S. air assets used the minimum amount of force required to neutralize the various threats from the civilian buildings and protect friendly forces. The investigation further concluded that no civilians were seen or identified in the course of the battle. The civilians who were wounded or killed were likely inside the buildings from which the Taliban were firing. In addition, a Taliban ammunition cache was struck and exploded which destroyed multiple civilian buildings and may also have killed civilians.

The investigation concluded that U.S. forces acted in self-defense, in accordance with the Law of Armed Conflict, and in accordance with all applicable regulations and policy. As an indication of the ferocity of the fire faced by friendly forces from the Taliban-occupied houses, two U.S. soldiers and three Afghan Army Commandos were killed. In addition, four U.S. soldiers and 11 commandos were wounded. The investigation concluded that approximately 26 Taliban, including three leaders, were also killed, along with approximately 26 wounded. It has been determined that no further action will be taken because U.S. forces acted in self-defense and followed all applicable law and policy.

Source: <http://www.rs.nato.int/article/press-releases/civilian-casualties-confirmed-in-boz-village-kunduz.html>, last accessed 17 January 2017

**Annex 4: Statement by the Government of the Islamic Republic of Afghanistan on the UNAMA 2016 Report on Protection of Civilians in Armed Conflict**



د افغانستان اسلامي جمهوریت  
د بهرنیو چارو وزارت

Islamic Republic of Afghanistan  
MINISTRY of FOREIGN AFFAIRS

جمهوری اسلامی افغانستان  
وزارت امور خارجه

ریاست حقوق بشر و امور بین المللی زنان  
Directorate General of Human Rights and Women's International Affairs

درجه اهمیت

مهم:

محرم:

عادی:

شماره:

تاریخ: ۱۳۹۵/۱۱/۱۶

موضوع: یادداشت

ضمایم: ۳

وزارت امور خارجه جمهوری اسلامی افغانستان با تقدیم احترامات به دفتر یوناما مقیم کابل چنین اشعار میدارد:

در پیوست، پاسخ رسمی دولت جمهوری اسلامی افغانستان، در رابطه به گزارش سالانه دفتر یوناما تحت عنوان "محافظت افراد ملکی در منازعات مسلحانه" در قید (۳) ورق به آن دفتر محترم ارسال است.

وزارت امور خارجه جمهوری اسلامی افغانستان با اطمینان از فرصت به تجدید احترامات فایقه، می پردازد.



به دفتر محترم یوناما، مقیم کابل!

The Government of the Islamic Republic of Afghanistan (GIROA) is grateful to the United Nations Assistant Mission in Afghanistan (UNAMA) for sharing its 2016 report on Protection of Civilians in Armed Conflict in Afghanistan. The GIROA gives utmost importance to the prevention and mitigation of any sort of harm to civilians during armed conflict, and keenly appreciates UNAMA's monitoring and recording of such incidents in our country.

As the report shows, the Afghan people continue to pay a horrifically high price as a result of the ongoing conflict, whereby the Taliban and other regional and global terrorist groups seek to deny our citizens the most basic human right to live in peace. These terrorists continue to brutalize our innocent citizens indiscriminately with no respect for human dignity, and no regard to Islamic values and International Humanitarian Law.

The report rightly notes the inhumane means and tactics, including suicide and complex attacks, targeted and deliberate killings, use of bombs and other explosive devices, abductions, arbitrary and extrajudicial punishments, and other similar means these terrorists employ against our civilian population.

With the intensification of their attacks in 2016, in an effort to capture and hold territory, the Taliban and other affiliated terror syndicates caused an immense number of civilian deaths and injuries, showing zero concern for the protection of civilians. In many cases, they deliberately took refuge in civilian-populated areas, using women and children as human shields.

As in last year, the report finds women and children as the most affected victims of terrorism in 2016, noting that "*Women and girls were killed and maimed by conflict related violence, brutalised by harsh punishments and suffered restrictions and other human rights abuses imposed by Anti-Government Elements. Such abuses included killings, physical punishments amounting to torture and deliberate limitations imposed on fundamental human rights ...*" Of children's victimization, the report paints an equally gloomy picture, noting the killing, rape, abduction, and forced recruitment of under-aged boys by the Taliban, Daish, and other terrorist groups.

Our reports and findings similarly show grave crimes being committed against our people, particularly women and children, by the various terrorist groups that operate in Afghanistan. These crimes against humanity are utterly alarming, and the GIROA urges UNAMA to pay particular attention to the increasing rates and trends of victimization of women and children by the Taliban and their affiliated terrorist groups.

