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ACTION ON
ARMED VIOLENCE

AOAV

AIR POWER IN AFGHANISTAN

How NATO changed the rules, 2008-2014



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With thanks to

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Cover image

US Air Force drop 2,000lb GBU-31 bombs on a cave in eastern Afghanistan, 26 November 2009
(©US Air Force Staff Sgt. Michael B. Keller)

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FOREWORD

“ Sound military tactics employed in the pursuit of strategic objectives tend to restrict the use of explosive force in populated areas. [There are] ample examples from other international military operations that indicate that the excessive use of explosive force in populated areas can undermine both tactical and strategic objectives.”

Bård Glad Pedersen, State Secretary, Ministry of Foreign Affairs of Norway, 17 June 2014¹

The language of conflict has changed enormously over time. Today engagements are often fought and justified by the argument that a government is doing so in order to protect civilian lives. And yet the weapons used, and the way they are used, far too often pose a great danger to those civilians.

The use of explosive weapons in populated areas puts civilians at grave risk of death and injury, as AOA V has documented over several years.

How then, the question must be asked, can explosive weapons be used by governments in a way that is consistent with any mandate to reduce harm to civilians?

How can state and international forces regulate the use of weapons that affect a wide area and so minimise collateral damage?

What are the political, military, strategic and technological factors that shape a decision to fire?

And, ultimately, how can a government achieve peace without creating desolation?

In this series of reports, of which this is one, Action on Armed Violence (AOAV) explores recent and ongoing military practices in the use of explosive weapons. We looked at three separate contexts where explosive weapons have been deployed by foreign forces, in a territory where *their government* is not the governing authority.

Three case studies in three places most heavily-affected by explosive violence in recent years: Afghanistan, the Gaza Strip, and Iraq.

These reports build on research by AOA V that shows how the use of explosive weapons with wide-area effects in populated areas leads to a predictable pattern of excessive civilian harm. It considers what rules and policies already exist to regulate the use of such force. And it asks to what extent are civilians protected not only by international law, but also by the practices of states on the ground, many of which go beyond existing law? It concludes by asking, too, what measures could still be taken to reduce the terrible harm of explosive weapons on civilians?

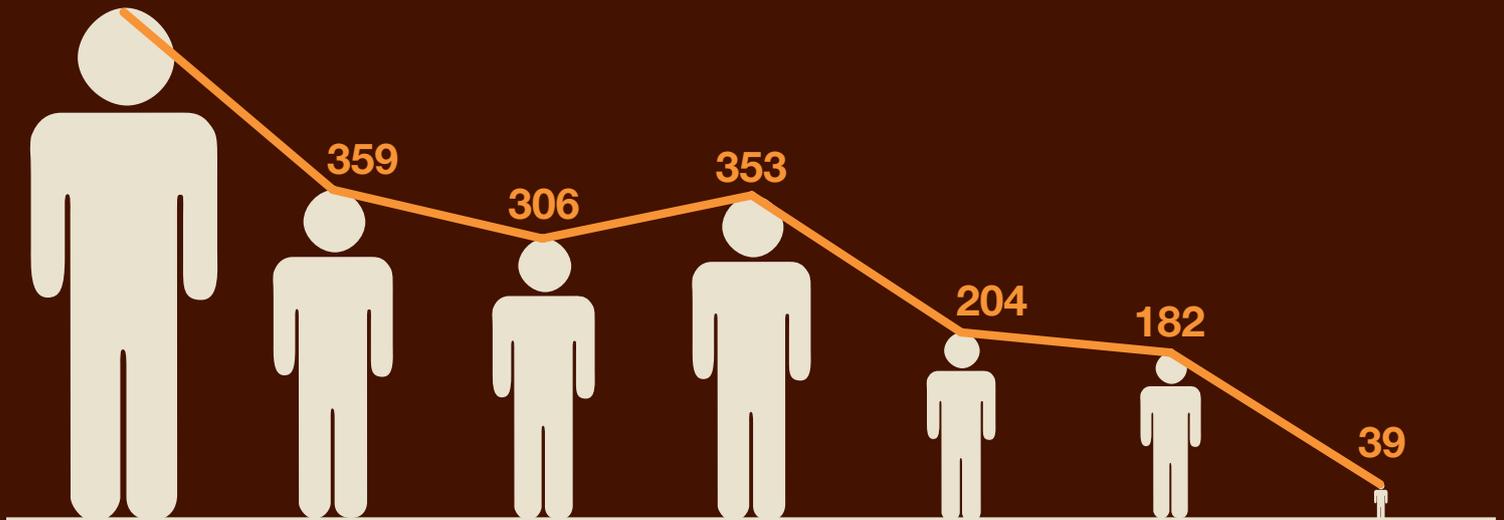


AIR STRIKES IN AFGHANISTAN

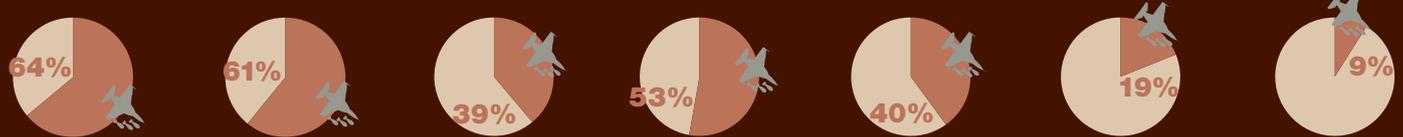


THE HUMAN TOLL OF AIR STRIKES

552
CIVILIAN DEATHS
FROM AIR STRIKES



SHARE OF CIVILIAN DEATHS FROM PRO-GOVERNMENT FORCES THAT WERE CAUSED BY AIR STRIKES



2008

2009

2010

2011

2012

2013

2014
JANUARY - JULY

INTRODUCTION

On 7 October 2001 a series of US air strikes hit targets across Afghanistan, including the capital city of Kabul.² The bombing raids marked the beginning of a conflict that lasted 13 years, waged against Taliban and Al-Qaeda militants by an international coalition led by the North Atlantic Treaty Organization (NATO).³

From the very first day, air strikes have been an integral element of NATO's operation in Afghanistan. They have also been among the most controversial. Claims of civilian casualties from air strikes repeatedly damaged NATO's reputation in the country, and raised questions as to what good they were doing there.

The people of Afghanistan have a long history of being bombed by other nations, from the early days of British artillery attacks almost a century ago to the brutal Soviet war in the 70s and 80s, through to the modern day. Throughout the years of NATO's engagement in Afghanistan, the use of explosive weapons, both IEDs and manufactured, has been a consistent threat to civilians in the country.

Since 2011 Action on Armed Violence (AOAV) has recorded the daily impacts of explosive violence around the world. From 2011-2013, Afghanistan was the fourth most heavily-affected country in the world, with almost 7,000 civilian deaths and injuries over that time. More civilian casualties were recorded in Afghanistan than anywhere else, bar Iraq, Syria and neighbouring Pakistan.⁹

Explosive weapons project blast, heat and often fragmentation from around a point of detonation. They vary in size and power, and include the likes of rockets, aircraft bombs and artillery shells. They also include improvised explosive devices (IEDs), which account for the majority of civilian casualties in Afghanistan today.¹⁰

Explosive weapons have a distancing effect for the user. One thing common to the delivery of many explosive weapons, whether dropped from a plane or fired from a rocket launcher on a hillside, is that of distance – a distance that protects forces using the weapon from the target, threat, and resulting impact. This has been an important factor behind the repeated use of air power in

NATO ISAF

NATO is a political and military alliance of 28 member states from Northern America and Europe. Established in 1949, NATO has undertaken several substantive military operations in recent years, including Bosnia & Herzegovina (1995), and Libya (2011).

