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Nowhere to Turn

The Failure to Protect Civilians in Afghanistan



A Joint Briefing Paper by 29 Aid Organizations Working in Afghanistan for the NATO Heads of Government Summit, Lisbon, November 19-20, 2010



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Acronyms

ALP	Afghan Local Police
ANA	Afghan National Army
ANP	Afghan National Police
ANAP	Afghan National Auxiliary Police
ANSF	Afghan National Security Forces (includes both ANA, ANP and other national security forces)
APPF	Afghan Public Protection Force
APPF	Afghan Public Protection Force
AP3	Afghan Public Protection Program
ASOP	Afghan Social Outreach Program
ACBAR	Agency Coordinating Body for Afghan Relief
AOG	Armed opposition groups
CIA	Central Intelligence Agency
COM-ISAF	Commander of ISAF
CDI	Community Defense Initiative
DIAG	Disbandment of illegal armed groups
DDR	Disarmament, demobilization and reintegration
IED	Improvised explosive device
IDLG	Independent Directorate of Local Governance
IDP	Internally displaced person
IEA	Islamic Emirate of Afghanistan
IHL	International humanitarian law
IMF	International Military Forces
ISAF	International Security Assistance Force
LDI	Local Defense Initiative
MoI	Ministry of Interior
NGO	Non-governmental organization
OCHA	UN Office for the Coordination of Humanitarian Affairs
OEF	Operation Enduring Freedom
OGA	Other government agencies (includes CIA)
PGF	Pro-government forces (includes ISAF, OEF, Special Forces, OGA and ANSF)
PRT	Provincial Reconstruction Team
UN	United Nations
UNAMA	United Nations Assistance Mission Afghanistan
UNHCR	United Nations High Commissioner for Refugees

Introduction

Security for the vast majority of Afghans is rapidly deteriorating. As 29 aid organizations working in Afghanistan, we are deeply concerned about the impact of the escalating conflict on civilians. It is likely that increased violence in 2011 will lead to more civilian casualties, continue to fuel displacement, cut off access to basic services and reduce the ability of aid agencies to reach those who need assistance most.

This paper does not attempt to address all aspects of the current conflict. It concentrates on those that negatively impact civilians, particularly in the context of transition to Afghan responsibility for security. While this paper primarily focuses on the actions and strategy of the International Security Assistance Force (ISAF) and Afghan National Security Forces (ANSF), it is important to remember that armed opposition groups (AOG), who are stronger and control more territory than at any time since 2001, also have clear obligations under international humanitarian law (IHL) to protect civilians. As such, this paper will make reference to AOG actions and issue recommendations to AOG where applicable.

As world leaders meet in at the NATO summit Lisbon, we strongly urge them, along with all parties to the conflict, to minimize the harm to civilians and reduce threats and disruptions to basic services and development and humanitarian activities across Afghanistan. In addition, ISAF should do much more to ensure that ANSF, as they take on greater responsibility for security, fully respect human rights and the laws of war.

NGO Signatories

Action Aid

Afgana

Afghan Civil Society Forum (ACSF)

Afghan Development Association (ADA)

Afghan Independent Human Rights Commission (AIHRC)

Afghan Women's Network (AWN)

Afghan Women's Skills Development Center (AWSDC)

Afghanaid

Agency for Technical Cooperation and Development (ACTED)

Aide Médicale Internationale (AMI)

CAFOD

Campaign for Innocent Victims in Conflict (CIVIC)

Christian Aid

Coordination of Afghanistan Relief (CoAR)

Coordination of Humanitarian Assistance (CHA)

Cooperation for Peace and Unity (CPAU)

Cordaid

Danish Committee for Aid to Afghan Refugees (DACAAR)

Human Rights Research and Advocacy Consortium (HRRAC)

Ibn Sina

Interchurch Organization for Development Cooperation (ICCO)

INTERSOS

Norwegian Refugee Council

Open Society Foundation
Oxfam
Peace Direct
Saba Media Organization (SMO)
Tearfund
War Child UK

Executive Summary

Despite an increase in the size of international military forces (IMF) from 90,000 to 140,000 over the past year, AOG have continued to expand their presence into the north, center and west and now have control of or significant influence in over half of the country. Attacks initiated by AOG have increased by 59% between July and September compared with the same period last year.¹ In 2009, they increased 43% on 2008. Government officials can barely access one-third of the country and there are districts outside government control in almost all of Afghanistan's 34 provinces.

2010 is the deadliest year for Afghan civilians since 2001. According to UNAMA Human Rights, there were 1,271 civilian deaths in the first six months of 2010 – an increase of 21% on the same period last year. Approximately 319,000 Afghans remain internally displaced, roughly one-third due to the current conflict. Social protection and access to basic services are eroding and the spreading insecurity has restricted the ability of aid agencies to reach those who need their assistance.

While AOG are responsible for the majority of civilian casualties in Afghanistan, IMF have taken significant measures to reduce such casualties over the past year. But practices such as night raids and searches, airstrikes and arbitrary detention have fed Afghan perceptions of pro-government forces (PGF) as violent, abusive and above the law.

As the conflict continues to intensify, Afghans are increasingly caught between PGF seeking to win their “hearts and minds” and an insurgency that, in many areas, is utilizing increasingly violent tactics. Experience in Afghanistan has shown that when one party to a conflict makes the population the prize, the opposition is likely to make them a target. Building schools in highly insecure areas often turns them into targets for the insurgency; healthcare clinics are bombed, mined and occupied by both sides, including PGF who may be paradoxically engaged in building clinics in neighboring districts; and in the south and east, anyone associated with the government or IMF is a target for assassination. Strategies to “protect the population” all too often do anything but.

