

IFP SECURITY CLUSTER

COUNTRY CASE STUDY: AFGHANISTAN

SECURITY SECTOR REFORM IN AFGHANISTAN

Fatima Ayub, Sari Kouvo and Rachel Wareham

April 2009



INITIATIVE FOR  PEACEBUILDING



THIS INITIATIVE IS FUNDED
BY THE EUROPEAN UNION

ABOUT IFP

The Initiative for Peacebuilding (IfP) is a consortium led by International Alert and funded by the European Commission. IfP draws together the complementary geographic and thematic expertise of 10 civil society organisations (and their networks) with offices across the EU and in conflict-affected countries. Its aim is to develop and harness international knowledge and expertise in the field of conflict prevention and peacebuilding to ensure that all stakeholders, including EU institutions, can access strong independent analysis in order to facilitate better informed and more evidence-based policy decisions.

This document has been produced with the financial assistance of the European Union and the International Center for Transitional Justice (ICTJ) Afghanistan Program. The contents of this document are the sole responsibility of IfP/ICTJ and can under no circumstances be regarded as reflecting the position of the European Union. To learn more, visit <http://www.initiativeforpeacebuilding.eu>.

ABOUT ICTJ

The International Center for Transitional Justice (ICTJ) assists countries pursuing accountability for past mass atrocity or human rights abuse. The Center works in societies emerging from repressive rule or armed conflict, as well as in established democracies where historical injustices or systemic abuse remain unresolved.

In order to promote justice, peace, and reconciliation, government officials and nongovernmental advocates are likely to consider a variety of transitional justice approaches including both judicial and nonjudicial responses to human rights crimes. The ICTJ assists in the development of integrated, comprehensive, and localised approaches to transitional justice comprising five key elements: prosecuting perpetrators, documenting and acknowledging violations through nonjudicial means such as truth commissions, reforming abusive institutions, providing reparations to victims, and facilitating reconciliation processes.

The Center is committed to building local capacity and generally strengthening the emerging field of transitional justice, and works closely with organisations and experts around the world to do so. By working in the field through local languages, the ICTJ provides comparative information, legal and policy analysis, documentation, and strategic research to justice and truth-seeking institutions, nongovernmental organisations, governments and others.

ICTJ has been active in Afghanistan since 2002. The ICTJ Afghanistan Program has provided expertise and technical assistance to transitional justice initiatives undertaken by the United Nations agencies, the Afghanistan Independent Human Rights Commission and Afghan civil society.

Cover image: © Azaryuon Matin. Kabul 2008

© Initiative for Peacebuilding 2009

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without full attribution.

SECURITY SECTOR REFORM IN AFGHANISTAN

AUTHOR PROFILES

Fatima Ayub

Fatima Ayub is a full-time consultant for ICTJ's Afghanistan Program. She focuses on research and advocacy, working with local partners, developing trainings on transitional justice and providing general support to the programme. She was previously employed at Amnesty International, Human Rights Watch and Search for Common Ground. She holds an MA in International Relations from the School of Advanced International Studies at Johns Hopkins University.

Dr. Sari Kouvo

Dr. Sari Kouvo heads the ICTJ's Afghanistan Program. Prior to joining ICTJ, she was Human Rights and Rule of Law Advisor to the European Union Special Representative for Afghanistan. She also served as Researcher on Afghanistan at Amnesty International and a researcher and lecturer within the Department of Law at Gothenburg University. She is a member of the European Union's Civilian Response Teams for Multifunctional Crisis Management and is a founding member of both the Center for Global Gender Studies and the Center for the Study of Human Rights at Gothenburg University. She has been a visiting fellow at the NATO Defense College (Italy); the Center for Law, Gender, and Sexuality at Keele University (UK), the Institute for Human Rights at Abo Academy University (Finland), and the Center for International and Public Law at Australian National University.

Her publications include 'Making Just Rights? Mainstreaming Gender and Women's Human Rights' (Iustus Publications, 2004), 'The United Nations and Gender Mainstreaming: Limits and Possibilities' in *International Law: Modern Feminist Approaches* (Hart Publications, 2005), 'Ihmisoikeudet', in *Maailmanpolitiikan arkipäivää: 10 käsitettä feministiseen kansainvälisten suhteiden tutkimukseen* (Avainsanat, 2006), and 'Righting the Course? Humanitarian Intervention, the War on Terror and the Future of Afghanistan' (with Fatima Ayub) in *International Affairs* (2008).

