

# Caught in the Conflict

## Civilians and the international security strategy in Afghanistan



A briefing paper by eleven NGOs operating in Afghanistan for the NATO Heads of State and Government Summit, 3-4 April 2009

act:onaid

Afghanaid



Cordaid 



# Contents

Introduction .....	3
NGO signatories.....	3
Summary .....	4
1 Protection of civilians .....	8
2 Transparency and accountability.....	10
3 Compensation and ex gratia payments.....	11
4 Provincial Reconstruction Teams.....	13
5 Civil-military coordination .....	17
6 Community and tribal empowerment and defence .....	18
7 A comprehensive strategy.....	24

**Author:**<sup>1</sup> Matt Waldman, Head of Policy, Oxfam International, Afghanistan.

**Cover photo:** Alixandra Fazzina, 2008.

## **Introduction**

This paper makes recommendations on how the security strategy of the international community should be changed in order to minimise the harm caused to Afghan civilians and reduce the disruption to development and humanitarian activities in the current environment in Afghanistan.

As independent humanitarian organisations, which adhere to humanitarian principles, the eleven NGO signatories to this paper can not and will not comment on the efficacy of the security strategies adopted by any of the parties to the conflict in Afghanistan.

The paper does not attempt to address all dimensions of the current conflict, but focuses specifically on issues which concern or relate to international security strategies and military forces as they affect Afghan civilians. It therefore addresses issues of relevance to officials in troop-contributing countries, for whom the recommendations are primarily intended. In particular, the paper is directed at politicians, policy-makers and military officials attending the NATO Heads of State and Government Summit on 3-4 April in Germany.

As NATO has command of the International Security Assistance Force (ISAF), which has the primary international security mandate for Afghanistan, the policies adopted by NATO have major repercussions for the safety and welfare of Afghan civilians. With the steady deterioration of security conditions in Afghanistan, and the severe, adverse implications for development and reconstruction activities, we strongly urge NATO and its member states to take the steps set out in this paper. The wider international community and Afghan government should also support the elaboration and implementation of these recommendations.

The recommendations seek to reflect the research and analysis of authoritative organisations and experts on Afghanistan. They reflect the long-standing experience in Afghanistan of the NGO signatories to this paper as well as other NGOs that operate throughout the country and who work with many Afghan partner organisations.

## **NGO signatories**

**ActionAid**

**Afghanaid**

**CARE Afghanistan**

**Christian Aid**

**Cordaid**

**DACAAR**

**Interchurch Organisation for Development Cooperation**

**International Rescue Committee**

**Marie Stopes International**

**Oxfam International**

**Save the Children UK**

# Summary

## 1 Protection of civilians

The intensification and spread of the conflict in Afghanistan is increasingly affecting civilians. In 2008 there were over 2,100 civilian casualties, 55% of which were caused by militants. Despite steps to reduce civilian casualties, international military forces (IMF) caused 552 civilian deaths through airstrikes in 2008, which is up by 72% on 2007. IMF have also carried out or supported raids and search operations, a large number of which have involved an excessive use of force, including loss of life, physical assault, damage to property and theft, as well as aggressive and improper treatment of women. Such conduct not only generates anger and mistrust towards foreign troops, but is steadily eroding popular support for the international presence in the country. Furthermore, many individuals detained by Afghan and US forces are held for long periods without charge or trial, and there are allegations of mistreatment and torture.

Social protection and access to basic services is also being adversely affected by the widening conflict, with significant levels of displacement and severe disruption to health and education services. Yet such considerations are not being adequately factored into international security strategies. Planned increases in troops and military operations during 2009 are likely to lead to higher levels of displacement, further restrictions to social services, and greater impediments for aid agencies to reach civilians in need of protection and assistance.

**Recommendations:** Significant further steps are required to minimise harm to civilians and damage to their property; rules governing the escalation of force and execution of airstrikes should be further tightened; military intelligence should be subject to more rigorous scrutiny and cross-checks; rules governing night raids should be clarified, with regular law enforcement operations used wherever possible; stringent new measures are required to ensure special forces operate lawfully and are subject to rigorous oversight; and field commanders should take further steps to ensure that all soldiers demonstrate an awareness of and respect for Afghan culture, religion and customs. IMF should take further measures to work with the Afghan government to end abuses by Afghan National Security Forces (ANSF) against civilians. IMF and Afghan forces should ensure that detainees are not subjected to torture or other mistreatment and are afforded their due process rights under international law, and that monitoring organisations have a greater level of access to detention facilities. ISAF and the US Department of Defense should each create a high-level position with responsibility for reducing civilian casualties, and for ensuring rigorous compliance with international humanitarian law.