There are major constraints on the existing pro-government military strategy to show the rapid results that the politicians in troop contributing countries expect. Beneath the rhetoric of long-term investment and gradual transition to Afghan responsibility for security, there is a growing reliance on an increasingly dangerous variety of quick fixes. This includes support for community defense forces (such as the Afghan Local Police, or ALP), a surge in aid aimed at winning hearts and minds and a rapid scale up of Afghan National Security Forces (ANSF) that risks prioritizing size over operational capacity and accountability – all of which could have disastrous consequences for civilians.

ISAF's goal is to recruit 171,600 troops and 134,000 police by October 2011, and to transfer security and policing responsibilities to them. This will mean increased ISAF-ANSF joint operations, and more occasions when ANSF act on their own. Afghan authorities are responsible for ensuring the good conduct of their security forces, but NATO member

states that train, advise, fund and arm those forces are also responsible, both morally and in the eyes of most Afghans. It is vital that safeguards are in place to ensure that ANSF respect the rights of civilians. There is a grave risk of widespread abuses, which can range from theft and extortion through to torture and indiscriminate killing. Afghan soldiers and police are poorly trained and command systems are weak; there is currently no effective mechanism for investigating alleged abuses caused by ANSF or registering community complaints; and civilian casualties caused exclusively by the ANSF are not even counted. IMF-supported community defense forces or local militias will be even less accountable and could even increase insecurity.

The insurgency continues to grow, violence is spreading and some analysts even fear a new civil war. Yet this failure to protect civilians from the escalating conflict, now and in coming months, is not inevitable. More can and must be done to minimize the harm to civilians, especially as ISAF begins to handover responsibility for security to the Afghan government.

Recommendations

To ISAF:

- Issue a directive outlining procedures to provide redress to those civilians affected in the course of military operations. Work with the Afghan government to effectively and transparently investigate civilian casualties.
- Allegations of both past and present criminal acts and violations of international law must result in meaningful investigations, prosecution and disciplinary procedures.
- Avoid night raids should if at all possible and utilize regular law enforcement measures instead.
- Terminate implementation of ALP and other community defense initiatives. Instead, devote greater resources to the development of a professional and accountable ANP.
- Actively promote, support and monitor all the measures that the Afghan authorities need to take to ensure lawful conduct by ANSF, and ensure that respect for rights is an integral part of training and advice given to ANSF.
- Ensure that all soldiers are familiar with and trained in the Civil Military Guidelines for Afghanistan and adhere to them throughout their deployment.

To ANSF:

- Increase the capacity to report and follow up on civilian casualty incidents, allegations of harm to civilians and human rights violations.
- Allegations of both past and present criminal acts and violations of international law by ANSF must be taken seriously and result in meaningful investigations and disciplinary measures.

To the Afghan Government:

- Establish a civilian casualty tracking unit, which would regularly investigate allegations of harm and make its procedures public, as well as the findings of investigations.

- Reform Code 99 to address corruption and ensure greater transparency and consistency, including measures to improve access to the fund by those that have been harmed by AOG.
- In addition, a clear procedure should be established for ensuring ANSF adhere to or at least behave in a way that is consistent with the existing ISAF compensation guidelines.
- Terminate implementation of ALP and other community defense initiatives. If they must move forward, establish an independent monitoring mechanism for community defense initiatives. Conduct an audit, the results of which should be made public, to ascertain the impact and status of past community defense initiatives.

To the International Community:

- The UN, through OCHA, should immediately seek to establish relationships with ANSF and IMF at appropriate levels to ensure that there are mechanisms in place to investigate and address incidents of IHL violations.
- The UN, through OCHA, should fulfil its commitment to implement a full, effective training and awareness-raising programme for all relevant actors on the Afghanistan Civil-Military Guidelines, as well as a system for monitoring breaches of the guidelines.
- The lead nations of Provincial Reconstruction Teams (PRTs) should establish and implement a plan to gradually phase out PRT-provided assistance and other militarized forms of aid. This transition strategy should prioritize an increase in funding and support for national and international civilian organizations.

To AOG:

- Minimize harm to civilians and damage to their property in the conduct of all operations and prioritize the protection of civilians. Take all feasible measures to distinguish between civilians and combatants, and avoid using disproportionate force.
- Seek to limit the adverse impact of military operations on aid agencies, their staff and operations.
- Ensuring that operations do not lead to forced displacement or the denial of the right of freedom of movement and other rights of displaced Afghans.
- Improve efforts to investigate, recognize and address allegations of harm to civilians caused by AOG operations.

Protection of Civilians

The human toll of the conflict is rapidly increasing. Since 2007, civilian casualties have increased by 64%, according to UNAMA Human Rights.² In the first six months of 2010, there were 3,268 civilian casualties – a 31% increase on the same period last year.³ This includes 1,271 deaths of civilians, an increase of 21%. The deaths of women have increased by 6% on 2009 and the deaths of children have increased by 55%.⁴

AOG continue to be responsible for the great majority of casualties, and are increasingly utilizing tactics that violate the principles of distinction and proportionality. While a recently issued Islamic Emirate of Afghanistan (IEA) Code of Conduct states that “the utmost effort should be made to avoid civilian casualties” and “the Taliban must treat civilians according to Islamic norms and morality,” this appears to have had little impact on the ground.⁵ Improvised explosives devices (IEDs) are now responsible for 29% of all civilian deaths, including the vast majority of conflict-related deaths of children. In some cases, AOG have reportedly attempted to warn communities of the placement of IEDs but such measures have all too often proved insufficient to prevent harm.