Rachel Wareham

Rachel Wareham holds a BA in Politics and East Asian Studies from the University of Newcastle, and an MA in Social Anthropology from the School of Oriental and African Studies, University of London. In Afghanistan, she established and headed the office of Medica Mondiale, an international women's NGO, and was team leader for the first phase of GTZ's (German Technical Co-operation) Gender Mainstreaming project with the Afghan Government. She has served on the Boards of the Rights and Democracy Afghan Women's Program and the Afghan Women's Educational Center. She is also a long-standing Board Member of the international women's fund the Urgent Action Fund for Women's Human Rights and an honorary founding member of Kosova Women's Network. Currently Ms Wareham works as an independent consultant on governance, gender and conflict.

ACKNOWLEDGMENTS

This study is the result of a participatory process, benefiting from the insights, time and energy of numerous individuals. The researchers wish to thank all those in Kabul, Brussels, Stockholm and London who contributed so graciously with information and critical insights. Special thanks go to Sajia and Ruhula in Kabul for their generous support with logistics and translation.

CONTENTS

Executive Summary	6
Introduction	7
Country Context	8
A Brief History of Conflict	8
Stabilisation and State-building	9
Security Sector Reform	11
Security Sector Reform in the State-Building Process in Afghanistan	11
A Few Words on Disarmament	12
Afghan Civil Society Voices on Security Sector Reform in Afghanistan	13
Conclusions and Recommendations	15

EXECUTIVE SUMMARY

This brief report describes and analyses security sector reform, including rule of law and disarmament processes, in Afghanistan for the purposes of developing knowledge of these areas for European stakeholders. The findings of the report indicate that political choices made early on in the state-building process have contributed to the current governance and rule of law deficit in Afghanistan. European actions have been marked by a lack of coordination between political and development assistance as well as diverse – and sometimes conflicting – priorities between European Union institutions and its Member States. While efforts to promote more accountability within the Afghan government have taken some shape, more action is needed to promote stability and good governance in the country. The recommendations of this report are intended to serve as guidelines for general security sector reform; ensuring rule of law; and establishment of a professional civilian police force within the Afghan context.

Keywords: Afghanistan, Conflict, State-Building, Security Sector Reform.

INTRODUCTION

The internationally supported stabilisation and state-building efforts in Afghanistan have not been a success. The United States (US)-led international military intervention that ousted the Taliban regime was largely welcomed by the Afghan public. However, consistent failure to ensure security and rule of law has undermined the Afghan public's trust in the Afghan government and its international partners.

The challenges of state-building, including security sector reform, in Afghanistan are considerable. The reach of Kabul-based governments has always been limited in Afghanistan, and the power of the central government has been dependent on constant negotiations with regional and local power holders. Three decades of consecutive conflict have deepened the ethnic and tribal divisions and further entrenched the extreme divides between educated, urban elites and illiterate, rural poor. The state-building process has also brought with it new challenges: corruption is on the rise, links to organised drug-related crime is undermining the integrity of Afghan institutions, and the abusive behaviour of Afghan security forces is undermining the legitimacy of the Afghan government.

Although the shortcomings of the reconstruction effort in Afghanistan may not have been of an *intentional* design, political decisions taken in the immediate aftermath of the US-led international military intervention have decisively contributed to the obstacles faced today. For example, no attempt was made to broker a peace agreement between the warring factions in Afghanistan. Factional leaders supportive of the US-led effort to oust the Taliban regime, but not necessarily representative of the Afghan public, were allowed to take leadership of key ministries in the post-conflict power-sharing arrangements. The light footprint model initially chosen for the international community's support to the new Afghan government lacked coordination and a coherent vision, while demanding specific and far-reaching reforms. Reconstruction efforts have been top-down, focusing on strengthening the Kabul-based central government rather than on ensuring a credible government presence at regional, provincial, and district levels.

The aim of this report is to describe and analyse security sector reform as part of the state-building process in Afghanistan. The report is one of several country case studies produced as part of the security cluster of the Initiative for Peacebuilding (IfP) that ultimately aims to develop recommendations for the European Union (EU) on security sector reform. The report draws on the International Center for Transitional Justice's (ICTJ) expertise in the area of justice-centered security sector reform and is based on primary research conducted by an independent consultant during a field mission to Afghanistan in November 2008.¹ The ICTJ's Afghanistan Program and Security Sector Reform Program collaborated on the preparation of this document. The report is divided into four sections. Section 2 provides a brief background to the conflicts in Afghanistan and to the post-9/11 stabilisation and state-building efforts. Section 3 provides an overview of security sector reform, including rule of law reform and disarmament in Afghanistan. Section 4 concludes the report and puts forward recommendations relevant to the European Commission and other European actors present in Afghanistan.