In August 2003, NATO took command of responsibility for the International Security Assistance Force (ISAF) to Afghanistan, which was first established in 2001 by UN Security Council Resolution 1386 under the principal leadership of the US and UK.⁴ Originally confined to providing security in Kabul, the NATO operation in Afghanistan steadily grew in a process described as *“less the product of a deliberate strategy than the result of a ‘disjointed incrementalism’ where sub-rationalities of organizational interests, vested interests and rhetoric traps were prominent.”*⁵

Afghanistan is now NATO's biggest operational commitment to date.⁶ As of 7 November 2014, ISAF was made up of some 28,000 troops from 48 different countries.⁷

International military operations in Afghanistan ended in 2014, although the violence will inevitably continue at great cost to civilians in the country.⁸

Afghanistan, as governments have been unwilling to risk soldiers' lives and the public backlash that goes with that.¹¹

Explosive weapons also, clearly, present grave risks of death, injury and damage to civilians and civilian infrastructure. These weapons all share the ability to affect an area. It is impossible, when using these weapons in a populated area, to restrict the potentially killer impact of an explosive rocket, missile or bomb to just one person or to a targeted group. Their use therefore raises special considerations in the protection of civilians.

This is particularly of valid concern, given how NATO's operation in Afghanistan was justified in the first place. Announcing the start of fighting in 2001, then-UK Prime Minister Tony Blair declared: *"The military plan has been put together mindful of our determination to do all we humanely can to avoid civilian casualties."*¹² From its earliest conception, the justification for conflict was explicitly linked to improving the welfare and security of the Afghan people.

.....

“ I am not happy with civilian casualties coming down; I want an end to civilian casualties... As much as one may argue it's difficult, I don't accept that argument... It seriously undermines our efforts to have an effective campaign against terrorism.”

Afghan President Hamid Karzai,
26 April 2008¹³

.....

METHODS AND SCOPE

NATO has repeatedly asserted that it takes great measures to protect civilians during hostilities in Afghanistan, including its air strikes.¹⁴ In this report, AOAV assesses this claim. Since 2008 there has been a series of directives and policies issued in regard to the conditions in which air

power can be called upon. This report scrutinises the impact of each new policy in turn to ask; how has NATO learned from previous tragedies?

How have these measures changed the rules of engagement for using aerial explosive weapons in populated areas in Afghanistan?

The three specific rulings analysed in this report are;

- The Tactical Directive issued by General Stanley McChrystal in July 2009;
- An order issued by General John R. Allen in June 2012, and;
- A decree issued by the Afghanistan President in February 2013 and adopted by NATO commanders.

In each case, AOAV highlights the facts and issues surrounding a particular air strike that triggered an urgent need for change.

The new policies considered in this report are not the only ones that came about during NATO's time in Afghanistan. In each case described here however there is clear cause and effect between civilian casualties from air strikes and subsequent policy change.

AOAV is a founding member of the International Network on Explosive Weapons (INEW).¹⁵ We believe there is a need for stronger international standards against the use of explosive weapons with wide area effects in populated areas. Stopping the use of these weapons would save civilian lives both during attacks and in the longer term.

This report will show how, collectively, NATO's policy changes in Afghanistan represent a clear example of how changes in military operations (in order to offer higher levels of protection of civilians) can go beyond existing laws but can do so without jeopardising key military objectives.

AOAV believes more could and should be done globally among militaries to adopt and advance this example of encouraging practice in the use of explosive weapons in populated areas.

THE LAWS AND RULES OF WARFARE

LAWS OF WAR

Afghanistan has been categorised by NATO itself as a non-international armed conflict.¹⁶ As such, the conduct of hostilities in armed conflict is governed by international humanitarian law (IHL). One of the primary goals of IHL is to protect civilians as much as possible from suffering.¹⁷

In addition to the fundamental prohibition on any direct attacks against civilians or civilian objects, the central tenets of IHL include rules on **pre-caution** (measures must be taken ahead of any attack to avoid and minimise harm to civilians), **distinction** (efforts necessary to distinguish at all times between combatants and civilians, as well as military and civilian objects), and **proportionality** (that no attack can be excessive in the harm caused to civilians in relation to the concrete and direct military advantage anticipated).¹⁸

These core humanitarian principles are an important frame of reference for regulating the use of explosive weapons, and represent the building blocks upon which national military practice is theoretically based. Crucially, however, the basic guidelines for behaviour established by IHL provides only limited protection against the pattern of harm caused by the use of explosive weapons in populated areas.¹⁹

RULES OF WAR

Rules of engagement (RoE) are defined by NATO as: “directives to military forces (including individuals) that define the circumstances, conditions, degree, and manner in which force, or actions which might be construed as provocative, may be applied.”²¹ In other words, RoE exist to regulate the use of force by a military.

As Figure 1 shows, RoE need to balance competing interests. They seek to strike a middle ground between the parameters of law, the necessity of an operation, and political or diplomatic pressures.²²

NATO is a formalised alliance between nation states. It does not have its own military. Instead members contribute forces for the purposes of carrying out a specific mission. NATO’s collective rules of engagement are developed by its Military Council (MC), a decision-making body that brings together senior military officers from each of its 28 member countries.²³

Ultimately, however, every member state’s sovereignty takes precedence. Each country is responsible for applying NATO’s rules to its own forces, but is able to caveat these rules if they conflict in some way with their own national interpretation of the laws of warfare.²⁴

“The fact that civilians die or are injured in an airstrike does not necessarily mean the airstrike violated the laws of war, as long as the precautions required by the laws of war were taken and applied in good faith. Beyond the human tragedy, high civilian casualties—regardless of whether they were the result of lawful or unlawful conduct—should always be cause for concern by a military force, as the damage to an armed forces’ reputation and good-will among the population can be considerable.”

Human Rights Watch, “Troops in Contact”, 2008²⁰

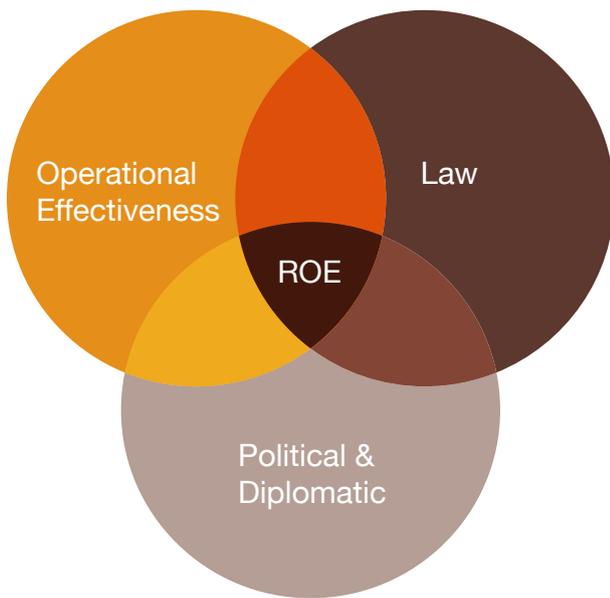


Figure 1: Rules of engagement
J Ashley Roach, Rules-of-Engagement, Naval War
College Review, February 1983

Soldiers are expected to follow their own national laws first and foremost. Commanders cannot violate their respective national laws if these are more restrictive than NATO's operational RoE.²⁵

This multiplicity of RoE can create confusion, disruption and disputes on the ground. AOA interviewed several UK air force personnel who had served with NATO ISAF. They have been kept anonymous at their request. In discussions with commanders they highlighted how: *“ROEs are a national responsibility so may vary between coalition partners involved in the same operation. There have been occasions when British forces have been in contact and, although the aircraft have arrived the more restrictive national ROEs of the partner country to which they belong have prevented them from attacking; similarly but conversely other nation's aircraft have been prepared to attack in conditions in which British ROEs and Targeting Directives have precluded their use.”*²⁶

AIR STRIKES IN POPULATED AREAS

During the course of the conflict in Afghanistan, NATO's RoE have had to address the question of how to control the unintended effects of explosive weapons when used in populated areas. Taliban fighters have often been accused of fighting from

and within populated areas in Afghanistan including villages, markets and public roads.²⁸ NATO forces have frequently faced the dilemma of how to conduct hostilities among populated areas, including whether or not their RoE permitted the use of air strikes.

AOAV's discussions with UK Air Force Controllers also revealed the importance to troops having clear and unambiguous RoE. Fighting in populated areas: *“makes the discriminate use of firepower even more difficult since the enemy is frequently difficult to identify and separate from the wider uninvolved population... This makes the low level, i.e. at a junior military level, interpretation of the various rules and criteria important and critical.”*²⁹

“ You want to give the commander on the ground flexibility within the laws of armed conflict [...] The ISAF [NATO] definition has no teeth as all countries have their own standards.”