In all operations, policies and strategies IMF should prioritize protection of civilians, especially vulnerable groups such as women and children; they should also work with the Afghan government to ensure that the activities of international and Afghan soldiers and police are in accordance with the provisions of UN Security Council Resolutions 1325 on women, peace and security and 1820 on sexual violence in conflict. IMF should also seek to ensure that their activities do not adversely affect access for aid agencies, lead to forced displacement or disrupt the right to freedom of movement and right of return of Afghan refugees.

## 2 Transparency and accountability

With regard to many incidents involving loss of life, injury or damage caused by pro-government forces there is a lack of transparency and public accountability. Although a civilian casualty tracking cell has been established by ISAF and Operation Enduring Freedom (OEF) there is still no comprehensive system for tracking and communicating to those concerned information regarding the status of investigations, disciplinary proceedings and prosecutions.

**Recommendations:** The ISAF-OEF civilian casualty tracking cell should ensure rapid communications to affected civilians and, where possible, the wider public, on the identity of military units involved in alleged incidents, the status and findings of their investigations, and any national disciplinary or legal action which follows; and a similar unit for ANSF should be established. To enhance credibility, the tracking cell should also ensure that qualified, independent civilians are given access to their activities. The Tactical Directive issued by the Commander ISAF / US Forces Afghanistan (USFOR-A)<sup>2</sup> on 30 December 2008 should be revised to include clear commitments to greater transparency and accountability in respect of both the process and outcome of investigations.

### 3 Compensation and ex gratia payments

There is no unified or systematic mechanism for compensating civilians for loss or damage caused by military operations; processes are opaque, ad hoc, and vary from nation to nation. Many Afghans are unaware of processes by which they can obtain compensation or ex gratia payments; face obstacles in accessing appropriate military or other officials or identifying the military unit responsible; and in some cases verification and approval procedures are excessively cumbersome and time-consuming. Ultimately, the nationality of the troops concerned determines the prospects of obtaining a compensation or an ex gratia payment, and if so, the amount awarded. The US government's civilian assistance programme is significant but slow, while the Afghan government's programme is administratively inconsistent and hindered by corruption.

**Recommendations:** ISAF and OEF should establish a unified mechanism which ensures a streamlined, consistent and fair approach to compensation or ex gratia payments throughout Afghanistan. In particular it should: coordinate and liaise with all IMF/ANSF units and the civilian casualty tracking cell; ensure that the claims process is widely accessible and understood; develop clear, consistent rules on eligibility; ensure that all payments are sufficient and proportionate to harm caused; and maintain full records. In the absence of such a mechanism, IMF should each closely align their compensation and ex gratia payment processes to achieve these objectives. The Afghan government compensation and ex gratia mechanisms should be reformed to ensure greater transparency, coherence and consistency; as well better alignment with IMF mechanisms. All units should, wherever feasible, proactively seek to establish losses, accept responsibility, provide an explanation and apology, and give support to the claims process. Further, a training programme should be instituted on best practices in the provision of compensation and ex gratia payments, which could help to ensure greater overall alignment and consistency.

### 4 Provincial Reconstruction Teams

Although PRTs have an interim security and stabilisation mandate, they have undertaken extensive assistance activities, including infrastructure projects and *in extremis* support. However, when security and other conditions exist which allow specialised civilian development actors to operate, the military should not be engaged in activities in the development or humanitarian sector. PRT engagement in development activities is neither effective nor sustainable for the following reasons: (1) Being military-led, PRTs are an inherently unsuitable means to promote development. (2) Given the particular cultural and social mores of Afghanistan, and mistrust of foreign forces, Western military-led institutions are unable to achieve a sufficient level of local engagement and ownership necessary for effective long-term development. (3) PRTs divert funds away from Afghan civilian development processes and institutions, whose weaknesses ultimately prolong the military presence: annual funding available to US PRT commanders exceeds the Afghan national budget for health and education. (4) As highly variable and intrinsically unsustainable institutions, PRTs are an impediment to the establishment of a coherent and consistent national development framework, and have resulted in major geographical disparities in the distribution of aid. (5) The PRTs' hearts and minds approach to assistance, drawn from counter-insurgency doctrine, is not only at odds with accepted principles of development, but, given that it is so often ineffective and unsustainable, it is highly unlikely to achieve its intended security objectives.