¹ The ICTJ consultant conducted 37 semi-structured, open-ended interviews in Kabul, London and Stockholm in November 2008. The respondents included senior figures from government, civil society and the international community in Afghanistan. This report is also informed by research conducted by the Senior Program Fellow of the ICTJ Afghanistan Program at the NATO Defense College during the spring and summer of 2008. See S. Kouvo (2009). *State-building and rule of law: Lessons from Afghanistan?* NDC Forum Paper No. 6. Rome: NDC Publications.

COUNTRY CONTEXT

A BRIEF HISTORY OF CONFLICT

Conflict and State-Building in Afghanistan

Afghanistan emerged as an independent state in 1919 following British attempts to establish the country as a buffer between Russia, India and Central Asia during its colonial reign.² Governance ever since has been characterised by attempts to balance power between central governments based in Kabul against regional power holders on one hand, and movements to modernise against efforts to maintain customary systems on the other. Poverty and lack of education have further exacerbated efforts to establish a centralised government. Throughout Afghanistan's modern history, these internal tensions, which often manifest themselves along regional, ethnic, and tribal lines, have been further compounded and manipulated by external actors. Afghanistan's relationship with its neighbours, and especially the controversy over the Durand Line that crosses through the Pashtun areas of Afghanistan and Pakistan, is a continuing source of unrest and conflict. Afghanistan has been a battleground on which several international conflicts, including the Cold War and the War on Terror, have been fought.

The modern conflict in Afghanistan started with the communist revolution of 27th April 1978. The communist politics resonated poorly in Afghanistan, a country of intensely traditional and religious values. In response to the coup, anti-communist guerilla groups emerged from training camps in Pakistan. The communist government responded by arresting, torturing and killing alleged opposition members. As a reaction against the increasing anarchy at its southern border, the Soviet Union invaded Afghanistan on 24th December 1979. Under a Soviet-led and supported government, summary executions diminished but arrests, disappearances, massacres, and indiscriminate bombings of rural areas continued. The notorious Afghan intelligence service was established during the Soviet period and was responsible for many arrests, torture, and executions. Resistance to the Soviet invasion was largely organised along regional, and therefore ethnic, lines. The most successful leaders fighting a "holy war" for the liberation of Afghanistan, the *mujahidin*, gained legitimacy during this period, and many of them remain important figures in Afghan politics today. By channeling funds and support to the mujahidin, Pakistan, Iran, Saudi Arabia, and the United States managed to inject their agendas into the Afghan resistance. The end of the Cold War and the Geneva Accords of 1988 compelled Soviet forces to withdraw by the following year, but by 1989 the war had left a million dead and created the world's largest refugee population, with around six million refugees in Iran and Pakistan.

The government established after the Soviet withdrawal survived for three years, at which point the then-President Najibullah was overthrown and eventually executed by the Taliban. When the Cold War ended, the United States and the West lost interest in Afghanistan. Civil war and a state of near-anarchy ensued as Afghanistan divided into a number of semi-autonomous regions along mainly ethnic lines, and different factions fought for control of Kabul. The Taliban, mostly Pashtuns from the Afghan refugee camps in Pakistan, formed in reaction to the lawlessness and abuses of the civil-war period. By 1998 the Taliban controlled 90 percent of Afghanistan. Although the Taliban brought much-craved security to the rural population (albeit through harsh diktat), their policies were vehemently anti-Shia and their behaviour in most areas was that of an occupying force. The hard-line Taliban government progressively limited rights and freedoms of Afghans, partly by enforcing strict dress codes for women and men, forbidding various forms of cultural expression, and barring women from education and employment.

2 B. R. Rubin (2002). *The fragmentation of Afghanistan* (second edition). New Haven, Connecticut: Yale University Press, p.19.

Fighting continued throughout the country between the Taliban and other ethnic factions, resulting in widespread civilian casualties and numerous massacres. The Taliban also provided a refuge for Osama bin Laden and al-Qaeda. The world refocused its attention on Afghanistan because of the September 11, 2001 attacks on New York and Washington, D.C. The US launched the War on Terror by attacking Afghanistan with the aim of overthrowing the Taliban regime and its terrorist allies. Coalition attacks from the air were supported by various Afghan factions on the ground known as the Northern Alliance (many of whom were former mujahidin leaders).