While the GIROA greatly appreciates UNAMA's efforts at monitoring the security situation in Afghanistan and reporting the rates and patterns of human rights violations in the conflict, it is necessary to note a few discrepancies, misunderstandings, or misrepresentations in the report. This is solely intended to present a fuller, more accurate picture of the realities on the ground, and further strengthen the UNAMA report:

- The GIROA expresses concern about the methodology used by UNAMA, particularly in regards to identification of civilian casualties and the attribution of responsibility for that. UNAMA's approach is appropriate to monitor conventional, mostly interstate conflicts where the parties at war, battle spaces, rules of engagement, and weapons and tactics used are clear and defined. We, however, are engaged in a fierce counter-terrorism campaign, in which the terrorists wear no uniform, operate among the populations, have no set rules of engagement, and use all means at their disposal to kill and maim our people. As a result, in many cases, it is extremely difficult, if not impossible, to determine with certainty if a casualty is civilian or a combatant. As such, we respectfully request that

UNAMA considers adapting its methodology so as to become more suitable for the monitoring of the current conflict.

- Related to the above is the issue of attribution of responsibility for civilian harm, as the UNAMA report ascribes 23% of the total civilian casualties to pro-government forces. We respectfully disagree with this figure, and urge UNAMA to revise it appropriately. Our records and figures show a significantly lower percentage, and we have already taken necessary measures to even further reduce it.
- The GIRoA takes the report's recommendations seriously, and continues to consider them in its policies and practices. For instance, on recommendation to "*Cease the use of mortars, rockets, grenades, other indirect weapons, and aerial attacks in civilian-populated areas*", the GIRoA has already put in place policies and procedures that prohibit the use of such weapons in civilian-populated locations, and promptly investigates any potential violation.
- The GIRoA would also like to clarify that it does not use any civilian facilities, including schools, hospitals, and clinics, for military purposes. In the event that such action is taken by any military official or government authority, the GIRoA promptly launches an investigation and takes appropriate measures.
- Throughout 2016, the GIRoA continued its policy of providing support and compensation to families of victims and those who have lost property as a result of the ongoing conflict and attacks by the terrorist groups. The government will continue to do so into the future.
- The GIRoA will also continue to pursue the implementation of its Civilian Casualties Prevention and Mitigation Policy, improving its measures at the strategic, operational, and tactical levels to prevent, mitigate, and minimize harm to civilians during operations by our military forces. Our High Oversight Board, as well as the Working Group, will continue to meet regularly, review the implementation of the Policy, and report to the top leadership of the country on the status of the implementation of the Policy.

The GIRoA fully recognizes the protection of our civilian population as its utmost duty, and encourages and welcomes any and all efforts that would support us in this cause.

**Annex 5: NATO Resolute Support Official Response to the UNAMA 2016 Report on Protection of Civilians in Armed Conflict**

NATO/RS UNCLASSIFIED Rel UNAMA



HEADQUARTERS  
Resolute Support Kabul,  
Afghanistan



DCOS-OPS

26 January 2017

**MEMORANDUM FOR RECORD**

**SUBJECT:** Official response to recommendations for International Military Forces contained in UNAMA's Protection of Civilians in Armed Conflict (PoCAC) Report.