**Recommendations:** While opposing military engagement in development activities for the above reasons but accepting the current reality of extensive PRT engagement in the development sector, PRTs should seek to enhance the quality, impact and relevance of their assistance; improve information-sharing and alignment with national and local priorities; and develop greater country-wide consistency and coherence. As recommended by the US Government Accountability Office, PRTs should also be subject to greater levels of oversight, monitoring and evaluation, including of the sustainability and impact of interventions. A medium- to long-term PRT transition strategy and implementation plan should be developed which sets out the conditions and modalities for a sequenced change of emphasis from providing assistance, to promoting security and security sector reform, and which progressively re-routes a greater proportion of international funding to civilian institutions. The UN Assistance Mission in Afghanistan (UNAMA) should correspondingly expand its provincial capabilities and fulfill its UN Security Council mandate to coordinate, support and enhance the international effort at local level, which should be supplemented by a sequenced and coordinated expansion of Afghan government responsibilities. A comprehensive national assessment should be carried out on the geographical configuration of assistance, so that donors can minimise disparities and ensure levels of assistance more closely correspond to levels of need.

## 5 Civil-military coordination

In 2008 Civil-Military Guidelines for Afghanistan were agreed by the Commander ISAF, NGOs and the UN, which above all seek to preserve the civil-military distinction, which is essential for the security of humanitarian actors and their ability to deliver assistance to people in need. Yet there has been an increasing blurring of this distinction, which is at least partly attributable to the conduct of IMF. In contravention of the Guidelines, some military actors engage in relief activities for the purposes of force protection; and certain ISAF contingents, such as the US and France, are failing to identify themselves as combatants by the continued use of unmarked, white vehicles, which are conventionally used by the UN and aid agencies. The expansion of PRT activities and the use of heavily protected contractors to implement reconstruction projects have also contributed to a blurring of the civil-military distinction. Ultimately, these practices have contributed to a diminution in the perceived independence of NGOs, increased the risk for aid workers, and reduced the areas in which NGOs can safely operate. Currently, humanitarian agencies are unable to access over a third of the country, depriving substantial parts of the population of assistance, and underscoring the urgency of greater efforts to preserve the civil-military distinction. The 'integrated approach' to development and stabilisation, as promoted by UNAMA and ISAF, could pose additional risks to NGO independence and security. Further, it is regrettable that the UN has still not fulfilled its important responsibility to carry out trainings on the Afghanistan Civil-Military Guidelines.

**Recommendations:** IMF should ensure all soldiers are familiar with, trained in, and conform to the Civil-Military Guidelines for Afghanistan. The UN should ensure that the training package on the Guidelines and the Sphere Humanitarian Charter and Minimum Standards in Disaster Response is implemented widely, and in conjunction with an awareness-raising programme. The existing system for monitoring breaches of the Guidelines and ensuring remedial action is insufficient and should be further developed; all IMF should ensure that any current and outstanding breaches of the Guidelines, such as the use of white vehicles, are rapidly addressed. The development of a PRT transition strategy, as outlined above, is also essential for preserving the civil-military distinction. Closer overall integration of military and civilian components to ensure stability in Afghanistan is a political process and must not be confused with civil-military coordination for humanitarian purposes.

## 6 Community and tribal empowerment and defence

Through the Afghan Social Outreach Programme (ASOP) district councils are established by the government purportedly to build local support, improve communications and gather information about militant activities. The programme carries a high risk of failure and may even exacerbate local security conditions for the following reasons. (1) The government role in establishing the councils, and paying their members is likely to undermine the councils' legitimacy as representative bodies and give rise to opportunities for patronage. (2) The councils' may be subverted by militants or criminal groups; and failure to achieve results may actually *increase* disenchantment with the government. (3) On average every four days three Afghans are summarily executed for their association with the government or international forces: as militants become aware of the councils' political and security roles (if they are not already), they are highly likely to target them; local stability could also be threatened if the councils have ethnic, tribal or other imbalances, or are perceived as challenging the authority of existing *shuras* and *jirgas*. (4) Given its substantial overall cost, the programme is not financially sustainable; and nor are the councils politically sustainable given that district elections are due to take place next year. (5) The councils constitute yet another short-term, *ad hoc* initiative, outside the Afghan constitution, with no clear relationship to other state institutions.

The Afghan Public Protection Force (APPF) is an Afghan government led programme, funded by the US, which is being piloted in Wardak province, and involves the creation of a force of local men with a policing function, and possibly also a local level counter-insurgency role. They will be trained for less than a month, and have no powers of arrest, but will be issued with guns and vehicles. This initiative, which has been criticised by a range of Afghanistan experts, is of grave concern for the following reasons. (1) With only cursory training, and a weak command and control system, there is considerable potential for the abuse of power and violation of human rights, as evident in the failed Afghan National Auxiliary Police (ANAP) initiative, and community defence initiatives in other countries such as Colombia and Guatemala. (2) The forces are at risk of infiltration, cooption or subversion by militants, warlords or criminal groups, and could lead to increased levels of crime. Many tribal 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, thus steps to empower certain groups could easily undermine local stability.