STABILISATION AND STATE-BUILDING

While the United States and its allies were fighting the Taliban, and with much of Afghanistan's territory falling under control of the Northern Alliance, international actors, along with select Afghan delegates, convened in Bonn to establish the Afghan Interim Authority and draw a road map for state-building. The Taliban were not included in these talks. The conference resulted in an agreement that set out benchmarks to establish key institutions of a sovereign and democratic state, including a transitional government, a new constitution, presidential elections by September 2004, and parliamentary and provincial council elections by October 2005.

The United Nations Assistance Mission in Afghanistan (UNAMA) was created to contribute to security and state-building in the country. The UN and the wider international community chose a so-called “light footprint” approach to its intervention in Afghanistan. Consequently, UNAMA did not have a strong leadership or coordinating role during the Bonn process. Priority, at least on paper, was given to Afghan leadership. Reconstruction efforts in different sectors would be ensured through cooperation with a relevant lead ministry and corresponding lead donor nation. Before, during, and after the Bonn conference, many factional leaders of the Northern Alliance managed to manoeuvre themselves into positions of power within key ministries, including the Ministries of Interior and Defence. The consequence of this power sharing and manoeuvring continues to have adverse effects, especially within the Ministry of Interior.³ Although constructive Afghan leadership might have been possible through extensive involvement of line ministries in the reconstruction process, this manoeuvring created an Afghan leadership that is not necessarily representative and does not signify Afghan public's ownership of the reform processes. At the donors' conference in Tokyo in January 2002, the Group of Eight nations were identified as lead nations for security sector reform.⁴ The EU and its Member States positioned themselves well as lead nations in the area of security sector reform: Germany became the lead on police reform, Italy became the lead on justice reform and the United Kingdom (UK) became the lead on counter-narcotics. However, it quickly became apparent that the lead nation approach did not ensure coherent policy coordination for the various sectors – which in turn contributed to a complete lack of policy-making for cross-sector reforms. Until recently, for example, police and justice reform have been advanced on parallel tracks with very little overlap.

The political arguments for a “light footprint” approach were convincing. The UN's experiences of state-building seemed to suggest that national leadership and ownership was preferred. Unfortunately, advocates of the light footprint approach underestimated the extent to which professional leadership and institutional capacity had eroded during decades of conflict. As a result, the light footprint approach created a state-building process with few checks and balances and with many conflicting, often donor-driven, development agendas. The lack of coordination and an overall strategy has also resulted in development initiatives focusing largely on Kabul and regional capitals, while less accessible areas remain without major development interventions. The focus on Kabul and on the regional capitals has been especially prevalent in the area of institutional reform, including governance and rule of law.

The Bonn process came to an end with the establishment of the Afghan parliament in December 2005. In January 2006, representatives of the Afghan government and the international community met in London to sign the Afghanistan Compact, which outlined benchmarks for state-building from 2006 to 2010. The Afghanistan Compact focused on areas marginalised during the Bonn process, including security sector and rule of law reform and donor coordination. The priorities of the Afghanistan Compact have been streamlined with the priorities of the Afghanistan National Development Strategy adopted in June 2008. The Afghanistan Compact put an end

³ A. Wilder (2007). *Cops or robbers? The struggle to reform the Afghan National Police*. Kabul: AREU.

⁴ C. Hobes and M. Sedra (2007). 'The search for security in post-Taliban Afghanistan', Adelphi Paper, No. 391. London: IISS, p.52.

to the lead nation approach and former lead nations were now introduced as key partners. The “partnership approach” was to re-emphasise the importance of Afghan ownership of the reform processes, but also ensure better coordination in areas such as police and justice reform where many international agencies and donors were active. The Afghanistan Compact also established the Joint Coordination and Monitoring Body consisting of Afghan ministers and representatives of major donor countries to ensure high-level political oversight of its implementation.