1. The NATO Resolute Support (RS) mission and UNAMA are working toward the same goal; a safe and secure Afghanistan in which the Afghan people may prosper in peace. UNAMA has remained diligent and dedicated to advocating for the respect of Human Rights in Afghanistan and RS appreciates the comprehensive actions set forth in the annual 2016 PoCAC report. The following is an update on the actions taken by RS regarding the recommendations listed for the International Military Forces (IMF).
2. **Recommendation #1.** The RS Civilian Casualty Mitigation Team (CCMT) provided a significant level of assistance to GIRoA officials in drafting and finalizing the National Civilian Casualty (CIVCAS) Prevention and Mitigation Policy. The policy is now under final review prior to approval by the GIRoA. Once approved, the RS CCMT will continue its Train, Advise and Assist (TAA) mission at the Office of the National Security Council (ONSC) and the Office of the Commander in Chief (OCINC) to ensure that the policy is effectively implemented.
3. **Recommendation #2.** The RS mission is advising and assisting the Afghan National Defense Security Forces (ANDSF) at the Corps and Zone level and above, while government offices receive support at the institutional/ministerial level. The RS TAA mission is no longer mandated to train ANDSF at the tactical level, except in the case of Afghan Security Special Forces (ASSF) and Afghan Air Force (AAF). In December 2016, NATO advisors provided members of the Afghan Special Operations community with Air to Ground Integration training. Additionally, the AAF implemented a Targeting Board which mandates approval process prior to a strike. The Targeting Board requires CIVCAS avoidance. Despite the process improvements incorporated by the ASSF insurgents continue to place Afghan civilians at risk by conducting attacks while in the vicinity of known civilian locations.
4. **Recommendation #3.** RS Counter-Improvised Explosive Device (C-IED) personnel continue to advise GIRoA at the institutional level that focuses on protecting military forces and the civilian population from the threat of IED's and Explosive Remnants of War. Mol's 119 C-IED Call Center is already operational and is supported by a continuous multimedia campaign. This campaign includes two commercials a day and 24 billboards advertising IED awareness. Additionally, 123 Child Protection Officers have been trained in Unexploded Ordnance (UXO), IED and Mine Awareness and will teach children all over Afghanistan. RS is also supporting an initiative at the ministerial level that would place IED Public Awareness in the curriculum of all Secondary Schools in Afghanistan. There is currently ongoing coordination between the Ministry of Education and the U.S. Embassy in order to train 5,074 teachers in IED, UXO, and Mine Awareness. RS CIED is working to contract 120 instructors for institutional and Mobile Training Team (MTT) training focusing on Explosive Ordnance Disposal (EOD), IED Defeat, and Route Clearance and 100% procurement of necessary equipment including 300 lightweight minerollers.

**NATO/RS UNCLASSIFIED ReI UNAMA**

5. **Recommendation #4.** Post Operational Reviews occur routinely within units, if the units have concerns they request a formal review within RS HQ, through the RS CCMT. This also occurs when there is notification of CIVCAS by any other organization. Formal national investigations are requested when warranted. In such cases methodologies and operational processes may be varied where improvements are identified to mitigate civilian casualties. Note that independent Afghan operations are a matter entirely for Afghan authorities. RS HQ would like to emphasize the fact international force airstrikes are subject to a very stringent and robust approval process that takes great consideration to prevent CIVCAS. RS and National contingents regard civilian casualty mitigation of fundamental importance. All allegations of CIVCAS are reviewed by the RS HQ Civilian Casualty Mitigation Team through a CIVCAS Credibility Assessment Review Board. RS HQ is and will continue to be open about investigation methodologies and results. However, publication of a detailed description of a complete operation provides a template to insurgents for similar future operations and violates operational security.

6. The point of contact for this memorandum is ICC Yam Khatri, RS CCMT, at rshqopscj3civcassoms@hq.isaf.nato.int; or NATO UNCLASS at: 60-686-2344.



Christopher K. Haas  
Major General (OF-7), U.S. Army  
Deputy Chief of Staff-Operations  
Headquarters Resolute Support

## Annex 6: Taliban Response to UNAMA 2016 Report on Protection of Civilians in Armed Conflict

### په افغانستان کې د ملګري ملتونو د حقوق بشر د څانګې د ۲۰۱۶ ميلادي کال د ملکي تلفاتو د راپور ځواب

ستاسو څخه ډيره مننه چې له مور سره مو خپل راپور شريک کړ. مونږه ستاسو راپور وکوت. خو په ډير تأسف او خواشيني سره دا وايو چې ستاسو راپور په ډير مهارت سره داسې جوړ شوی دی چې د ملکيانو په مرګ ژوبله کې د افغانستان اسلامي امارت لخوا تلفات زيات وښودل شي او د امريکايانو او د مزدوري ادارې لخوا تلفات کم وښودل شي. مثلاً تاسو په ۲۰۱۶م کلني راپور کې ستاسو په اصطلاح د دولت په مخالفينو کې د اسلامي امارت څخه علاوه نورې ډلې هم راوستي دي. نو پر ځای ددې چې دا پيښې په مختلفو ډلو د فيصدي په حساب وويشل شي چې هرې ډلې ته به يې ارقام کم ورسيري تاسې يې ټول په مجموع کې د دولت مخالفينو ته منسوب کړي دي او د راپور په خلص کې مو داسې ويلي دي چې په مجموع ملکي تلفاتو کې ۶۲ سلنه د دولت ضد عناصرو، خصوصاً د اسلامي امارت مجاهدينو، لخوا شوي دي، چې دا خبره بيا مهمه ده او قصدا داسې شکل ورکړل شوی چې د نورو دولت ضد عناصرو تلفات هم په مجموع کې په اسلامي امارت ورواوري او دا وښودل شي چې ګواکې د افغانستان اسلامي امارت مجاهدين د عامو وګړو په مرګ ژوبله کې زياته ونډه لري، چې دا رنگ کړنه ستاسو د حقايقو په پټولو کې څرګنده او قصدي عمل دی چې مونږ ته د منلو وړ نه دی او مونږه داسې کړنه يو طرفه عمل بولو.