Another major tactic of concern is assassinations and executions of civilians by AOG, which account for 14% of all civilian deaths. Assassinations reached a record average high of 18 per week in May and June 2010, representing a “systematic and sustained campaign of targeting tribal elders, community leaders and others working for, or perceived to be supportive of the Government and IMF,” according to the UN.⁶ Other common tactics include abductions, illegal checkpoints and threatening “night letters.”⁷

In highly insecure provinces where PGF are executing large-scale military operations, the situation for Afghans is particularly dire. War casualties at Mirwais Hospital in Kandahar City have doubled on 2009.⁸ But the conflict is also rapidly spreading to previously secure areas, such as Takhar and Badakhshan provinces in the north. The rate of violent incidents has doubled in four out of the 12 northern provinces and civilian deaths in the north have increased by 136% on 2009.⁹

The conflict has severely disrupted access to health, education and other social services. Attacks on schools, including the burning or forced closure of schools, use of schools for military purposes and threats against students and staff, are increasing. Access to healthcare is also diminishing: maternal mortality rates are triple the national average in Helmand province and 53% of health clinics in the south of the country are closed.¹⁰

The violence has also led to the movement of significant numbers of civilians, particularly in the south and southeast of the country. The United Nations High Commissioner for Refugees (UNHCR) reports that there are currently 319,000 internally displaced persons (IDPs) in Afghanistan, including 121,000 IDPs displaced by the conflict between June 2009 and September 2010.¹¹ However, calculating the full number of IDPs is difficult and many are likely to be unaccounted for, especially in highly inse-

cure areas where aid agencies or in urban areas where they may be sheltered by host families. Many IDPs lack access to basic services and the means of livelihood. Female IDPs, especially those that are the heads of households, are especially vulnerable due to their social exclusion and lack of access to social protection across Afghanistan.

Due to continuing insecurity and fear of violence, approximately 3,700 families remain displaced from their home communities in Helmand since the official end of Operation Moshtarak in late February 2010.¹² Those who have returned home face limited access to basic services and restricted movement due to security concerns, particularly the widespread presence of mines. Operation Hamkari in Kandahar province continues to displace growing numbers of Afghans, largely from the districts into Kandahar City and surrounding areas.

The tactic of locating troops closer to villages often places Afghans in harm's way and their presence is rarely seen as a source of protection, but as a cause of greater insecurity. In the case of Kandahar, violence has risen and AOG executions and assassinations of civilians have increased since the announcement of PGF operations in the province. As the mayor of Kandahar City recently admitted, "Everyone is a target."¹³

The situation is exacerbated by the fact that aid agencies also have faced a rise in the number of AOG attacks and threats that have reduced their ability to reach communities needing assistance. Deaths of individuals who work for non-government organizations (NGOs) are up by 47% on 2009 and abductions are up by 60%, concentrated primarily in the north of the country.¹⁴ Despite this rise in violence, there are some positive, if contradictory, trends. Overall attacks on NGOs have declined in recent months, most kidnapped NGO workers are later released alive and, in some areas of the country, AOG are showing slightly more willingness to allow NGOs to operate.

But while civilian casualties as a whole have continued to increase, the proportion attributed to PGF has decreased markedly over the past two years. PGF are currently responsible for 12% of the civilian casualties in Afghanistan, down from 39% in 2008. IMF efforts to reduce civilian casualties began in earnest in 2008, but a large part of this reduction is due to a fall in the number of airstrikes since a tactical directive was issued restricting their use in July 2009. However, this achievement may be in danger of reversal due to a dramatic rise in airstrikes in recent months. US forces dropped 2,100 bombs or missiles from June through September 2010 – a nearly 50% increase on the same period last year – and ISAF figures show that civilian deaths caused by PGF are up 11% on October 2009.¹⁵

PGF tactics continue to cause fear, distrust and anger, particularly over the perceived impunity for their actions. As a recent Open Society Foundation survey of Afghan perceptions explains, "years of civilian casualties, arbitrary detention and misconduct by international forces, and the fact that the conduct of international forces is judged against higher standards than those applied to the insurgents, have contributed toward Afghan perceptions of international forces that are harsher than one might expect given the worse record of insurgent groups."¹⁶

While night raids do not necessarily cause the most casualties, they arguably arouse the most public anger and fear of all PGF tactics. They have often led to individuals being injured or killed in the confusion and crossfire. ISAF issued a tactical directive in January 2009 that tightened restrictions on night raids. However, night raids continue to be marked by patterns of abuse including excessive force and theft of, or damage to, property. It is not clear if the directive has led to a decrease in the number of night raids but the available information suggests that they remain significant: according to media reports, a US Special Forces task force carried out 1,000 raids, the majority occurring at night, in 2009 alone.¹⁷ It is not sufficient to say that Afghan forces should lead raids, as the current policy dictates. While research has shown that civilians prefer operations be conducted by Afghan forces, this is no guarantee that they will be less abusive given the limited oversight mechanisms for ANSF.¹⁸

Recommendations

- All parties to the conflict should take further steps to minimize harm to civilians and damage to their property in the conduct of all operations and should prioritize the protection of civilians, especially vulnerable groups such as women and children.¹⁹ In particular, they should take all feasible measures to distinguish between civilians and combatants in all attacks, and avoid using disproportionate force.
- Night raids should be avoided if at all possible and regular law enforcement measures should be utilized instead. If night raids are carried out, much more needs to be done to ensure that civilians are not harmed in the process. Negotiations with village elders to take suspects into custody or warning villagers beforehand by loudspeaker can help reduce the likelihood of violent confrontation and civilian casualties.
- Military intelligence should be subject to more rigorous scrutiny and crosschecks to avoid reliance on faulty or deliberately false information.
- IMF field commanders should take further steps to ensure that soldiers demonstrate an awareness of, and respect for, Afghan culture, religion and customs in the conduct of all operations.
- All parties to the conflict should also seek to ensure that their activities do not adversely affect access for aid agencies, lead to forced displacement or deny the right of freedom of movement and the right of displaced Afghans to return home in a way which is dignified, voluntary and gradual.