US Army general (name withheld), Bagram Air Base, Afghanistan, 2007²⁷

Within NATO airstrikes are seen a type of attack that deserves particular consideration before its use. The difficulty of selecting accurate targets, particularly in fast-moving situations, and the imprecision and power of the explosive weapons typically delivered by NATO aircraft, significantly raise the margin for error and make the unintended risks to civilians far greater.³⁰

*“The high degree of damage caused by large aircraft bombs, and the large ‘beaten zone’ of air-to-ground cannon fire, all of which – it is argued – increase the risk of significant collateral damage despite the best efforts to avoid it.”*³¹

Accordingly, the use of air strikes in populated areas clearly requires particularly strong policies and procedures.

AIR STRIKES

AOAV defines an air strike as any incident where an explosive weapon is delivered by a plane, drone, fighter jet, helicopter or other aircraft. The actual munitions dropped range from large aircraft bombs to missiles like the infamous ‘Hellfire’.³²

Air strikes in Afghanistan are carried out by state armed forces according to their own rules of engagement (RoE, discussed on pages 6-7). As the biggest contributor to NATO ISAF, the US most commonly leads any aerial bombing in the country.³³

While the use of all explosive weapons in a populated area is problematic because of the elevated risk to civilians, the weapons dropped in Afghanistan by NATO forces include many that can affect a particularly wide area.

An explosive weapon can be expected to have a wide-area impact through any one, or a combination of, three factors:

- The accuracy of the weapon delivery
- The weapon’s large explosive yield
- The use of multiple munitions

One explosive weapon known to have been used in NATO airstrikes in Afghanistan is the GBU-31.³⁴ It is part of a family of ‘dumb’ bombs that is then fitted with a low-cost guidance system. The GBU-31 is part of a family of bombs variously weighing 1-2,000 pounds, much of which is high explosive content.³⁵ The blast waves of such a weapon create a very great concussive effect; a 2,000lb bomb can be expected to cause severe injury and damage as far as 800 meters from the point of impact.³⁶

HOW NATO CARRIES OUT AIR STRIKES

The practices that shape the way bombs like the GBU-31 have been dropped in Afghanistan have changed dramatically during the course of the conflict.

NATO’s air strikes are guided by specific rules known as targeting directives. These can be drawn up by the commander of a specific operation, as well as the national state headquarters. As such: *“these targeting directives can change on a daily basis, for example in the level of authority to which the release of certain weapons is delegated.”*³⁸

““ The explosion creates a shock wave exerting thousands of pounds of pressure per square inch [psi]. By comparison, a shock wave of 12psi will knock a person down, and the injury threshold is 5 pounds psi. The pressure from the explosion of a device such as the Mark 84 JDAM [the unguided bomb that is the basis of the GBU-31/2] can rupture lungs, burst sinus cavities and tear off limbs hundreds of feet from the blast site [...] When it hits, the JDAM generates an 8-500 degree fireball, gouges a 20-foot crater as it displaces 10,000 pounds of dirt and rock and generates enough wind to knock down walls blocks away and hurl metal fragments a mile or more”

Engineers and weapons designers describing a Mark-84 JDAM, San Diego Union Tribune, 2003²³

In the first years of fighting in Afghanistan, “*Targeting directives were widely drawn with authority for release of certain types of weapon – such as large high explosive bombs being devolved to comparatively low levels of command – and the RoEs [were] liberally interpreted to give the best chance of survival to the supported troops.*”³⁹

NATO has even admitted that initially flights took off with more bombs than they were allowed to return with, and that pilots had to drop them in order to even land.⁴⁰

“*When this kicked off, they were launching aircraft with unrecoverable loads. Basically, you had to drop. That’s all changed.*”

Lt. Cmdr. Peter Morgan, *The New York Times*, July 2012⁴¹

Air strikes fall broadly into two separate categories, pre-planned or responsive.

Offensive strikes

Pre-planned strikes are typically **offensive**. Aerial bombing is only authorised after a complex bidding process.

In this process, each unit that wants an air strike as part of its forthcoming operation has to fill out an application form called a Joint Tactical Air Request (JTAR). They have to plan out the likely process and outcome of the strike, and conduct a thorough collateral damage estimate. Collateral damage is a military term for the incidental killing and injuring of civilians, as well as the destruction of homes, shops and other civilian objects.

As one of the five ‘pillars’ that make up the procedure for a planned air strike, forces are required to predict how many civilians might die (see page 10). According to British Air Force personnel “*This has become increasingly sophisticated over the campaign and now takes the form of a story board*

[...] only 12 years ago, in the Kosovo conflict for example, the same thing was accomplished by voice transmission over a radio net or a simple pre-formatted fax message.”⁴²

These requests are then transmitted to the Combined Air Operations Centre (CAOC), located at Regional Command level. It is at this level that a judgement is made whether the possible impact on civilians exceeds the limits outlined by the RoE and international law.⁴³

Defensive strikes

The other type of strike is referred to within NATO as ‘responsive air support’. This is where fighter jets are scrambled in response to a developing emergency, and are typically **defensive** in nature (e.g. bombing to protect troops on the ground).

The offensive process as described above does not apply to the same extent with responsive strikes. Any similar planning process is carried out in ‘real time’ as the aircraft moves to the target, and can take as little as three minutes from a call being made to the aircraft arriving overhead.⁴⁴ NATO’s RoE insist that forces calculate the likely cost to civilians, but these are usually hasty, conducted under stress conditions, and “*the inherent imperfections in these speedy estimates are a major factor behind many civilian casualty incidents.*”⁴⁵

In discussions with AOAV, senior UK air force personnel confirmed that the conditions in which these strikes take place give far more leeway to commanders and pilots, including their choice of weapon: “*Inevitably due to the ad hoc nature of such air support there is no guarantee that the (platform) aircraft is the type best suited to the task, or that its weaponry is best suited to the task. This causes complications and requires quick judgements as to whether it offers sufficient utility in the situation or whether it represents a use of weapons that are disallowed under the terms of extant RoE.*”⁴⁶

Human Rights Watch in their 2008 analysis of air strikes in Afghanistan found that civilian casualties almost always occurred in these fluid, rapid-response strikes.⁴⁷

The Five Pillars of Targeting have been used throughout the conflict in Afghanistan by NATO forces.

- The requirement to **positively identify the target** prior to an air mission and then to reacquire and maintain positive visual contact with it throughout the air support mission from initial request/proposal to weapons release.
- The **pattern of life** in the target area, for example the exit of large numbers of the population prior to a coalition operation is an indicator that the area may have been taken over by enemy fighters intent on attacking coalition forces.
- The requirement to conduct a mathematical **collateral damage estimate** - taking into account the weapons to be used and the type of target.
- The requirement for positive **visual identification** of the target from the attacking platform confirmed with the attack controller, who is often, but need not be, part of the force being supported.
- **Clearance to attack** from the appropriate level of command at which a type of attack can be authorised. The level depends on the type of target to be attacked, the type of weapons to be used and any assessment of collateral damage likely to be caused. This can change on a day to day basis.

Source: *British Forward Air Controllers in Afghanistan, 2006-2014*⁴⁸

2008: THE TURNING POINT

Air power, always an integral part of NATO's military strategy in Afghanistan, became steadily more important in the years leading up to 2008. The number of NATO's strikes sorties (a flight in which a munition was dropped) climbed yearly between 2004 and 2008.

In 2007 alone almost 3,000 bombing raids were carried out (see Figure 2), an increase of 65% from 2006.⁴⁹

There was "a massive and unprecedented surge in the use of airpower in Afghanistan in 2008. In response to increased insurgent activity, twice as many tons of bombs were dropped in 2007 than in 2006. In 2008, the pace [...] increased: in the months of June and July alone the US dropped approximately as much as it did in all of 2006."⁵⁰

As the number of strikes rose, so too did the civilian death rate. Aerial bombing in 2007 killed 321 Afghan civilians. This was almost three times as many as in 2006, when 116 people died.⁵¹

By 2008, there were 552 civilian deaths from air strikes in Afghanistan, up 72% from the previous year.⁵² The United Nations Assistance Mission to Afghanistan (UNAMA) found that amid rising levels of armed violence across the country, a quarter of all civilian deaths were being caused by air strikes (26%). Moreover, it was civilians and not armed actors who were bearing the brunt of aerial bombing, making up 64% of the total death toll from aerial bombing.⁵³

It was clear that the expansion of air power in response to insurgent activity was killing the wrong people.