همداراز ستاسو دا څيړنه هم ستاسو د عدم تحقق پوره ثبوت دی چې تاسو د حقاني شبکه د افغانستان د اسلامي امارت څخه جلا ګڼلې ده او حال دا چې حقاني صاحب حفظه الله د امارت معاون (مرستيال) دی، نو جلا ډله کله شوه بلکې د اسلامي امارت ډله ده او په امارت کې دا فرق نېشته چې دا امارت دی او دا حقاني شبکه. مګر تاسو جلا جلا حساب کړي چې ستاسو دا عمل هم د عدم اګاهۍ پوره ثبوت دی.

سربيره پر دې ستاسو په راپور کې هغه تلفات چې په حقيقت کې ملکي تلفات نه دي په ملکي تلفاتو کې حساب شوي دي او په ډير مهارت سره مو کوښښ کړی دی چې د ګوداګي ادارې او يرغلګرو پورې تړلې نظاميان په ملکيانو کې حساب شي چې له دې سره د اسلامي امارت د ملکي تلفاتو ارقام زيات وښودل شي.

علاوه له دې څخه تاسو په خپل راپور کې د ګوداګي ادارې پورې مربوط کسان په ملکيانو کې شميرلي دي او حال دا چې دوی په نظامي چارو پورې مربوط خلک دي، مثلاً شخصي امنيتي کمپنيانې چې عملي نظامي فعاليتونه کوي او په مسلحه توګه د اسلامي امارت خلاف جنګيري. ددې برعکس د اسلامي امارت د تعليم او تربیې مامورين په نظاميانو کې حسابوي، ځکه ستاسو په راپور کې په هيڅ ځای کې هم نه دي راغلي چې د اسلامي امارت د ننګرهار ولايت لپاره د تعليم او تربیې ولايتي مسؤل د امريکايانو لخوا شهيد شو او تاسو هغه په خپل راپور کې په هيڅ ځای کې نه ده ياده کړې چې امريکايانو د تعليم او تربیې مسؤل شهيد کړ.

تاسو همداراز دومره له حقايقو څخه عاري راپور ترتيب کړی چې د امريکايانو لخوا د ملکي تلفاتو پيښې لکه د لمر په څير روښانه دي چې ډيرې پيښې شوي دي، مګر تاسو په ۲۴ سلنه تلفاتو کې چې ستاسو په اصطلاح د دولت پلوو ځواکونو لخوا شوي دي دوه سلنه مو امريکايانو ته منسوب کړي دي چې دا عمل مو د امريکايانو ښکاره طرفداري ده او غالباً د امريکايانو لخوا په فرمايش به شوی وي.



بله دا چې د امریکایانو لخوا د ملکي تلفاتو کې مو صرف د کندز ولایت د بز کنډاري د پېښې یادونه کړې او دومره په شد او مد سره مو یاده کړې ده چې گواکې امریکایان او گوداگی اداره یې کلکه پوښتنه کوي او حال دا چې مور سره په سلگونو داسې پېښې ثبت دي چې امریکایان پکې رسماً بنسکيل دي چې تاسو د هغو د سره یادونه نه ده کړې او ددې لپاره چې امریکایان بیخي بري ښکاره کړئ یو طرفه راپور مو ترتیب کړی دی.

دا هم د یادولو وړ دی چې د اسلامي امارت دمقدس جهاد په مهمو اهدافو کې یو خصوصي هدف د عامو وگړو څخه دفاع ده چې په همدې اساس د اسلام د روښانه اصولو موافق خپله جهادي مبارزه پر مخ بیايي تر څو مظلوم افغانان د یرغلگرو امریکایانو او د هغو د لاس پوڅو د ظلم څخه نجات پیدا کړي او خپل قیمتي ژوند د اسلام د اصولو موافق تیر کړي. د همدغه هدف تر لاسه کولو لپاره د ملکي تلفاتو د مخنیوي او سمع شکایات په نامه مستقلة اداره تاسیس شوې ده چې په ډیر دقت سره د ملکيانو تلفات څیړي او په هر ولایت کې خپل نمایندگان لري چې پېښې له نږدې څخه څیړي، له سیمې څخه لیدنه کوي او له خلکو کره معلومات راټولوي چې تاسو سره بیا دغه سهولتونه نېشته. نه تاسو په ټولو ولایتونو کې نمایندگان لرئ او نه له متضررينو سره اړیکې نیولی شئ. ستاسو په راپور کې د یو څو محدودو کسانو په استناد چې تاسو ورته مصیبت ځپلي ويلي دي نمونې وړاندې کړي دي او بس او په کومو لرو پرتو سیمو کې چې ملکي تلفات شوي وي د هغو سره بیخي تماس نه دی نیول شوی.