Accountability and Redress

In many incidents involving loss of life, injury or damage caused by PGF, there is a lack of transparency and public accountability for the harm done. The majority of Afghans who have been injured, who have lost loved ones or whose property has been damaged or destroyed are never made aware of any justification, legal authorization or information regarding which military unit was responsible. In their eyes, the perpetrators of abuses continue to operate with impunity.

ISAF established a civilian casualty tracking cell in 2008 to help address this issue, but it has not accurately recorded civilian casualties or ensured that ISAF troops take responsibility for harm caused. This is due in part to the fact that they have almost no investigatory capacity. The tracking cell is based at ISAF headquarters in Kabul and relies on forces on the ground to report incidents on their own initiative. Although COM-ISAF brought Special Forces under its command in March 2010, information about the potential harm caused by Special Forces operations remains extremely limited. Information about the potential harm caused by the activities of so-called other government agencies (OGA), such as the Central Intelligence Agency (CIA), is even more difficult to obtain, but a recent leak of military documents and other media reports suggests it is significant.²⁰ As a result, ISAF civilian casualty counts amount to just a fraction of those recorded by the Afghan Independent Human Rights Commission and UNAMA Human Rights.

President Karzai has repeatedly called upon international forces to reduce civilian casualties and do more to protect Afghans from the conflict. But “accountability for abuses committed by ANSF is quite rare,” according to the UN.²¹ Government investigations are ad hoc and the findings are not made public, so it is unclear when and if such findings are ever followed up. There is no permanent Afghan government body devoted to investigating allegations of harm caused by ANSF. As such, there are no available statistics on how many civilians may have been harmed by operations exclusively involving ANSF.²²

While taking responsibility for harm done and providing appropriate redress is important, there are some instances when this is simply not enough. All allegations of harm should be investigated, but crimes must be prosecuted and those found guilty should be punished. Full, transparent investigations are critical but too often disciplinary measures have not been sufficient for the harm caused.²³ In instances where investigations dictate that disciplinary action should be taken, the outcomes must also be shared with the affected communities.

In the past year, ISAF has reported that it has taken significant steps to improve compensation for harm caused in the midst of military operations but they too remain insufficient. In June 2010, NATO issued policy guidance on providing compensation to those harmed by military operations. However, these guidelines are non-binding and though they have been disseminated by COM-ISAF, it is unlikely that they will be appropriately implemented without more practical guidance. For some countries, verification and approval procedures of claims remain complex and time-consuming and the nationality of the troops concerned continues to significantly impact a claimant’s prospects of obtaining compensation, and if so, the amount awarded.

While the January 2009 ISAF directive instituted procedures to improve accountability for night raids, anecdotal evidence suggests that the directive is not being fully adhered to on the ground. Forces conducting night raids are required to give contact forms to the families affected so that they can ascertain the status of detained individuals or file claims for damaged property. However, civilians are often unable to follow up properly as, at times, the contact information has been incorrect, illegible or those affected simply do not feel safe contacting PGF due to fear of

retribution. As one farmer from Kandahar explained, “When the Taliban know you went to the district [to collect compensation], or to the city, they come and see you and say, ‘What is this?’ Then they take the money and beat you.”²⁴ In such situations, approaches to providing redress must above all ensure that they do not cause further harm.

The Afghan government maintains a separate fund for compensation overseen by the President’s office, often referred to as the Code 99 fund. Code 99 distributes 100,000 afghanis (approximately USD 2,200) to families of those killed and 50,000 afghanis (approximately USD 1,100) to those that have been injured, regardless of whether PGF or AOG are believed to have been responsible. However, the distribution of these funds is not necessarily tied to the outcomes of investigations and there have been allegations of corruption and inequity.²⁵

AOG are now responsible for two-thirds of all civilian casualties. There is little or no accountability for insurgents who harm civilians, and rarely, if ever, do they actively seek to provide redress to affected individuals or families. Echoing a proposal made four years earlier, the IEA issued a statement in August 2010 proposing the formation of a joint civilian casualty investigations body comprised of the IEA, UN, ISAF and members of the Organization of the Islamic Conference – but excluding the government and, ostensibly, other anti-government factions.²⁶

Recommendations

- The Afghan government must improve its capacity to investigate civilian casualty incidents and human rights violations through the establishment of its own civilian casualty tracking unit. The Afghan government must regularly investigate civilian casualty incidents and make its procedures, as well as the findings of its investigations, public.
- ISAF should likewise establish a parallel investigative body, or substantially overhaul the existing civilian casualty tracking cell to improve its capacity and work with the Afghan government to effectively and transparently investigate civilian casualties.
- Allegations of both past and present criminal acts and violations of international law by IMF and ANSF must be taken seriously and result in meaningful investigations, prosecution and disciplinary procedures. The results should then be communicated directly to affected individuals or communities.
- COM-ISAF should immediately issue a directive outlining procedures to provide compensation and redress to those harmed in the course of military operations. It should ensure that relevant representatives of troop-contributing countries are easily accessible, all incidents are reported into the civilian casualty tracking cell, communities are made fully aware of the claims process and full records are maintained of all claims and payments or other assistance provided.
- Code 99 should be reformed to address corruption and ensure greater transparency and consistency, including measures to improve access to the fund by those that have been harmed by AOG. In addition, a clear procedure should be established for ensuring

ANSF adhere to or that they at least behave in a way that is consistent with the existing IMF compensation guidelines.