The spiralling death toll among Afghan civilians brought strident criticism of NATO's conduct and approach. In November 2008, the United Nations accused NATO of committing grave violations against the rights of Afghan children, as a result of aerial bombardment and ground attacks with imprecise targeting or mistaken identity.⁵⁴

In 2008 Human Rights Watch (HRW) wrote that *"The combination of light ground forces and overwhelming airpower has become the dominant doctrine of war for the US in Afghanistan. The result has been large numbers of civilian casualties, controversy over the continued use of airpower in Afghanistan, and intense criticism of US and NATO forces by Afghan political leaders and the general public."*⁵⁵

The impact of air strikes on civilians fuelled resentment of NATO's presence in Afghanistan, and undermined support for the government itself.⁵⁶

Within NATO, the political pressure and public scrutiny helped to drive home the urgent need for change. It was recognised internally that:

*"targeting directives suitable for an earlier and more desperate phase of the campaign were no longer suitable, and the degree of collateral damage being inflicted was disproportionate to the evolving threat posed by the enemy and their revised tactics."*⁵⁷

2008 can, therefore, be considered a turning point for the conduct of NATO air strikes in Afghanistan, and is taken by AOA as the start-date for analysis in this report. Between 2008 and 2014 NATO introduced new measures to reduce the civilian suffering from air strikes. These changes to policy did not seek to end the use of air strikes completely, but gradually sought to change the conditions in which they could be used. NATO had to learn from its tragic mistakes in the first years of its operation in Afghanistan.

This report investigates three specific instances after 2008 in which NATO amended the RoE for air strikes in Afghanistan. It charts a broad improvement in the protection of civilians as a result of a steady reduction in the use of these strikes in populated areas.

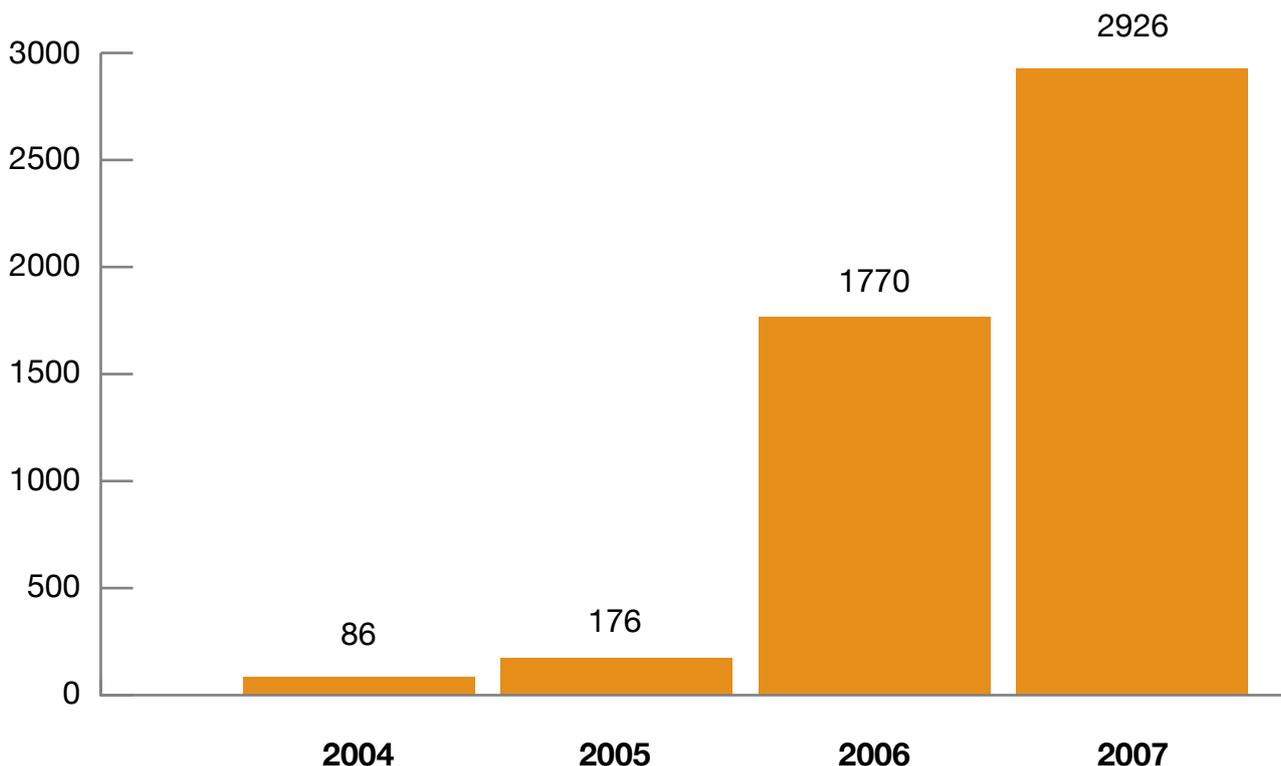


Figure 2: NATO's strike sorties in Afghanistan 2004-07 (CSIS)

2008-09: AZIZABAD AND THE MCCHRYSTAL DIRECTIVE

AZIZABAD: THE ATTACK

Civilian casualties from air strikes in Afghanistan peaked in 2008. August 2008 was a particular deadly month, largely because of a single air strike incident on 22 August in the village of Azizabad.⁵⁸

Ninety-two civilians, including 62 children, were killed when Azizabad was bombed by NATO ISAF forces overnight.⁵⁹

The village lies near the Shindand Air Base in eastern Herat province. NATO and Afghan government forces had been patrolling the village when they came under attack with gunfire and rocket-propelled grenades (RPGs).⁶⁰ Following a 30 minute firefight, US forces called for air support.

What followed were between 2-3 hours of air strikes in and around Azizabad village, involving multiple aircraft including a Lockheed AC-130 H Spectre gunship. The AC-130 has been nicknamed “The Angel of Death,” and was used exclusively at the time by US forces according to field reports made available by Wikileaks.⁶¹

Among the heavy explosive weapons dropped on the village was at least one 500-pound bomb, as well as shelling from the gunship’s M102 105mm howitzer.⁶² The M102 was originally developed as a towed howitzer for soldiers on the ground. Although no longer used by these ground forces, it has since been modified for the AC-130 to become “the world’s biggest flying artillery gun.”⁶³

The M102 howitzer launches ten artillery shells per minute. Each of these shells contains ten pounds of high explosive TNT, and projects blast and fragmentation over a wide area. It can have lethal effects across an area of up to 1,500 yards.⁶⁴

“The destruction from aerial bombardment was clearly evident with some 7-8 houses having been totally destroyed and serious damage to many

others,” said UN human rights investigators who visited the site.⁶⁵

Many of the 62 children who were killed had suffered blast and concussion wounds in the attacks.⁶⁶ The villagers were preparing for a ceremony in memory of a prominent tribal figure, Taimoor Shah, who had died a few months earlier.⁶⁷ As a result, there were more people gathered in one place than usual, since extended families had travelled to the village and were cooking together for the event on the next day.⁶⁸

Rooms were crowded with up to 10 or 20 people in each, and most of those killed died in their sleep.⁶⁹

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“ [...] shell craters dotted the courtyards and shrapnel had gouged holes in the walls. Rooms had collapsed [...] The smell of bodies lingered in one compound, causing villagers to start digging with spades. They found the body of a baby, caked in dust, in the corner of a bombed-out room.”

Investigators from *The New York Times*, Azizabad, 31 August 2008⁷⁰

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THE AFTERMATH

The exact total of civilian casualties was a matter of dispute for months after the attack.