The increased coherence of policies and increased coordination that resulted from the adoption of the Afghanistan Compact and the Afghanistan National Development Strategy are important. However, by the time these instruments were adopted, the governance and rule of law deficit in Afghanistan was already taking its toll on security. By 2006, it was becoming increasingly clear that the Taliban had not been defeated in 2001 but merely stalled. In the south and southeast of Afghanistan, open conflict – pitting the Taliban and other anti-government groups against the International Security Assistance Force (ISAF) and the Afghan National Security Force – re-emerged. Afghanistan had now clearly returned to war. The declining security situation has been compounded with an increase in opium cultivation and an expansion of the illegal, opium-driven economy. The inability of the Afghan government to provide security, the local population's perception of the Afghan National Security Force (especially the Afghan National Police) as a security threat, and the lack of progress in governance and rule of law have all undermined the public's trust in the Afghan government.

SECURITY SECTOR REFORM

SECURITY SECTOR REFORM IN THE STATE-BUILDING PROCESS IN AFGHANISTAN

The rule of law structures in Afghanistan, including the formal and informal justice sectors, the prison system, and the security sector, have been severely damaged by the consecutive conflicts and repeated changes in government. The effort of each government to leave its mark on governance and justice systems has resulted in confused approaches to governance and conflicting laws and regulations within Afghanistan.

When discussing rule of law and especially the challenge of reforming rule of law structures in Afghanistan, it is important to keep in mind that Afghanistan remains a fragmented state where the right and ability of the central government to impose rules and regulations remains contested. Governance and upholding rule of law and security has never been a consideration for the central government alone in Afghanistan. The power of central governments in Afghanistan has been (and continues to be) dependent on negotiations and tradeoffs with local power structures. Modern and institution-centred approaches to governance exist side by side with tribal governance structures that, despite lacking formal legal basis, are the primary source of authority in large parts of Afghanistan. In a similar vein, both formal government-centred and informal community-based justice and security mechanisms continue to exist in parallel in the country.

The last seven years of state-building in Afghanistan have been witness to a rise in corruption and organised drug-related crime. Afghanistan has re-emerged as one of the world's main poppy producers after the end of the Taliban regime. The Afghan drug economy is fuelling corruption and organised crime. This will make rule of law reform more challenging, as there is no trust in the system and there are considerable economic and political interests in ensuring that a culture of impunity prevails.

The Bonn Agreement addressed security sector reform only indirectly and not as part of broader rule of law reforms. It emphasised the need for an international security force until such time as an Afghan security force could be developed, and it demanded that 'all mujahidin, Afghan armed forces and armed groups in the country shall come under the command and control of the Interim Authority, and be reorganised according to the requirements of the new Afghan security and armed forces'.⁵ The actual development of security sector reform, including reform of the Afghan National Police (including border police), the Afghan National Army and the National Security Directorate was compromised during the Bonn process: the continuing security challenges and the lack of international- and national-led security rushed the pace of the re-establishment of a national police force in particular. As a consequence, the focus of the reforms were not as much on a comprehensive census and verification process or on building credible institutions, but more on ensuring a minimal security presence in provinces and districts. The pressure on establishing a security sector (not necessarily reforming it) also undermined rule of law considerations: checks and balances and internal accountability mechanisms have not received adequate attention.

The lead nation approach of the Bonn process resulted in a fragmented and donor-driven approach to security sector reform. For example, Germany and the US have approached the reform process from completely different perspectives; the German approach has focused on extensive training for fewer police and the US has focused on short trainings for many.⁶ The establishment of the Afghan National Army is often referred to as one of

⁵ Bonn Agreement, see preamble, para V1 and Annex 1.

⁶ A. Wilder (2007). 'Cops or robbers? The struggle to reform the Afghan National Police', *Afghanistan Research and Evaluation Unit*. Kabul: AREU; and International Crisis Group (2007). *Reforming Afghanistan's police*, Asia Report No. 138.

the successes of the security sector reform processes. The facts that the reform process had been led and implemented by one donor (the US) and that the army was reconstituted from scratch were major factors in the success.⁷ The military process has also faced obstacles, including high figures of desertion and lack of fiscal sustainability.⁸ As opposed to the strategy chosen for the reform of the military, the Afghan National Police was created through the transformation of existing police structures. Disbanding existing police would have created a security vacuum and become very expensive. Hence, from day one, the shortage of troop numbers meant that the police would remain under a great deal of pressure to serve as a counter-insurgency force.