- International mentors and advisors to the ANSF, and IMF conducting joint operations with ANSF, should expand and enhance efforts to prevent ANSF abuses against civilians.
- AOG should improve efforts to investigate, recognize and address allegations of harm to civilians caused by their operations.

“Community Defense” Initiatives

Countless community defense initiatives have been attempted in Afghanistan, but they have all too often failed to improve security. In 2006, the Afghan National Auxiliary Police (ANAP) was formed under the auspices of the Ministry of Interior (MoI) and with ISAF support, to provide community policing. In practice, ANAP more often than not absorbed existing militias with little to no vetting of new recruits. ANAP ultimately proved unable to fulfil a community policing function and was highly susceptible to infiltration by AOG. The program was terminated in the spring of 2008; no records are available of whether or not ANAP members were successfully transferred to regular police forces or whether the arms, uniforms and equipment provided to the 11,271 men enrolled in the ANAP were ever returned.²⁷

In late 2008, the MoI, with US military support, launched the Afghan Public Protection Program (AP3). AP3 also received support from the Independent Directorate of Local Governance (IDLG), which sought to link the program to local councils created by the IDLG-backed Afghan Social Outreach Program (ASOP). AP3 was piloted in four districts of Wardak province in early 2009, against the objections of some community leaders.²⁸ Vetting of recruits was almost non-existent and many Wardakis expressed outrage when Ghulam Mohammed Hotak, a former Taliban commander held by US forces at Bagram until 2006, was appointed commander of the AP3. Hotak’s own militia of several hundred men was subsequently absorbed into AP3. While AP3 continues to exist in Wardak, large parts of the province remain under insurgent control or influence and AP3 was never expanded to other provinces.

Other community defense initiatives have followed, including the Afghan Public Protection Force (APPF), the Community Defense Initiative (CDI) and the Local Defense Initiative (LDI). Yet they have failed to gain as much traction as the latest permutation, the Afghan Local Police (ALP). ALP is supported primarily by US Special Forces, under the auspices of the MoI and with IDLG involvement. Reportedly, each ALP unit is placed under the command of the district Afghan National Police (ANP) chief. Each individual enrolled in ALP will reportedly receive approximately three weeks of training and a salary from the MoI. It is understood that they will be provided with weaponry, though it is not clear what kind.

Initiatives of this kind often result in abuses against civilians. The professionalism and discipline of the forces is highly questionable, given the limited training and oversight. Without a strong system of command and control, there is a danger that these forces will abuse their powers. Given

the prevalence of abuses against civilians by the Afghan National Police (ANP), it is hard to believe that these groups would be immune from such concerns.²⁹ It is unclear if there is a plan to independently monitor the impact of ALP or other irregular forces. Such measures are critical to preventing any potential harm – particularly in light of the 1997 US Leahy law, which prohibits US military assistance from being given to foreign forces suspected of committing, encouraging or tolerating atrocities.

ALP, which General Petraeus recently described as “community watch with AK-47s,” reportedly targets 68 districts across at least eight provinces or roughly 17% of the total districts in Afghanistan.³⁰ This is a dramatic increase from the 17 target districts planned in August 2010. The force was originally limited to a maximum of 10,000 men but that limit has reportedly since been removed, giving rise to fears that ALP is being rapidly scaled up without appropriate piloting or accountability mechanisms. In the words of one worried diplomat, the “train has jumped the tracks.”³¹

Another concern is the ethnic or tribal composition of these groups, and the danger that they may undermine local stability over the long term. Many traditional structures in Afghanistan have been damaged, distorted or destroyed by decades of conflict and social upheaval, and power dynamics are complex, often overlaid by local conflicts and rivalries. The IMF involved in selecting these groups have little understanding of local tensions or the community dynamics in target areas. This became evident when US forces, under the auspices of LDI, gave \$1 million in aid to the Shinwari tribe in Nangarhar province in exchange for a pledge to fight the Taliban. But a dispute over land soon erupted between two Shinwari subtribes, leaving 13 people dead.³² LDI support for the Shinwari was reportedly then discontinued.

Given the high risk of infiltration, cooption or subversion by militants, warlords or criminal groups, such programs could also lead to increased violence and crime. They also risk reversing the lengthy and costly (USD 150 million) processes of Disarmament, Demobilization and Reintegration (DDR) and Disbandment of Illegal Armed Groups (DIAG) processes, and could fuel rearmament and the proliferation of weapons. In this sense, these programs actually run counter to, rather than complement, efforts to build reliable and effective state security forces.

Furthermore, anecdotal evidence suggests that many Afghans are opposed to such initiatives. According to the Open Society Foundation survey, many Afghans interviewed believed that support for community defense forces would lead to great instability and possibly even civil war. As one community elder said, “In the past, the Russians decided to arm militias. But now 30 years later we still can’t get the arms back, and still it is feeding the fighting. If you do that again with *arbakai* [traditional community defense forces] today then it will be even longer before they can stop the fighting.”³³

But it is important to remember that community defense forces are not the only irregular forces being supported by US or other international forces. One known example is the Kandahar Strike Force, which is reported to have been armed and supported by the CIA and/or US Special

Forces. Four alleged members were sentenced to death and 37 to substantial prison sentences in connection with the killing of the provincial police chief and provincial head of the Criminal Investigations Department. However, a request from the Prosecutor's Office to arrest a US official in charge of providing support to the group has not been fulfilled.