Initial US-led investigations claimed that seven civilians had died at Azizabad, and that there had been more than 30 armed actor deaths. This inquiry was condemned by human rights groups for dismissing villager testimonies, and making

claims without evidence.⁷¹ Even after strong criticism from both Afghan President Karzai and the United Nations, the US only recognised the deaths of 33 civilians and continued to argue that the attack was both necessary and proportional.⁷²

Despite acknowledging that the heavy bombing had “obliterated the target area,” the investigations claimed that the attack had not gone beyond existing RoE or violated the rules of law.⁷³

A UN investigation later found that as many as 92 civilians had in fact been killed, making the attack one of the worst air strikes since the start of the war in 2001.⁷⁴ The public outrage, particularly among Afghan leaders, threatened a total collapse of political support for international forces at a time when President Barack Obama was about to take office in the US. “*The fight against terrorism cannot be won by bombardment of our villages,*” President Karzai said in the aftermath of Azizabad and several other high-profile bombings. “*My first demand from the U.S. president, when he takes office, would be to end civilian casualties in Afghanistan and take the war to places where there are terrorist nests and training centres.*”⁷⁵

The fallout of the bombing in Azizabad led immediately to new rule changes to NATO’s air strike procedures. In light of the investigative debacle, it also called for better procedures for prompt and accurate recording of information on civilian casualties.⁷⁶ For the first time, NATO ISAF introduced a centralised civilian casualty tracking mechanism (discussed more on pages 16-17).⁷⁷

A new tactical directive was also issued across NATO ISAF, matched by a separate similar



© Human Rights Watch

Damaged homes in Azizabad following the 22 August air strike.

directive to US forces operating independently in Afghanistan.⁷⁸ While little is known about the content of the new directives, UNAMA saw a slight drop in civilian casualties in the months that immediately followed.⁷⁹

More importantly, the new rules initiated a wider process that was to fundamentally change the way that NATO ISAF approached the Afghan operation, in the form of the McChrystal Directive.

THE MCCHRYSTAL DIRECTIVE

Almost a year after the Azizabad strike, on 2 July 2009, General Stanley McChrystal issued a revised Tactical Directive to all NATO staff.⁸⁰ The Directive firmly placed the strategic necessity to avoid causing civilian casualties at the heart of NATO’s future approach in Afghanistan.

It stated; “*This is different from conventional combat, and how we operate will determine the*

“ I expect leaders at all levels to scrutinize and limit the use of force like close air support (CAS) against residential compounds and other locations likely to produce civilian casualties in accordance with this guidance. Commanders must weigh the gain of using CAS against the cost of civilian casualties, which in the long run make mission success more difficult and turn the Afghan people against us.”

McChrystal revised Tactical Directive, June 2009.

“ Security may not come from overwhelming firepower [...] Large scale operations to kill or capture militants carry a significant risk of causing civilian casualties and collateral damage. If civilians die in a firefight, it does not matter who shot them – we still failed to protect them from harm. Destroying a home or property jeopardizes the livelihood of an entire family – and creates more insurgents. We sow the seeds of our own demise.”

ISAF Commander’s Counterinsurgency Guidance⁸¹

outcome more than traditional measures, like capture of terrain or attrition of enemy forces. We must avoid the trap of winning tactical victories – but suffering strategic defeats – by causing civilian casualties or excessive damage and thus alienating the people.”⁸²

McChrystal’s Directive challenged a readiness to use excessive force among NATO forces. It highlighted the particular threats to civilians from the use of explosive weapons in populated areas:

“The use of air-to-ground munitions and indirect fires against residential compounds is only authorized under very limited and prescribed conditions (specific conditions deleted due to operational security).”⁸³

The McChrystal Directive marked a sea-change in the attitudes of NATO forces in Afghanistan. Rhetorically at least, it put civilian protection measures at the heart of the ongoing military strategy. The new RoE were the direct result of Azizabad and



AC-130 crew load 105mm M102 howitzers (foreground) during a training mission.

other destructive aerial bombing incidents in Afghan villages. They recognised that the use of powerful or potentially imprecise weaponry in populated areas would likely lead to unintended civilian deaths.

Crucially it foresaw the strategic disadvantage of being seen to cause civilian casualties, in addition to the moral absolutes. This is particularly the case in a conflict where protecting civilians from harm and improving their security was part of the original mandate for fighting. As one European official commented at the time, *“Killing civilians is not the best way to attract hearts and minds.”*⁸⁴

The McChrystal Directive also affirmed that simple measures could be introduced that would effectively reduce the likelihood of causing more civilian casualties. These were practical, pragmatic policies that sought to give greater clarity to commanders on the ground in terms of how to achieve military aims while using the least damaging weapon first.⁸⁵

The new RoE made it harder for NATO to use aerial explosive weapons in populated areas. On 8 September 2009 for example, ISAF forces called for artillery support to counter an ambush in the village of Ganjal but the requests were repeatedly denied by their commanders who feared the indirect-fire artillery would inflict civilian casualties. Although the US Department of Defense refuted the idea that artillery support was denied because of McChrystal’s Tactical Directive, during the investigation of the incident, one officer later stated that fire support was denied *“for various reasons including: lack of situational awareness of locations of friendly elements [and] proximity to the village.”*⁸⁶

However, while the Directives sought to limit opportunities to use heavy aircraft bombs in populated areas, it did not prohibit it. It still allowed for the bombing of villages, and while it described the conditions in which it was permitted as *“very limited,”* the actual conditions themselves are classified, and as such could cover any number of scenarios.

Certainly, while the civilian death rate from air strikes in Afghanistan was never as high again as

in 2008, NATO continued to cause civilian casualties in populated areas through aerial bombing.

In fact, the single deadliest air strike incident in the entire course of the war took place just three months after McChrystal’s Directives were issued.

The Kunduz bombing (the subject of pages 16-17) was made something of a tragic anomaly by the McChrystal Directives, but showed that these rules alone had to mark the beginning of a process to improve civilian protection, not the end point.

NATO AND VICTIM ASSISTANCE: THE STORY OF KUNDUZ

KUNDUZ: THE BIGGEST BOMBING

On 4 September 2009 an air strike carried out by US fighter jets, but called in by German forces on the ground, killed over a hundred civilians in the northern province of Kunduz.

It was the single deadliest air strike in the history of the war in Afghanistan.

The attack came just three months after McChrystal's Directive was passed, and demonstrated the urgent need for a clear articulation of these new rules to commanders in the field.

Two fuel tankers belonging to a German team working in Kunduz were hijacked by Taliban militants mid-afternoon on 4 September.⁸⁷ Colonel George Klein, the German commander leading the pursuit, requested an air strike on receiving images of people moving around the tankers, which had become stuck in the mud in a nearby village.⁸⁸

An Afghan informant asserted that the people at the site were all militants. In fact, hundreds of civilian villagers had swarmed to the damaged tankers to siphon fuel.⁸⁹

Two GBU-38 500-lb bombs were dropped on the crowd below. The German commander rejected the pilot's recommendation to use the far larger 2,000lb bombs in an effort to reduce the scale of the impact of bombing the fuel tankers below. He also requested a delay fuse, which was expected to limit the bombs' fragmentation effect.⁹⁰

NATO investigations found that at least 125 people were killed, with no more than 24 being armed actors.⁹¹ Amnesty International claimed the death toll stood at 142.⁹²

The strike was met with outrage, even within governments of NATO member states.⁹³ The decision to launch an air strike on the basis of so little information, and without apparent warning, was considered to have violated the legal duty to take full precautionary measures, as well as the new McChrystal Directives.⁹⁴

INVESTIGATIONS AND CASUALTY COUNTING

German forces did not carry out any formal investigation until it came under intense public pressure for its failure to hold German forces to account.⁹⁵

“As we arrived at the scene we could see nothing but flames and smoke. At that time it was almost around 3.00 am. We saw the bodies burned and unidentifiable, others were badly injured and crying [...] We couldn't take the wounded people with us because the planes were still flying and we had to leave them there [...] everyone carried the bodies to the villages and we had to bury some without knowing who they were. There were at least 20 children among the dead.”

Anonymous eye witness, Amnesty International, 2009⁹⁶

In 2008, NATO ISAF created the Civilian Casualty Tracking Cell (CCTC). This was the first large-scale civilian casualty data tracking mechanism ever undertaken by a warring party.⁹⁷ Its instigation was a pragmatic measure. The absence of a systematic casualty-recording practice exposed NATO to allegations of causing civilian casualties that it could not credibly refute. It spoke of a weak commitment to mitigating civilian harm and made public statements to the contrary look hollow.

The CCTC was a positive and important measure, allowing NATO ISAF to recognise and change harmful tactics, like bombing in populated areas, which put civilians at particular risk.⁹⁸ It demonstrated that an armed force can record the casualties caused through its actions, and that it is desirable to do so.