(3) The initiative risks reversing the lengthy and costly (US\$150m) processes of Disarmament, Demobilisation and Reintegration process (DDR), and Disbandment of Illegal Armed Groups (DIAG), and could fuel rearmament and the proliferation of weapons. (4) The APPF is also inconsistent, and potentially at odds with efforts to build reliable and effective state security forces.

**Recommendations:** For the above reasons ASOP should be suspended and subject to a full review; and the APPF should be discontinued. Both initiatives constitute a distraction from security sector reform and measures to improve governance which are urgently needed. In particular, donors and Afghan government should: (1) Intensify public administration reform, especially at local level, focussing on rooting out corruption, achieving transparency, and improving financial oversight. (2) Redouble efforts to build the capacity, accountability and effectiveness of the provincial departments of line ministries. (3) Devote greater political, financial and technical resources to the development of a professional, effective and operationally autonomous Afghan national police force, including through strong and sustained oversight and review; rigorous pay, rank and appointments reform; and increasing the number of international police mentors, for which there is a shortfall of over 60%, equating to some 2,200 positions. Such measures should be accompanied by steps to reinvigorate and strengthen the DIAG process. (4) Support the development of a civil society strategy to build the capacity of the central authorities in matters of local governance and justice – the communal and tribal *shuras* and *jirgas* – to manage local affairs, resolve conflict and promote stability.

## 7 A comprehensive strategy

In the years following 2001, state-building objectives were sidelined both in terms of political attention and international resources, and there is now wide agreement that purely military solutions cannot bring peace and stability to Afghanistan. Yet so far much of the international focus has been on the deployment of more troops, and many of the other interventions being undertaken or considered have a significant military dimension, such as community defence initiatives, the expansion of PRTs and further militarisation of aid.

**Recommendations:** There is a need for a truly comprehensive strategy for the long-term reconstruction and stabilisation of Afghanistan. However, NATO and other international military actors should acknowledge the limits to the scope of activities which are suitable and legitimate for their engagement. The military 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.

Among other things, a new strategy must include enhanced support for rural development, using a rights-based approach, and a more effective response to the humanitarian situation, including through greater regional cooperation, and the expansion of UN personnel, who must be deployed throughout the country, with the greatest possible access to those in need. Action to meet humanitarian needs must be coordinated by a wide range of actors, but separated from military actors in order to preserve the impartiality, independence and neutrality of the response.

Donors should also take new measures to enhance aid effectiveness, including full transparency and the establishment of a powerful mechanism for donor coordination and monitoring; they should also support major governance reforms to address corruption, including at the highest levels, and to achieve Afghan government accountability and transparency.

The international community must recognise that the existing international approach to Afghanistan lacks clarity, coherence and resolve, especially in the pursuit of critical development, governance and stabilisation objectives. In order to succeed, a comprehensive strategy requires a substantial, coordinated and long-term international commitment, both in terms of resources, political will, within an overarching framework that has clear objectives.

# 1 Protection of civilians

In 2008 security conditions in Afghanistan reached their worst levels since 2001 and the total number of insurgent attacks was 50% higher than in 2007.<sup>3</sup> The conflict has intensified and spread from the south and south-east, to areas which had been relatively stable, including provinces close to Kabul and in the north and west of the country. Civilians have been increasingly caught up in the conflict.

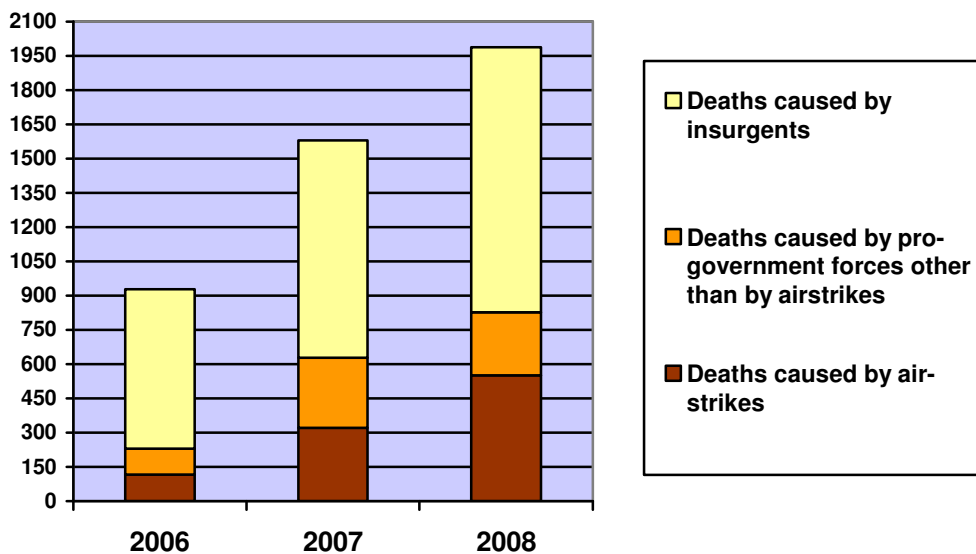
Civilian casualties, caused by all parties to the conflict, have continued to rise, and according to the UN there were 2,100 civilian deaths in armed conflict in 2008, up by 30% on 2007.<sup>4</sup> A majority of civilian casualties were caused by the activities of militant groups, whose tactics often deliberately and knowingly place civilians in danger, and it is notable that the proportion of total casualties which are attributable to insurgents rose from around 45% in 2007 to 55% in 2008.<sup>5</sup>