Recommendations

- Terminate implementation of ALP and other community defense initiatives. Instead, devote greater political, financial and technical resources to the development of a professional, capable, accountable and operationally autonomous ANP.
- If ALP or similar initiatives must move ahead, they should be subject to rigorous oversight and accountability mechanisms. This includes a complaints mechanism accessible to ordinary civilians to ensure that allegations of abuse are monitored and addressed.
- ISAF, together with the Afghan government, should also establish an independent evaluation or monitoring mechanism. Additionally, an audit should be carried out to ascertain the impact and status of past initiatives and feed into current initiatives. The results of this audit should be made public.
- Stringent new measures are necessary to ensure that all Special Forces units and OGA, and any irregular militias supported by them, operate according to international and Afghan law and fall within clear and coherent chains of command.

Civil Military Relations

Aid agencies rely on local acceptance to ensure their security, for which their perceived identity as independent and impartial from all parties to the conflict is critical. Yet there is still a need to establish mechanisms for dialogue with parties to the conflict and mechanisms for resolving any disputes or concerns that might arise. Recognizing this, international guidelines on civil-military coordination have been developed in order to protect the status of humanitarian agencies, and in 2008 country-specific Guidelines for the Interaction of Civilian and Military Actors in Afghanistan, were endorsed by COM-ISAF, Agency Coordinating Body for Afghan Relief (ACBAR) and the UN.

The Guidelines state that: "Maintaining a clear distinction between the role and function of humanitarian actors from that of the military is a determining factor in creating an operating environment in which humanitarian organizations can discharge their responsibilities both effectively and safely."

Unfortunately, this distinction has been severely blurred to the point of being unrecognizable to many Afghans, including AOG. This is due to a range of factors, including the conduct of some NGOs who use armed security companies or work directly with PGF. However, it is also attributable to the conduct of PGF. One important factor has been IMF involvement in relief activities to "win hearts and minds." The Civil Mili-

tary Guidelines state that only “in exceptional circumstances and as a last resort, military assets...may be deployed for the purpose of providing humanitarian assistance.” In such circumstances, assistance must be delivered according to principles of impartiality and neutrality, and the involvement of military forces can only be justified where there is a critical need, as defined by civilian actors, and no civilian alternative.

Yet the use of soldiers and heavily protected contractors to implement PRT and other reconstruction and development projects, particularly those which serve counterinsurgency objectives, has also blurred the line between aid agencies and the military. Such practices, which form the backbone of counterinsurgency operations in Afghanistan, are paradoxically in direct contradiction to PRT Policy Note 3, which states that humanitarian assistance “must not be used for the purpose of political gain, relationship building or ‘winning hearts and minds.’”³⁴

Compounding this problem, the Civil Military Guidelines for Afghanistan have not been widely disseminated and some troops are unaware that they even exist. The UN Office for the Coordination of Humanitarian Affairs (OCHA) has lagged behind in its responsibility to provide training on the guidelines, as well as monitor and follow up on any violations. Additionally, as handover of responsibility for security to ANSF approaches and because the Guidelines do not apply to ANSF, it will be critical to establish methods of dialogue with Afghan authorities at the appropriate level to resolve any issues that might arise or address abuses or conflicts.

Nothing can justify militant attacks against civilians or civilian organizations, which are prohibited under international law. But the blurring of the civilian-military distinction has made such attacks more likely. If urgent efforts are not made to re-establish the civil-military distinction in Afghanistan, the operational reach of expert humanitarian and development agencies may be even further reduced. This will have dire consequences for the Afghan civilian population – particularly once IMF withdraw.

Recommendations

- All troop-contributing nations, in conjunction with ISAF and the UN, should ensure that all soldiers are familiar with and trained in the Civil Military Guidelines for Afghanistan prior to their deployment, and ensure that they adhere to them throughout their deployment.
- At the earliest possible opportunity the UN, through OCHA, should fulfil its commitment to implement a full and effective training and awareness-raising programme for all actors on the Guidelines.
- The system for monitoring breaches of the Guidelines put in place by OCHA should be further developed. Accordingly, a sufficient and effective reporting mechanism, which ensures remedial action, should be established.
- The elaboration and implementation of an exit strategy for PRTs, as outlined below, is also an essential step towards preserving the civil-military distinction.

- The UN, through OCHA, should immediately seek to establish relationships with ANSF at appropriate levels to ensure that there are mechanisms in place to address incidents of IHL violations.

Provincial Reconstruction Teams

NGOs have long expressed concerns that PRT projects are often poorly executed, inappropriate and do not have sufficient community involvement to make them sustainable. There is little evidence this approach is generating stability and, in many instances where PRT projects have been implemented in insecure areas in an effort to win “hearts and minds,” they put individuals and communities at risk. A study conducted by CARE, the World Bank and the Afghan Ministry of Education in 2009 found that many community members believed that PRT-constructed schools in insecure areas were at higher risk of attack by AOG than other schools.³⁵

Most Afghans live in extremely difficult conditions and will often accept whatever support they can get. However, PRT and other military-dominated structures delivering aid must ensure that their actions do not put civilians in harm’s way. Yet despite the mounting evidence, PRT lead nations have done little to address these concerns.

Overall, the quality and type of work, impact and sustainability of PRTs varies greatly among lead nations. There has been little to no success in coordinating the work they do as a whole and the majority of PRTs still do not even report to the Afghan government, at national or provincial level, on their activities. PRT expenditures amount to hundreds of millions of dollars in provinces such as Kandahar and Helmand. But in the relatively secure province of Bamiyan, PRT expenditure is estimated to comprise more than half the development budget for the entire province.³⁶

It may be too late to effectively coordinate the work of many PRTs, but it is not too late to plan for a responsible phase down of their assistance activities. As many PRT lead nations are likely to begin pulling out their troops in the near future, a transition strategy must be developed now to mitigate any potentially adverse effects.