However, there were still significant weaknesses in the CCTC. For example, it could not record the wider harm sustained by civilians from NATO bombing and attacks, such as damage to homes.

In October 2014, AOV submitted a Freedom of Information request to the UK Ministry of Defence asking for information on the number of civilian casualties resulting from UK-led air strikes in Afghanistan. The response revealed that there is still an absence of systematic data collection among individual NATO member states.

“We deeply regret all civilian casualties,” said the response, dated 19 December 2014, *“While we investigate carefully all alleged incidents involving UK forces, **the Government does not record total figures for civilian casualties in Afghanistan** because of the immense difficulty and risks that would be involved in collecting robust data.”*⁹⁹

The *“immense difficulty”* in collecting data does not justify a refusal from the Government to even attempt to gather information about civilian casualties resulting from incidents involving UK forces. AOV calls on states, international organisations and NGOs to gather and make available data on the impacts of explosive weapons.

ACCOUNTABILITY FAILINGS

Under NATO guidance, each nation is responsible for providing compensation to victims of its actions and there was no universal schedule for compensation.¹⁰⁰

A year after the attack, the German military said that it would pay the equivalent of \$5,000 each to 102 Afghan families of victims of the Kunduz attack; a payment that was to be made for ‘humanitarian reasons’ rather than as a recognition of any legal obligation.¹⁰¹

In March 2013, Afghan civilians sued the German Ministry of Defense.¹⁰² Seventy-nine families are currently seeking compensation amounting to \$4.3 million in what the German-Afghan lawyer leading the case has called a *“barbaric crime.”*¹⁰³ In November 2013 the District Court of Bonn rejected the first two claims, saying that they could not find a violation of IHL in the actions of the German commander, and that there was no obligation to provide compensation to individual victims.¹⁰⁴

Germany’s years of failing to provide any meaningful redress or assistance to victims of the Kunduz strike reflects a weak accountability framework for NATO member states.

In August 2014, Amnesty International investigated ten incidents between 2009 and 2013 in which US/NATO military operations caused civilian casualties. None of these ten cases, in which more than 140 civilians died, were prosecuted by the US military. Moreover only six cases from Afghanistan have been brought to court in the last five years.¹⁰⁵ Amnesty called for NATO ISAF to make public the findings of their investigative teams, to press its member states to take legal responsibility for their actions, and to provide full reparation to victims of its military operations.¹⁰⁶

AOV believes that the users of explosive weapons should work towards the full realisation of the rights of victims, including those killed and injured, their families, and affected communities.

2012: SAJAWAND AND THE ALLEN ORDER

NATO's engagement in Afghanistan after 2008 did not simply see a smooth trajectory towards ever-tighter restrictions on the use of aerial explosive weapons.

McChrystal's 2009 Tactical Directives set progressive new standards for civilian protection. They made avoiding civilian casualties a strategic priority for NATO ISAF. However, the Directive led to pushback from forces. There was a perception among NATO ground forces that the tighter RoE were too rigid, and as such were leading to casualties within NATO ranks as troops were no longer able to call on powerful air support as readily.¹⁰⁷

In 2010, the RoE were relaxed from the 2009 standards by McChrystal's successor General David Petraeus.¹⁰⁸ Petraeus had previously led US fighting in Iraq, and was described as *"the man in Iraq to row back from the indiscriminate use of force but he is not allergic to the use of heavy weapons and air power against an enemy area."*¹⁰⁹

While maintaining a rhetorical emphasis on avoiding civilian casualties, under Petraeus NATO ISAF's rules tilted the balance back towards prioritising troop protection. This meant allowing heavy firepower in the interests of keeping soldiers safer.

In August 2010 Petraeus issued his own Tactical Directive, which called for a more aggressive approach to operations.¹¹⁰ These new rules authorised the use of *"firepower needed to win a fight."*¹¹¹ Under McChrystal the doctrine had been one of restraint. Now it was about 'disciplined use of force', which meant fewer restrictions on the conditions in which force could be used, so long as it still met the requirements of IHL.

The Directive did not explicitly relate to the practice of aerial bombing, but its guidance for using artillery fire suggested that commanders had greater leeway to call upon heavy explosive weaponry during operations.¹¹²

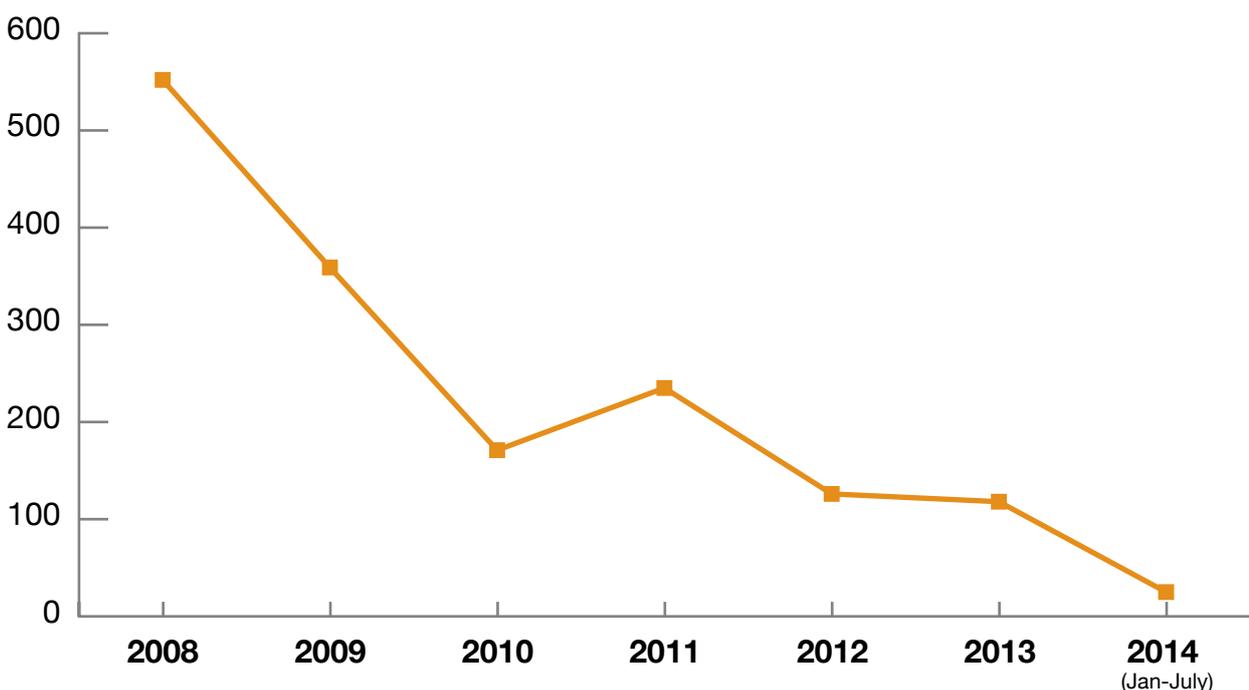


Figure 3: Civilian deaths from NATO ISAF air operations (UNAMA)

As Figure 3 shows, in the year following the implementation of these more liberal RoE, civilian deaths from air strikes began to climb again in 2011.

Further change was clearly required.

THE ATTACK

On 6 June 2012, at least 18 civilians were killed in a night time air strike on the village of Sajawand in eastern Logar province.¹¹³ Four women, three teenage boys, and nine young children were among the dead. All were from the same extended family who had gathered to celebrate a wedding in the home of village elder Bashir Akhundzada.

Taliban fighters had occupied a house neighbouring the one in which the wedding party were celebrating. The militants shot at NATO and Afghan troops, who surrounded the building and called for civilians to leave the wider area before calling in an air strike.¹¹⁴

The resulting strike destroyed the targeted house in which the Taliban fighters were based, killing at least six militants inside.¹¹⁵

It also completely destroyed the neighbouring home in which the civilian wedding party was taking place.¹¹⁶

.....

“In these houses nobody has been left alive. All are martyred whether they were male, female or children. They were not Taliban, they haven’t fought with anyone, they haven’t attacked anyone,”

Sayed Ahmad, villager, June 2012¹¹⁷

.....