نو بناء ستاسو راپور مور ته دمنلو وړ نه دی او ردوو یې، له تاسو څخه غواړو چې په دې اړه، چې د انسانانو ژوند پورې تړلی خبره ده، تل بی پرې او داسې قضاوت وکړئ چې د منلو وړ وي.

#### **English:**

Thank you for sharing your report with us. We reviewed your report, but unfortunately and regretfully, we say that your report was written skillfully in a way that attributes high numbers of civilian casualties to the Islamic Emirate of Afghanistan and shows low levels of civilian casualties committed by the Americans and the hireling regime. For instance in your 2016 annual report, in your definitions you include the Islamic Emirate together with other anti-government groups. Instead of dividing the numbers of civilian casualties between each separate group, which would therefore show lower numbers of casualties for each group, you attribute all casualties to Anti Government Elements. You then state in the executive summary of the report that all 62 percent of casualties were caused by Anti-Government Elements and in particular by the Islamic Emirate Mujahedeen. This is an ambiguous, and is deliberately intended to blame all casualties inflicted by other anti-government groups on the Islamic Emirate and to demonstrate that the Islamic Emirates' Mujahedeen caused more civilian casualties. Such conduct is a deliberate effort to conceal facts, which is not acceptable to us and we consider this to be biased.

Your investigation itself proves your lack of veracity in that you counted the Haqani network as a separate body from the Islamic Emirate of Afghanistan, while Haqani sahib "God may protect him" is the deputy of the Islamic Emirates. Therefore it is not a separate group but a member of the Islamic Emirates and there is no differences between the Emirate and the Haqani Network. But you counted them separately, and such action is evidence of your lack of understanding.

In addition to this, you counted some civilian casualties in your report which in fact are not civilians, and you skilfully attempted to count the military affiliated staff of the puppet regime as a civilian casualties in order to demonstrate a higher number of civilian casualties by the Islamic Emirates.

In addition to counting the military-affiliated staff of the puppet administration as civilian casualties in your report, you also include those belong to military structures, for instance private security companies, that practically engage in military activities and in fighting against the Islamic Emirates. In contrast the education staff of the Islamic Emirates are counted by you as armed fighters since it is never mentioned in your report that the person assigned as the Head of Education of the Islamic Emirates in Nangarhar has been killed by the Americans and you never mentioned that he was martyred by the Americans.

You also provided a report that is too far from the reality since there have been too many incidents of civilian casualties by Americans that are obvious but in 24 percent of casualties attributed to Pro-Government Forces only 2 percent are attributed to the Americans, therefore your reporting is sympathetic of the Americans and mainly prepared at their orders.

Also as regards civilian casualties caused by Americans, you only mentioned the Kunduz (Buzi- kandahari) incident in detail and have mentioned that somehow the Americans and the servant regime will investigate this incident seriously. However we have many recorded cases where Americans admitted their involvement and you have not mentioned these cases, and for the purpose of showing Americans, fully acquitted, you provided this one sided report.

It is worth mentioning that one of the main aims of the Islamic Emirates is to defend ordinary people from Americans and their puppet regime and based on this principle, according to the clear Islamic principles will continue our holy jihadi efforts to rescue oppressed Afghan people from the occupier Americans and their puppets, and to ensure that they live according to Islamic principles. For this purpose, the civilian casualty Prevention and Complaints Hearing independent department has been established to precisely assess civilian casualties, and has its representative in each province who closely investigates incidents, visiting the incident sites and collects reliable information from communities - the capacity you do not possess. Neither do you have representatives in all provinces nor are you able to liaise with affected people. In your report, you only presented some examples of a few affected individuals and there has been no communication with people in remote areas where casualties occurred.

Therefore, your report is not acceptable for us and we reject it. We request you that in this matter connected with human lives, you act in an impartial and transparent manner.