ISAF’s rhetoric around PRT transition has become “civilianize, nationalize, Afghanize.” However, it is unclear what this actually means and whether each PRT lead nation agrees with this imprecise approach. There has been recent talk of “handing over” PRTs to the UN or “evolving” PRTs into civilian units under the control of the Afghan government, which is somewhat perplexing given that PRTs have only an interim security mandate and were never intended to be permanent institutions.

Aid money, not PRTs, must be demilitarized. PRTs have, and are likely to continue to have, a strong military, counterinsurgency and counterterrorism association in the minds of Afghans. This severely impairs their ability to deliver effective assistance and support rural development activities in which communities participate. In accordance with their in-

terim status, PRTs should be gradually phased out while civilian forms of assistance are gradually increased as appropriate.

Recommendations

- Establish and implement a plan to gradually phase out PRT-provided and other militarized forms of aid, enabling military institutions to return to a focus on security and security sector reform.
- Donors should seek to increase the capacity of and funding for national and international civilian organizations, instead of through PRTs or other military-dominated structures.
- In line with this, donors and international NGOs must also do more to increase the ability of local organizations to design and implement development projects over time.

Conclusion

In the immediate period after the international intervention in Afghanistan in 2001, state-building objectives were sidelined both in terms of political attention and international resources. The consequent lack of success in developing a functional and effective Afghan government and security forces, especially in rural areas, has undoubtedly contributed to the deterioration in security conditions, widespread corruption and distrust of both the government and of PGF.

There is now growing agreement among policy-makers and politicians that military solutions alone will not bring peace and stability to Afghanistan. Even as security continues to deteriorate, the discourse has shifted to one of “transition.” Exactly what this means, however, is not clear as transition of security responsibilities to Afghan forces faces enormous obstacles.

Serious international efforts to build Afghan forces began years after the international intervention, in 2007, and efforts to expand ANSF continue to prioritize quantity over quality. The majority of ANSF, particularly the ANP, remain poorly equipped and are widely seen as ineffective, corrupt or abusive. The current goal is to generate 171,600 troops and 134,000 police by October 2011, yet the ANP suffers from a 16% attrition rate and the ANA a 23% attrition rate.³⁷ This means that for the ANP to increase by 14,000 to the target size, they will have to recruit 50,000 officers; for the ANA to grow by 36,000 soldiers, they will have to recruit 83,000.³⁸ Despite recent improvements in training and pay scale, only 14% can read or write at a third grade level.³⁹

Given weaknesses in logistics, training and leadership, there are serious questions about the capability of the ANSF to conduct independent operations. The majority of ANSF, particularly the ANP, remain poorly equipped and widely seen by civilians as ineffective, corrupt or abusive. ISAF has a moral and legal obligation to ensure that their efforts to scale up ANSF prioritize accountability and transparency.

Unrealistic goals have led to the usual reliance on quick fixes rather than long-term solutions. This includes a plethora community defense initiatives, which, as described above, are unsustainable, poorly conceived and could ultimately fuel greater conflict, whilst a surge of militarized aid focuses on winning hearts and minds rather than alleviating poverty or long term reconstruction efforts. Ultimately, military actors should focus on providing security, while civilian actors must determine and implement policies that address the wide range of reconstruction, development and humanitarian challenges currently facing the country.

As NGOs working in Afghanistan for over three decades, we are committed to continuing to alleviate suffering and help Afghans overcome poverty in the long term. But that depends largely on having the space and security to do so - regardless of which party to the conflict controls the territory. This separation is not only the safest option for Afghans, but is ultimately the only sustainable way to ensure protection of civilians and access to basic services for Afghans as the troop withdrawal approaches.