During 2008 significant efforts were made by pro-government forces, especially international military forces (IMF), to reduce civilian casualties. However, the absolute number of civilian deaths caused by pro-government forces rose by 31% to 828, which is generating widespread resentment and undermining support for the wider international presence in Afghanistan.<sup>6</sup>

Separate analysis by the ISAF-OEF civilian casualty tracking cell suggests almost 60% of civilian deaths caused by IMF are attributable to American-led forces serving in Operation Enduring Freedom, which may be a reflection of their deployment to more insecure areas of the country.<sup>7</sup>

A major concern is the disproportionate use of force in airstrikes, which account for two-thirds of casualties caused by pro-government forces: in 2008, 552 civilian casualties were caused by airstrikes, up by an alarming 72% on 2007 (see Table 1 below). Notably, during 2008 there was also an increase of approximately 40% in the number of aerial munitions delivered by international forces.<sup>8</sup>

**Table 1: Civilian deaths caused by insurgents and pro-government forces 2006 - 2008<sup>9</sup>**



Civilians have also suffered abuses during raids, especially those conducted at night, by pro-government forces, almost always by or with IMF. A significant number of such raids have involved an excessive use of force, including loss of life, physical assault, damage to property



and theft.<sup>10</sup> Many raids have also involved aggressive and improper treatment of women.<sup>11</sup> Of particular concern are the activities of international and Afghan special forces units or foreign government security agencies, who appear to be responsible for a large number of raids involving abuses against civilians, and whose accountability is extremely limited.

Detention practices are also a source of concern. Many individuals detained by Afghan and US forces are held for long periods without charge or trial, and there are allegations of ill-treatment and torture.<sup>12</sup> The US continues to hold 600 detainees at Bagram airbase, near Kabul, who have no right to legal counsel or a trial before a properly constituted court.<sup>13</sup>

Social protection and access to basic services is also being adversely affected by the widening conflict. In addition to significant levels of displacement, the conflict has severely disrupted access to health, education, and other social services. Last year there were some 300 militant attacks and threats related to schools, causing 66 deaths and injuries to 64 others, mostly children, which has forced the closure of more than 600 schools in the south and south-east and severely limited access to education.<sup>14</sup> There were continued attacks on healthcare-workers and on clinics, forcing many to close, and cutting off hundreds of thousands of Afghans from healthcare services.

The conflict has also led to the movement of significant numbers of civilians, especially in the south and south-east, who have limited or no access to basic services. Yet so far there has been insufficient monitoring of this displacement and there is growing concern about the adequacy of contingency planning to respond to their humanitarian and development needs.

The situation for Afghan civilians is exacerbated by the fact that aid agencies have faced a rise in the number of insurgent attacks and threats, which was 20% higher in 2008 than in 2007, and which has further constrained the scope of their development and humanitarian operations.

It is likely that planned increases in troops and military operations during 2009 will lead to higher levels of displacement, further restrictions to social services, and greater impediments on the ability of aid agencies to reach civilians in need of protection and assistance.<sup>15</sup>

## **Recommendations**

- IMF should take further steps to minimize harm to civilians and damage to their property in the conduct of all operations; in particular, they should take all feasible measures to distinguish between civilians and combatants in all attacks, and use only proportionate force.
- Rules governing the escalation of force and execution of airstrikes should be further tightened, and reflected in revised guidance to commanders on the conditions in which to call in close air support.
- Military intelligence should be subject to more rigorous scrutiny and cross-checks to avoid reliance on faulty or deliberately false information.
- Command responsibility and rules of conduct for night raids should be clarified, and regular law enforcement operations should be used wherever possible.
- Afghan and international forces should take steps to ensure that detainees are not subjected to torture, or cruel, inhumane and degrading treatment, and are afforded their

due process rights under international law. They should also ensure that civilian human rights monitoring organisations, such as the Afghan Independent Human Rights Commission, have a greater level of access to detention facilities.