The Afghanistan Compact and the Afghan National Development Strategy attempted to strengthen the focus on security sector reform. However, these processes have reproduced the distinction between security sector reform and justice put in place during the Bonn process. The Bonn process did not view justice as part of the five pillars of security sector reform, thus enabling rule of law and justice reform to be separated from stabilisation and security sector reform strategies. The lead nation approach resulted in a fragmented strategy to rule of law and security sector reform in Afghanistan: it has hampered efforts to build necessary linkages between police and prosecutors and it has caused some areas—including detention/prisons—to receive little to no attention. While the Afghanistan Compact and the Afghanistan National Development Strategy process recognised the need to strengthen the rule of law, both frameworks continue to address justice reform as separate from security sector reform. In 2007, a commission was established with representatives from the Ministry of the Interior and the Attorney General's Office to ensure better cooperation between the two bodies. After a few initial meetings, this commission remained dormant, since the Attorney General did not support reform efforts. After the recent change of Attorney General, efforts may be made to re-energise this commission.

Certain governmental action this past year suggests that serious attempts are being made to reverse the decline in governance and security, including appointing the experienced Mr. Hanif Atmar, former Minister of the Rural Rehabilitation and Development, as new Interior Minister (in addition to other cabinet reappointments) and shifting sub-national governance functions of the Ministry of Interior to the new Independent Directorate of Local Governance and the establishment of the Office of Oversight.⁹ In addition, Karzai and his office have become less obviously compliant with the international community and made some attempts to be stronger in asserting what they consider are Afghan interests.

A FEW WORDS ON DISARMAMENT

The Bonn Agreement stipulated that after the transfer of power, all mujahidin, Afghan armed forces, and other armed groups would come under the control and command of the Interim Authority.¹⁰ The Afghanistan Compact included a stronger focus on disarmament and SSR.¹¹ The disarmament process was established after much delay, focusing initially only on Afghan Military Forces. No comprehensive assessment of the strength of the Afghan Military Forces was conducted prior to the launching of the disarmament process and the number of Afghan soldiers varied depending on who was asked: the Ministry of Defence claimed that there were 250,000 soldiers and UNAMA's figures indicated that there were between 45–50,000.¹² The process of disarming the Afghan Military Forces was followed by the ongoing process of disarming illegal armed groups. In May 2006, a spokesman for this second phase of disarmament stated that nearly 1,000 former militia commanders had been demobilised and 20,411 weapons of different types collected since the programme began in June 2005.¹³ However, there are still around 2,000 illegal armed groups in Afghanistan and, according to some commentators,

7 The effort by the first Defense Minister, Marshall Fahim, to recast the Northern Alliance militias as Afghanistan's military force was rejected in favour of the complete reestablishment of the national army. C. Hodes and M. Sedra, 'The search for security', p.53, op. cit.

8 The size of the national army has been a continuous source of debate. The Afghan Ministry of Defense had suggested a 200,000-strong military force, while the US and ISAF suggested a 50,000-strong military force. A compromise of 70,000 soldiers was reached. At the ninth meeting of the Joint Coordination and Monitoring Board, the number was increased to 134,000. See <http://www.and.s.gov.af/ands/jcmb/site/index.asp?page=j9> (accessed on 16th January 2009).

9 It should be noted that the last two new institutions were established at the behest and through the support of the World Bank. It could be argued that they add another parallel strata to government rather than focusing on strengthening the constitutional bodies of Legislative and Executive (Parliament and Ministries) powers.

10 Bonn Agreement, para. V.

11 Afghan Compact, part 1 and Annex 1(1).

12 C. Hodes and M. Sedra (2007), p.84, op. cit. 4 and 7; International Crisis Group, 'Getting disarmament back on track', Asia Briefing No 35, New York (23rd February 2005), p.3.

13 S. Y. Ibrahim (2006). 'Afghan disarmament a never-ending process', *Afghan Recovery Report*, No. 215.

recent community defence initiatives are little more than poorly hidden attempts to rearm militias in order to fill a security gap.¹⁴

Thus, after disarming Afghan Military Forces and midway through the illegal armed group disarmament process, Afghanistan is still littered with illegal weapons and armed groups. Some commanders who have been disarmed (on paper) later have received government posts and have been able to regain control of their militia forces. These government officials with links to illegal armed groups are able to use their positions as governors or police chiefs and their access to armed militias to engage in organised criminal activity, including the narcotics trade.¹⁵ The government's inability to prevent or limit violence and the corruption of governance structures created by allowing individuals with known links to armed groups to hold public office have a decisive and negative impact on rule of law in Afghanistan. Efforts sanctioned by the international community to rearm informal local militias to fight the insurgency signify another dangerous development that may further contribute to undermining the authority of the state. The legitimacy of the current Afghan government is undermined by a failure to manage the shift from the rule of the gun to the rule of law.