Notes

- ¹ Afghanistan NGO Safety Office (ANSO), “ANSO Quarterly Data Report, Q3,” October 2010, available at: http://www.afgnso.org/index_files/Page595.htm.
- ² Figures derived from UNAMA Human Rights.
- ³ UNAMA Human Rights, “Mid-Year Report 2010: Protection of Civilians in Armed Conflict,” August 2010, available at: <http://unama.unmissions.org/Default.aspx?tabid=4529>.
- ⁴ Ibid.
- ⁵ “The Islamic Emirate of Afghanistan Rules for Mujahideen,” July 2009, excerpts available at: <http://english.aljazeera.net/news/asia/2009/07/200972775236982270.html>.
- ⁶ UNAMA Human Rights. While assassinations and executions were remarkably high during the summer and in the run-up to elections, there is some evidence that they have since begun to decrease.
- ⁷ Afghan Independent Human Rights Commission, “Civilian Casualties: First Seven Months of 2010 (1st January – 31st July), August 8, 2010, available at: http://www.aihrc.org.af/2010_eng/Eng_pages/Reports/Thematic/Civilian_Casualties_Jan_Jul31_2010.pdf.
- ⁸ “Afghanistan: War Casualties Soar in Kandahar Hospital,” International Committee of the Red Cross, October 12, 2010, available at: <http://www.icrc.org/Web/Eng/siteeng0.nsf/html/afghanistan-news-121010>.
- ⁹ UNAMA Human Rights.
- ¹⁰ UNAMA Child Protection briefing, September 2010.
- ¹¹ “Afghanistan: UNHCR Worries About Growing Number of Conflict IDPs,” IRIN, November 3, 2010, available at: <http://www.irinnews.org/report.aspx?Reportid=90957>.
- ¹² Ibid.
- ¹³ Laura King, “Afghan Offensive Fails to Reassure Residents,” LA Times, October 5, 2010, available at: <http://www.latimes.com/news/nationworld/world/la-fg-afghan-kandahar-20101005.0.3453950.story>.
- ¹⁴ ANSO.
- ¹⁵ Dexter Filkins, “US Uses Attacks to Nudge Taliban Toward a Deal,” NY Times, October 14, 2010, available at: <http://www.nytimes.com/2010/10/15/world/asia/15afghan.html>; David S. Cloud, “Afghan Civilian Deaths Caused by Allied Forces Rise,” LA Times, November 1, 2010, available at: <http://articles.latimes.com/2010/nov/01/world/la-fg-afghan-civilians-20101102>.
- ¹⁶ Erica Gaston and Jonathan Horowitz, “The Trust Deficit: The Impact of Local Perceptions in Afghanistan,” Open Society Institute Policy Brief Number 2, October 7, 2010, available at: http://www.soros.org/initiatives/mena/articles_publications/publications/policy-afghanistan-20101007.
- ¹⁷ Laura King, “US Night Raid in Afghanistan Elicits Outrage, Satisfaction,” LA Times, May 24, 2010, available at: <http://articles.latimes.com/2010/may/24/world/la-fg-afghan-night-raids-20100524>.
- ¹⁸ Afghan Independent Human Rights Commission, “From Hope to Fear: An Afghan Perspective on Operations of Pro-Government Forces in Afghanistan,” 2008, available at: http://www.aihrc.org.af/2008_Dec/PDF_Pro_G/Eng_Pro_G.pdf.
- ¹⁹ In particular, IMF should also work with the Afghan government to ensure that the activities of ANSF are in accordance with the provisions of UN Security Council Resolutions 1325 and 1820. Among other things, UN Security Council Resolution 1325 calls on Member States to ensure women are involved in decision-making levels for the prevention, management, and resolution of conflict, Resolution 1820 also calls for female participation in conflict prevention and resolution discussions and strengthens the protection of women from sexual violence.
- ²⁰ Craig Whitlock and Greg Miller, “US Covert Paramilitary Presence in Afghanistan Much Larger than Thought,” Washington Post, September 22, 2010, available at: <http://www.washingtonpost.com/wp-dyn/content/article/2010/09/22/AR2010092206241.html>.
- ²¹ UNAMA Human Rights.
- ²² While there is no tracking mechanism that focuses exclusively on allegations of harm cause by ANSF or disaggregates data on civilian harm by the nationality of the force responsible, UNAMA Human Rights and the ISAF civilian casualty tracking cell record PGF caused civilian harm, which often includes ANSF.
- ²³ Philip Alston, Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, UN Security Council, May 28, 2009.
- ²⁴ Carlotta Gall, “In Afghan South, US Faces Frustrated Residents,” NY Times, October 16, 2010, available at: http://www.nytimes.com/2010/10/17/world/asia/17afghan.html?_r=1&

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- ²⁵ Erica Gaston and Rebecca Wright, "Losing the People: The Costs and Consequences of Civilian Suffering in Afghanistan," Campaign for Innocent Victims in Conflict (CIVIC), October 2008, available at: <http://www.civicworldwide.org/storage/civic/documents/afghan%20report%20final.pdf>.
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- ²⁷ Mathieu Lefèvre, "Local Defense in Afghanistan: A Review of Government-Backed Initiatives," Afghanistan Analysts Network, May 2010, available at: <http://aan-afghanistan.com/uploads/20100525MLEfevre-LDIpaper.pdf>.
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- ²⁹ Philip Alston.
- ³⁰ The target districts for ALP are: Badghis, Baghlan, Daikundi, Kandahar, Kunar, Kunduz, Paktia and Uruzgan. "Second Batch of Afghan Local Police to be Deployed in 9 Afghan Districts," Xinhua, November 7, 2010, available at: http://big5.xinhuanet.com/gate/big5/news.xinhuanet.com/english2010/world/2010-11/07/c_13595459.htm; Rajiv Chandrasekaran and Joshua Partlow, "Petraeus Cites Progress in Kandahar," Washington Post, October 23, 2010, available at: <http://www.washingtonpost.com/wp-dyn/content/article/2010/10/22/AR2010102206608.html>.
- ³¹ Conversation with a UK embassy official, Kabul, October 2, 2010.
- ³² Alissa J. Rubin, "Afghan Rivalries Bedevil a US Plan," NY Times, May 11, 2010, available at: <http://www.nytimes.com/2010/03/12/world/asia/12afghan.html>.
- ³³ Erica Gaston and Jonathan Horowitz.
- ³⁴ PRT Executive Steering Committee, "PRT Policy Note 3: PRT Coordination and Intervention in Humanitarian Assistance," February 22, 2007, available at: <http://www.unamagroups.org/kabulprtworkinggroup>.
- ³⁵ Marit Glad, "Knowledge on Fire: Attacks on Education in Afghanistan, Risks and Measures for Successful Mitigation," CARE/Ministry of Education/World Bank, November 2009, available at: http://www.care.ca/ckfinder/userfiles/files/Knowledge_on_fire_attacks_schools.pdf.
- ³⁶ Conversation with an Afghan government official, October 23, 2010.
- ³⁷ Elisabeth Bumiller, "US General Cites Ambitious Goals to Train Afghan Forces," NY Times, August 23, 2010, available at: <http://www.nytimes.com/2010/08/24/world/asia/24military.html>.
- ³⁸ "CJ Chivers, "Gains in Afghan Training but Struggles in War," NY Times, October 12, 2010, available at: <http://www.nytimes.com/2010/10/13/world/asia/13kabul.html?pagewanted=1&r=1>.
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