- Stringent new measures are necessary to ensure that all special forces units and foreign government security agencies operate according to international and Afghan law; that they fall within clear and coherent chains of command; and are subject to rigorous oversight.
- IMF field commanders should take further steps to ensure that in the conduct of all operations soldiers demonstrate an awareness of and respect for Afghan culture, religion and customs.
- In all operations, policies and strategies IMF should prioritize the protection of civilians, especially vulnerable groups such as women and children; they should also work with the Afghan government to ensure that the activities of international and Afghan soldiers and police are in accordance with the provisions of UN Security Council Resolutions 1325 on women, peace and security and 1820 on sexual violence in conflict.
- IMF should also seek to ensure that their activities do not adversely affect access for aid agencies, lead to forced displacement or disrupt the right of freedom of movement and right of return of Afghan refugees in a way which is dignified, voluntary and gradual.
- International mentors and advisers to the ANSF, and IMF conducting joint operations with ANSF, should expand and enhance efforts to prevent ANSF abuses against civilians, including assault and extortion by the Afghan police.
- ISAF and the US Department of Defense should each create a high-level position with responsibility for reducing civilian casualties by all units in Afghanistan, and for ensuring rigorous compliance with international humanitarian law.

## **2 Transparency and accountability**

The Tactical Directive issued by Commander ISAF on civilian casualties of 2 September 2008 (subsequently updated on 30 December 2008) includes the key direction, ‘being first with the truth’. Regrettably, this has not yet been fully achieved, and with regard to many alleged incidents of abuses by pro-government forces there is a lack of transparency and public accountability.

The majority of Afghan families whose family members have been killed or injured, or whose property has been damaged or destroyed in airstrikes or raids, are never made aware of any justification, legal authorisation or information regarding which military unit was responsible. In their eyes the perpetrators of abuses can operate with impunity.

Both the Afghan Independent Human Rights Commission and the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions have objected to the opacity of IMF and Afghan National Security Forces’ (ANSF), and highlighted a number of notable cases where no military unit has been prepared to acknowledge involvement or responsibility.<sup>16</sup> As the Rapporteur observed, it is ‘wholly unsatisfactory’ that no coherent system exists for tracking and

communicating to those concerned the status or outcome of investigations, and subsequent disciplinary proceedings or prosecutions – which are undertaken separately by the relevant troop-contributing nation.

ISAF and OEF have taken the positive step of establishing a civilian casualty tracking cell to monitor and investigate alleged cases of civilian casualties. However, the arrest by military police in early February of a senior member of ISAF's civilian casualties tracking cell for reportedly disclosing information about civilian casualties, suggests that there continues to be resistance to transparency which is at odds with the directive to be 'first with the truth.'

## **Recommendations**

- The new ISAF-OEF civilian casualty tracking cell should establish an effective means of conveying to affected civilians and, so far as possible, the wider public:
  1. information about the identity of the military unit involved,
  2. the status and findings of their investigations; and
  3. any national disciplinary or legal action which follows.

To enhance credibility, the tracking cell should also ensure that qualified, independent civilians are given access to their activities.

- The ANSF should establish a similar civilian casualty tracking unit which operates with the support of and in coordination with the ISAF-OEF unit, and which also seeks to meet the objectives identified above.
- The Commander ISAF and USFOR-A Tactical Directive of 30 December 2008 should be revised to include clear commitments to greater transparency and accountability in respect of both the process and outcome of investigations.

## **3 Compensation and ex gratia payments**

There is no unified or systematic mechanism for compensating civilians for damage or loss caused by military operations. Rather, the processes for dispensing compensation (whether monetary or in kind) and 'ex gratia' payments are opaque, ad hoc, and vary from nation to nation. Some nations provide compensation where there is evidence of illegality or negligence, others issue ex gratia or 'solatia' payments which are non-legally binding, and provided on a discretionary basis, with no admission of liability.

The US government has established a significant civilian programme to support conflict-affected civilians, although assistance is often only provided several months after the incident.<sup>17</sup> Separately, there are three Afghan government programmes for providing assistance to the injured and to deceased's families, but they are administered inconsistently and face problems of corruption.