AFGHAN CIVIL SOCIETY VOICES ON SECURITY SECTOR REFORM IN AFGHANISTAN

The respondents with whom the ICTJ consultant met were all extremely concerned about the deteriorating security situation. They expressed frustration about what was perceived to be broken promises by the international community and lack of outcomes of the internationally-supported security sector reform efforts. It was strongly felt that the US “stand alone” position and primary focus on counter-insurgency efforts and the lack of coherent vision of the European Union had contributed to the deteriorating security situation.

The respondents expressed concern about the lack of commitment of the Afghan government to promote transparency and accountability in reform processes, especially in police reform. It was also widely articulated that police training had not been adequate and had failed to address capacity issues (including the low literacy rates amongst the police). Regarding the Afghanistan National Army, concerns were raised about sustainability due to the military's dependence on expensive hardware. The respondents also expressed disillusionment with the international community's will and ability to hold the Afghan government accountable for corruption and abuses of power. Many respondents argued that the security situation had degenerated largely because of the failure to disarm illegal militias and to establish a strong impartial police force. Respondents from Afghan civil society and human rights organisations felt that they were facing increasing security threats and that it was becoming increasingly difficult and dangerous to express support for human rights and democratic principles. Regarding human rights and long-term security, the continued toying of the use of tribal militias as a possible “community policing” tool was considered extremely problematic, particularly its impact on women's status and rights of minority ethnicities.

The respondents were also critical about their government's role in the reform processes, highlighting shortsighted political decision-making and corruption as key concerns.

The majority of the respondents stated that the Taliban are not the main problem in Afghanistan today. The lack of credible governance structures and corruption and criminality within the Afghan police force were perceived as much more pressing concerns. However, it was also noted that there is no longer a clear distinction between “ordinary crime” and politically-motivated crimes. For example, the boundaries between kidnappings for extortion purposes and kidnappings aimed at undermining the public's sense of security are increasingly blurred as criminal networks and the insurgency are perceived to be working together. If and how a kidnapping case is solved may also largely depend on how much Afghan security forces “wish” to see a case solved. The increased number of kidnappings and violent attacks after the appointment of Hanif Atmar as Minister of Interior was interpreted by

14 J. E. Barnes (10th October 2008). 'U.S. plans to train Afghanistan tribal militias', *Los Angeles Times*. See also A. S. Tyson (31st March 2008). 'New joint effort aims to empower Afghan tribes to guard themselves', *Washington Post*. See also J. Leeder (31st October 2008). 'Kabul wants local militias to bolster security', *The Globe and Mail*.

15 B. Stapleton (2007). 'A means to what end? Why PRTs are peripheral to the bigger political challenges in Afghanistan', *Journal of Military and Strategic Studies*, Fall 2007, Vol. 10, Issue 1, p.2.

many as the police forces' attempt to undermine the new Minister's credibility by tacitly ignoring criminal activity or allowing it to occur.

The majority of respondents also noted that there is no coherent way to ensure civilian oversight of the security sector. The governance and rule of law deficit coupled with a failed disarmament process contributed to the ongoing political presence and influence of many commanders suspected of gross human rights violations and war crimes during the conflict and at present. As a consequence, the Afghan parliament has become compromised and has not lived up to its formal role as independent monitor of government functions. Afghan civil society organisations and the few independent media outlets that exist remain fragile and have not been able to serve as government "watchdogs" to ensure oversight of the Afghan security sector.

CONCLUSIONS AND RECOMMENDATIONS

This aim of this brief report was to describe and analyse security sector reform, including rule of law and disarmament processes, in Afghanistan. The ultimate goal of the IfP security cluster reports is to develop relevant security sector reform knowledge for European stakeholders. This report illustrates that the choice of Afghan leadership (factional leadership that participated in the US-led military intervention to oust the Taliban regime) and modus operandi of the international community (light footprint and a lead nation approach) during the Bonn process contributed to a governance and rule of law deficit in Afghanistan. The efforts to promote greater governmental accountability and coherent policies and donor coordination in the Afghanistan Compact and the Afghanistan National Development Strategy do suggest that Afghanistan's international partners can learn from their mistakes. These documents also place a strong emphasis on security sector and rule of law reform. However, the Afghanistan National Development Strategy in particular is an extremely complex document that would be better suited for a country well-advanced in the post-conflict reconstruction process. Hence, it is hardly adaptable to a context with extremely low human resource capacity and that is returning to conflict. The urgency of the security situation faced by Afghanistan has already resulted in the development of questionable ad hoc strategies, such as the establishment of the Afghan Public Protection Force. The short-term benefits of rearming local militias are certainly out-weighed by the long-term negative effects that this will have on governance, rule of law and disarmament.