THE AFTERMATH

NATO initially confirmed the air strike but denied reports that civilians were among those killed, claiming that only two women had suffered injuries.¹¹⁸ However, following its own further investigations that revealed the true cost of the strike, the top commander of US and NATO troops

in Afghanistan, General John Allen visited the village of Sajawand and expressed his regrets to the provincial governor of Logar Province: *“I have children of my own, and I feel the pain of this [...] we will do the right thing by the families.”*¹¹⁹

As with the attacks in Azizabad and Kunduz, the Sajawand bombing caused significant reputational damage to NATO ISAF. The attack was condemned by President Karzai as unacceptable and unjustifiable.¹²⁰ In response to the incident, some of the local villagers gathered the bodies and drove them into the capital of Logar province in order to protest the strike.¹²¹

The sense of public outrage was manipulated further by Taliban militants who closed schools in areas under their control to protest the bombing.¹²²

THE ALLEN ORDERS

NATO’s policy response was swift.

Just six days after Sajawand, NATO publicly announced a change in their policies for the use of explosive weapons in populated areas in Afghanistan. The ISAF statement on air-dropped munitions read:

“Today, in accordance with our understanding with Afghan President Hamid Karzai, Gen. John R. Allen, commander, International Security Assistance Force and United States Forces-Afghanistan, gave the order to coalition forces that no aerial munitions be delivered against civilian dwellings. This measure is a further step in our efforts to protect the lives of Afghan civilians.

*Other conventional methods will be deployed against the insurgents, in coordination with Afghan National Security Forces. As always, Afghan and coalition forces retain the inherent right to use aerial munitions in self-defense if no other options are available.”*¹²³

The Allen order of 12 June 2012 goes beyond the previously most-progressive RoE established by McChrystal in 2009 by stipulating that bombs cannot be used against civilian homes in any circumstances barring self-defence.

However, while seemingly clear, there was still potential for inconsistencies in interpretation of this new RoE. The parameters of what constitutes legitimate self-defence have long been a sensitive issue not only in Afghanistan but for many militaries.¹²⁴

How a ‘civilian dwelling’ is defined is arguably the most pressing issue in this case. The offices of the Afghan President provided a strong interpretation of the policy change, saying that “*from now on the NATO force will never bombard the people’s homes and villages, and that they will completely stop this act.*”¹²⁵ However, in announcing the new policy, a military spokesman said that NATO would continue to target insurgents in residential areas but “*when there is concern over the presence of civilians, air delivered bombs will not be employed while other means are available;*” a much weaker guarantee.¹²⁶

Seven months previously General Allen had attempted to clarify the appropriate operational definition of a civilian home. In his own Tactical Directive on 30 November 2011, Allen tells each and every NATO commander to presume

that: “*Every Afghan is a civilian unless otherwise apparent; All compounds are civilian structures until otherwise apparent; In every location where there is evidence of human habitation, civilians are present until otherwise apparent.*”¹²⁷

Through this directive, Allen clarifies that commanders should operate under an initial presumption that all buildings are civilian unless demonstrably proven otherwise.

At the time of the Sajawand attack, NATO claimed that they typically avoided striking civilian buildings and that only 19 of the 3,531 air strikes they carried out in the first six months of 2012 had taken place in these locations. At least five of these incidents resulted in civilian casualties.¹²⁸

This finding tallies with AOV research. AOV has monitored the impact of explosive weapons around the world since 2011, using English-language media sources.

AOV data on NATO air strikes in Afghanistan between 1 January and 1 June 2012 documents seven aerial attacks in populated areas that resulted in civilian casualties. Between them these strikes caused 63 civilian casualties.

The way in which the use of an explosive weapon in populated areas affects the makeup of resulting deaths and injuries is starkly manifest in figure four.¹²⁹ Overall in the months leading to Sajawand AOV recorded a total of 21 air strikes that caused casualties. Of the 142 deaths and injuries, 44% were civilians. In the air strikes that took place in populated areas, civilians made up 95% of the reported casualties. That fell to just 8% in the strikes away from civilian dwellings.

The Allen orders issued either side of the Sajawand bombing helped to reaffirm a starting point not only that explosive weapons should not be used in populated areas, but that an area should be presumed to be populated by civilians unless there was clear evidence to the contrary. These measures helped to raise the threshold for acceptable use of heavy explosive weapons, and undoubtedly helped shape the overall decline in civilian casualties from aerial bombing that is illustrated in figure three (page 18).

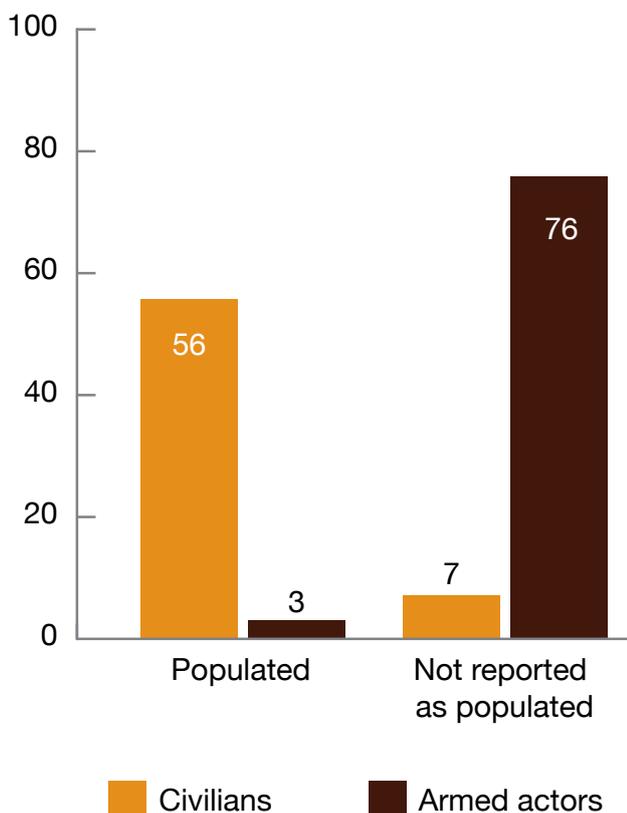


Figure four: Breakdown of casualties recorded from NATO air strikes (1 January – 1 June 2012) – AOV

2013: CHAWGAM AND THE KARZAI DECREE

In 2013, civilian casualties from air strikes in Afghanistan fell by ten percent from the previous year.¹³⁰ While this was a clear decline, UNAMA still recorded 182 civilian casualties in 2013, including 118 deaths. NATO's aerial operations were responsible for 19% of the civilian casualties caused by pro-government forces in Afghanistan.

Kunar, a remote eastern province along the Pakistan border, was the location of extensive armed violence in 2013. Almost a third of all the civilian deaths from air strikes that year took place in Kunar.¹³¹

THE ATTACK

At 3am on 13 February 2013 fourteen people died in a NATO air strike in the village of Chawgam in Kunar province.

Ten were civilians, including a man, four women and five children.¹³² The dead all came from two local families.¹³³

Four Taliban insurgents were also killed as they met at a neighbouring house in the village next door in the village.¹³⁴

NATO claimed to have been targeting these four militants, and were responding to a request for air support from a combined NATO and Afghan ground patrol.¹³⁵

As with the Sajawand bombing in 2012, the attack appears to have succeeded in its aim of taking out a military objective. However, just as in Sajawand, it also caused severe 'collateral damage' in a populated area. It seemed that in spite of the advances made by NATO since the dark days of 2008 its use of air strikes still carried a terrible potential for causing civilian casualties.

THE AFTERMATH

The Chawgam attack came just days after the United Nations Committee on the Rights of the Child had issued a report criticising US military forces in Afghanistan for killing hundreds of children in the previous four year through air strikes and ground attacks. The report had condemned the US, and by extension NATO ISAF, for a "*reported lack of precautionary measures and indiscriminate use of force.*"¹³⁶

NATO ISAF had attempted to dismiss the UN's accusations. It issued a statement: "*Strict rules apply to the use of air-delivered munitions, particularly when civilians may be present and whenever there is a possibility of striking a civilian structure.*"¹³⁷

How then did an air strike appear to take place in just such a circumstance?

After Chawgam, NATO leadership was heavily criticised for exceeding the limits set out in its own existing RoE.¹³⁸ Investigations into the incident were ordered both by NATO and by President Karzai.¹³⁹

THE KARZAI DECREE

On this occasion, policy change was instigated outside NATO ISAF's internal lesson-learning mechanisms.