Regrettably, a great many Afghans are unaware of their compensation/solatia entitlements, and face considerable obstacles in accessing the appropriate military or other officials, and then making their claims. A lack of transparency and accountability (as noted above) can make it difficult or impossible to identify the unit responsible. For some countries, verification and approval procedures in the claims process are excessively cumbersome and time-consuming, and

the nationality of the troops concerned will significantly impact on a claimant's prospects of obtaining compensation, and if so, the amount awarded.

## Recommendations

- ISAF and OEF should establish a centralised and unified compensation / ex gratia payment mechanism comprised of senior military staff, including from ANSF and specialist civilians.
- The proposed mechanism should ensure a streamlined, consistent and fair approach to the provision of compensation or ex gratia payments throughout Afghanistan. In particular it should:
  1. coordinate and liaise closely with all ISAF, OEF and ANSF units and the ISAF-OEF civilian casualty tracking cell;
  2. ensure that staff working for the unified mechanism or relevant representatives of troop-contributing countries are easily accessible in all conflict-affected areas, and that communities are made fully aware of the claims process;
  3. develop clear, consistent rules on eligibility for compensation and ex gratia payments, and ensure that such payments are sufficient and proportionate to the harm caused; and
  4. maintain full records of all claims and payments or other reparations made.
- If such a mechanism cannot be established, at a minimum there should be concerted efforts and a formal agreement by IMF, foreign donors and the Afghan government on the handling of compensation or ex gratia payment claims to ensure they are closely aligned, and achieve the four objectives listed above.
- The Afghan government's 'Code 99', Martyrs, and Disabled Funds should be reformed to address corruption, and ensure greater transparency, coherence and consistency. The Code 99 programme should ensure payments are available to all those harmed in conflict, including by ANSF and insurgent activities, and whether or not they are harmed in large scale or isolated incidents. In addition, a clear procedure should be established for ensuring closer coordination and alignment with the existing IMF compensation / ex gratia payment systems.<sup>18</sup>
- In battle-affected communities, all IMF units should wherever feasible take a proactive approach, usually through liaising with community elders and local officials, to:
  1. establish who has suffered losses, and the type and extent of such losses;
  2. accept responsibility, provide an explanation and make a full formal apology; and
  3. provide constructive support in the claims process.
- Ad hoc PRT assistance projects which attempt to assuage community anger or grievance related to civilian casualties and raids do not achieve this objective, and are no substitute for an effective system of compensation. It should be noted that while the provision of compensation is extremely important, acknowledgement of harm caused to civilians and their property, by those directly responsible, as well as an explanation and apology, is critical for the dignity and psychological recovery of those affected, and can go some way towards alleviating grief and anger.

- To ensure greater alignment and consistency of existing compensation mechanisms, a comprehensive training programme for all relevant officials should be instituted, involving external civilian specialists, which provides guidance on agreed best practices in respect of the provision of compensation and ex gratia payments.

## 4 Provincial Reconstruction Teams

A significant proportion of international aid to the south and south-east of Afghanistan is delivered through military-led PRTs, of which there are 26 led by 14 different nations (with the US leading 12 PRTs). The mandate of PRTs is clear: to ‘assist the Islamic Republic of Afghanistan to extend its authority, in order to facilitate the development of a stable and secure environment in the identified area of operations, and enable Security Sector Reform and reconstruction efforts’.<sup>19</sup> The PRT Handbook also states that each PRT is an ‘interim structure’, which, on fulfilment of its mission, should be dismantled.

Despite their specific security and stabilisation mandate, PRTs have undertaken extensive activities in the development sector, whether through military units (known as CIMIC – Civil-Military Cooperation) or donor agencies, and this is often justified on the basis of the weakness of local government or inaccessibility for the UN and NGOs.

Looking ahead, there are indications that the assistance activities of some PRTs will expand. The US Embassy in Afghanistan has proposed the establishment of four new PRTs and creation of 215 new, related civilian positions.<sup>20</sup>

PRTs have engaged in significant infrastructure projects, as well as providing *in extremis* support with respect to the provision of emergency assistance. However, there are six fundamental objections to the establishment of new PRTs and, in particular, to the proposed expansion of the assistance-related activities of PRTs.