The European Union institutions and Member States have not been strategic enough in their actions in Afghanistan. With a resident European Union Special Representative, a sizable European Commission presence and with many Member States' embassies based in Kabul, the European community could have become an important voice in debates on the stabilisation and reconstruction of Afghanistan. The European endeavour has been marked by lack of coordination between political and development assistance and diverse – sometimes conflicting – priorities between EU institutions and Member States. For example, the German and EU commitment to police reform and the European Commission economic contribution to the Law and Order Trust Fund, the Italian and European Commission commitment to justice reform, and the UK lead on counter-narcotics could have ensured considerable political weight for Europe on security sector and rule of law reform, but lack of a clear “European voice” has undermined this effect.

General recommendations regarding efforts in security sector reform are as follows:

- International efforts should become better rooted in Afghan realities, and the tensions between modernising agendas and Afghan culture and traditions should be better acknowledged. This would also involve consideration of how both the reform processes and Afghan culture and traditions affect women and minority groups.
- The pillar approach to security sector reform needs to be reconsidered in order to enable a more holistic framework that includes rule of law reform and disarmament.
- The Ministry of Interior needs to be restructured, and renewed emphasis needs to be given to ensuring merit-based appointments, adequate pay grades, vetting of senior political appointments and monitoring of the reform process.
- The continuing disparity between US and European efforts in police reform needs to be resolved. The establishment of the International Police Coordination Board is a step in the right direction, but it will need continued political and administrative support.
- Support is needed to ensure increasing transparency through oversight by civil society institutions and by ensuring access to information, properly maintained court records open to the public, legal requirements to report conflict of interest, and raising public awareness.

- There should be increased linkages with the security institutions of other south Asian countries, as they have a much more similar context that are more relevant to Afghanistan than those of Europe and North America.
- Militias and private security firms require renewed attention relating to disarmament and accountability.
- Short-term and ad hoc solutions, such as the establishment of the Afghan Public Protection Force, should be avoided.
- A mechanism to ensure implementation and monitoring regarding the UN Security Council Resolution 1325 (2001) on women, peace and security should be set up.

Refocus policy and reform to ensure the integrity of the rule of law:

- State-building has to be reaffirmed with emphasis on anti-corruption, institution-building, and support for local governance.
- A meritocratic government needs to be encouraged through firm support for democratically-minded people and mechanisms.
- The Afghan government should be strongly encouraged to abide by international standards of human rights particularly regarding due process, rule of law, and arrest and prosecution for major criminals.
- International focus should be on building the institutions of the formal justice system.
- More support for free press and anti-censorship activities is essential with stronger pressure on the government to prevent criminalisation of writers and publishers.
- More links should be made with Sunni Arab countries (particularly Egypt and Morocco) and with prosecutors and women from countries with vibrant gender activism to ensure women's rights.

Rethink current policy and training for the Afghan National Police to ensure the creation of a professional civilian police force:

- There must be renewed emphasis on training of police in criminal investigations, community policing, and literacy. Their role and training for counter-insurgency should be severely curtailed.
- A meaningful and rigorous vetting process for the police should be implemented to ensure that all members of the police force meet the minimum standards for capacity, professional integrity, and are free from links to past or ongoing criminal activity.
- All police training should be required to provide an impact assessment.
- Former police trained in previous regimes can be brought back as mentors or advisors instead of foreign mentors.
- A new integrated approach to police building through the use of police expertise in neighbouring south Asian countries should be encouraged.
- A re-emphasis should be made on human rights and women's rights training for police.

INITIATIVE FOR PEACEBUILDING

c/o International Alert
205 Rue Belliard, B-1040 Brussels Tel: +32 (0) 2 239 2111 Fax: +32 (0) 2 230 3705
lmontanaro@international-alert.org www.initiativeforpeacebuilding.eu



THIS INITIATIVE IS FUNDED
BY THE EUROPEAN UNION

PARTNERS



International Alert.