On 19 February 2013, Afghan President Hamid Karzai issued a new decree stating that "*No Afghan security forces, under any circumstances [sic.], can ask for the foreigners' planes for carrying out operations on our homes and villages. During your operations, **do not call for air support from international forces during operations on residential areas.***"¹⁴⁰

The Karzai decree did not necessitate any wholesale redrafting of NATO's own RoE, but instead further reduced the circumstances in which air strikes were viable in Afghanistan.

NATO took steps to integrate Karzai's decree into its existing RoE. New technical measures were introduced to ensure Karzai's decree was enforceable during the final months of NATO's operation in Afghanistan. General Joseph Dunford, who had taken command of NATO's forces just three days before the Chawgam attack, said that NATO was "*prepared to provide support in line with the president's intent [...] There are other ways to support the Afghans besides aviation.*"¹⁴¹

Karzai's decree was important for two reasons.

First, as NATO ISAF began its withdrawal process, responsibility for security operations was increasingly being handed over to Afghan national forces. Karzai's decree pre-empted a regression in policies back to a more trigger-happy approach to air strikes in support of Afghan forces.

Second, the unequivocal language of the decree also lay a benchmark for NATO when drafting new, progressive RoE. In the case of the Chawgam bombing, it is unclear from an external perspective whether the attack definitively exceeded the restrictions expressed in the Allen orders of 2011 and June 2012, or whether the definitions of civilian dwellings and self-defence are ambiguous

enough to allow air strikes in certain small or remote populated areas such as Chawgam.

This old ambiguity is evaded in Karzai's decree, which states as an absolute that there can be no circumstance in which Afghan forces can demand air support from NATO aircraft, if they are within a populated area.

It made explicit the connection between civilian harm and the physical environment in which an air strike was carried out. It helped to drive home a process over several years in which NATO's approach had moved from asking *can* an aircraft bomb a target to *should* it bomb the target.¹⁴²



© US Navy, Lt. Steve Lightstone

Two 500lb GBU-12 bombs and an AIM-9 'Sidewinder' missile on the wing of an F/A-18 fighter jet in Afghanistan, 31 October 2001.

CONCLUSION

This report has shown how NATO ISAF changed its rules of engagement for air strikes in Afghanistan. It has illustrated a broad trajectory towards greater commitment to civilian protection, and how these new rules have helped reduce the impact of aerial explosive weapon use on civilians.

Even at their most devastating, air strikes were not the biggest killer of civilians in Afghanistan.¹⁴³ They have, however, often been responsible for the biggest percentage of civilian casualties caused by state forces in the country. The series of rules instigated by NATO between 2009 and 2013 have seen the share of all civilian deaths in Afghanistan caused by air strikes fall from 28% in 2008 to 4% in 2013.¹⁴⁴

The policies adopted by NATO in 2009, 2012 and 2013 were united by several key features.

THE IMPACT OF EXPLOSIVE WEAPONS

First, these new rules were all focused principally on restricting the use of aerial explosive weapons in populated areas. All three cases demonstrate recognition that the area effect of these weapons raised specific protection challenges. Even with the most advanced weaponry and a well-trained military, better standards of behaviour were necessary in order to provide effective protection to civilians on the ground.

All three cases show that NATO's decision-making hierarchy believed that the most impactful measure that could be taken was to create tighter boundaries against the use of explosive weapons in populated areas. Rather than focus on seeking a technological 'silver bullet', NATO introduced practical, restrictive policies that required little cost in time, money or risk to implement.

STRATEGIC COSTS

Second, NATO's new rules for air strikes showed that there is not only a moral (not to mention legal) duty on armed forces to avoid causing civilian

casualties, but that such changes were also in NATO's own strategic self-interest.

To some extent, the changes brought about since 2009 reflect the power of public pressure and of stigma. NATO only changed its policies following years of civilians having been killed as a result of aerial bombing. Regretted but not redressed, these casualties had for too long been swept under the carpet of 'collateral damage'. It took years of concerted public pressure to build a case for change.

The main driver for change came from the internal admission that there is clearly a damaging political cost to causing, or being seen to cause, civilian casualties. It harms the ability of an armed force to achieve its military objectives and, by building hostility, increases the risk faced by soldiers.

REPLICABLE PRACTICE

NATO's changes recognise as a matter of policy that explosive weapons have a devastating impact on civilians and that the wide-area effect of these weapons is difficult to limit and control when they are used in populated areas.

The positive impact of the changes shows that it is not only possible, but desirable, for an armed force to restrict its use of explosive weapons in populated areas.

Many factors specific to the situation of Afghanistan enabled the development of positive practice by NATO ISAF. This included a mandate based implicitly on improving civilian protection, and an opposition with limited ability to attack NATO aircraft.

The fighting in Afghanistan reflects the increasing conduct of wars in the modern era, however. Increasingly, in places like Côte d'Ivoire, Mali, Libya and Iraq, conflicts are being fought by international forces in the interests of civilian protection. These forces have no excuse but

to uphold the strongest standards in the use of weapons that might endanger civilians in whose name they claim to be fighting.

INHERENT THREAT

Finally, as far as NATO's policies have progressed since 2008, civilian casualties from air strikes are still all too common in Afghanistan, even as international involvement draws to a close. On 6 April 2013, at least 13 civilians died when bombs fitted with an airburst fuse exploded near the room in which they were sheltering in the village of Suno, Kunar.¹⁴⁵

These bombs detonate above ground, creating shockwaves that can have a devastating effect

in enclosed areas.¹⁴⁶ This use of multiple large bombs whose effects were hard to contain in a populated area was criticised by the UN.¹⁴⁷

The Suno incident in April 2013 shows that even with the incremental changes made to advance civilian protection in Afghanistan, there will always be a risk of civilian casualties whenever heavy explosive weapons are used in or near populated areas.

AOAV believes there is a need for stronger standards against the use of explosive weapons with wide-area effects in populated areas. Stopping the use of these weapons in populated areas would save civilian lives both during attacks and in the longer-term.¹⁴⁸

RECOMMENDATIONS

- State forces should immediately end the use of explosive weapons with wide-area effects in populated areas, and work collectively with others towards an international commitment aimed at preventing such use.
- In line with the October 2014 request from the United Nations Secretary-General to all Member States, states should take this opportunity to share examples of good practice and policy in the use of explosive weapons with wide-area effects in populated areas.¹⁴⁹
- States should recognise the pattern of unacceptable harm caused by the use of explosive weapons in populated areas, and should publicly condemn any such use at every opportunity, including but not limited to the UN Security Council debates on the Protection of Civilians.
- States, international organisations, and non-governmental organisations should gather and make available data on the impacts of explosive weapons. More should be done to protect and support the organisations and individuals that work to gather such data.
- States and users of explosive weapons should work towards the full realisation of the rights of victims of explosive weapons, including those killed and injured, their families, and affected communities. NATO ISAF member states should make full reparations to the victims of its military operations, including its use of air strikes.
- NATO ISAF should work with the Afghan National Security Forces to ensure that it adopts fully the most progressive examples of policies in the use of explosive weapons in populated areas. This should continue to include all necessary training, both in weapon use and in international humanitarian law (IHL).
- NATO ISAF should transfer the management of its civilian casualty tracking mechanism to the Afghan government, and should provide sufficient funding and training resources to ensure that every casualty of armed violence in the country is recorded.

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ACTION ON ARMED VIOLENCE

Action on Armed Violence (AOAV) is a London, based charity that has a central mission: to reduce harm and to rebuild lives affected by armed violence.

We do this by carrying out field work, research and advocacy to reduce the incidence and impact of global armed violence.

The number of fatalities from armed violence is estimated to be over half a million people killed every year. Around two thirds of these violent deaths are estimated to occur outside conflict situations. Poorer countries are particularly badly affected.

We seek to remove the threat of weapons, monitor the impact of explosive weapons around the world and investigate what causes armed violence – from guns to suicide bombings. We aim to clear land of explosive weapons and work with governments to regulate guns.

We work with victims of armed violence, offering psychosocial assistance, providing opportunities to help them earn a living and to try to reduce conflict at local levels.

We work to build communities affected by armed violence, working with governments and measuring and monitoring the incidences and impacts of armed violence around the world.

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