### 1 Wrong tool for the task

In the same way that NGOs are not expected to take the lead in the security sector, predominantly military institutions should not be expected, or presume, to take a leading role in local development or governance. While many PRT projects are successfully executed, the lack of personnel with appropriate technical expertise and experience, and the frequent use of unqualified contractors, especially in the south, have led to costly projects of poor quality. A range of factors, including political pressure and short deployments has tended to result in a large number of small-scale ‘quick impact’ projects which do not address underlying causes of poverty and are often not the most needed projects. According to a survey of PRT members undertaken by the US Armed Service Committee, ‘the lack of planning led PRTs to pursue short-term “feel good” projects (with success measured by money spent or satisfaction of the local governor) without consideration of larger strategic and capacity-building implications.’<sup>21</sup>

Engaging in reconstruction assistance without the ability to deliver comprehensive and sustainable change risks raising Afghan public expectations that soldiers cannot meet.<sup>22</sup> Clearly, when security and other conditions exist which allow specialised civilian development actors to operate, the military should not be engaged in activities in the development or humanitarian sector.

Moreover, the task of leading and coordinating international engagement at a provincial level should be taken on by the United Nations. As clearly provided by UN Security Council Resolution 1868 (2009), the role of the UN Assistance Mission in Afghanistan (UNAMA) is to 'lead the international civilian efforts', in Afghanistan, including 'to improve governance and the rule of law and to combat corruption at the local and national levels, and to promote development initiatives at the local level with a view to helping bring the benefits of peace and deliver services in a timely and sustainable manner'.

In areas that are comparatively secure, development work can be successfully undertaken by civilian actors, as evidenced by the National Solidarity Programme (NSP), which was established by the Afghan government in 2003. Through the NSP, Community Development Councils (CDCs) have been elected in over 22,000 villages, some 70 percent of Afghanistan's communities, which have a leading role in determining and overseeing community-level projects. NGOs are facilitating partners for the NSP and help communities to plan and implement small-scale, local development, rehabilitation and infrastructure projects.

## **2 Lack of local ownership**

Achieving sustainable and effective development depends on promoting genuine local ownership, or 'buy-in', active commitment and participation, as well as and medium- to long-term capacity building of Afghan people and institutions. Given the particular cultural and social mores of Afghanistan, long-held mistrust of foreign forces, and expanding Islamist nationalist insurgency, Western militaries are unable to achieve a sufficient level of local ownership in order successfully to promote development, especially in the south and south-east of the country. Communities often perceive PRT projects as having 'strings attached', or that they will be obliged to provide information or cooperate in other ways in exchange for assistance.<sup>23</sup> Given these factors, and the established Afghan perception of PRTs, increasing the civilian presence in the Teams would make little if any difference to the prospects of achieving genuine local ownership.

Furthermore, in some cases, the association of projects with the military has actually attracted militant attacks and exacerbated the security situation. There are indications, for example, that military involvement in the education sector increases the risk of schools being attacked. Conversely, a high level of local ownership can sustain community efforts to protect development projects, and can also discourage militant interference.

## **3 Diversion of funds away from civilian development work and institution-building**

PRTs have absorbed a significant volume of international resources which could have been used to strengthen Afghan, civilian development processes and institutions. They have thereby indirectly hindered the emergence of effective Afghan government, civil society and community institutions that are capable of promoting development over the longer term.<sup>24</sup>

The US Commander's Emergency Response Program (CERP) for 2008 was close to half a billion dollars,<sup>25</sup> which exceeds the total amount the Afghan government spends on health and education; and there are reports that the level of CERP funding will be substantially greater in 2009. (This is in addition to PRT operating costs, which are high, and the substantial costs of providing force protection for troops involved in PRT projects.)<sup>26</sup>

As a specific example, an IMF Taskforce for central Afghanistan has recently stated that their budget for assistance projects in Logar province is \$60-\$100 million for 2009 alone, yet the total

budget for NSP projects in the province since 2003 is just \$17.6 million for some 500 communities, which include more than 88,000 families.<sup>27</sup>

Thus, although PRTs may to some extent have alleviated immediate needs and contributed to reconstruction, they have also, paradoxically, slowed the process of institution-building, which ultimately prolongs the military presence. In assuming some of the responsibilities that the Afghan government should be fulfilling, PRTs have also to some extent weakened government accountability to the Afghan people.

#### **4 Impediment to long-term coherence and consistency**

Being nation-led, PRTs vary considerably in terms of their levels of funding and local engagement, their approaches to and means of providing assistance, key objectives and prioritisation, and indeed overall impact and effectiveness.

A US Interagency Assessment from 2006 found there was confusion caused by a lack of clarity on roles and remit;<sup>28</sup> which has been echoed in academic studies.<sup>29</sup> Likewise, a report by the US Institute for Peace found ‘a proliferation of national models, and an ad hoc approach to security and development’, and that ‘reconstruction projects suffered from a lack of coordination and oversight’.<sup>30</sup>

While some degree of variability is inevitable, and indeed desirable, the current approach hinders the establishment of a unified and coherent national development framework. Moreover, there is a latent contradiction in proposals to expand a series of institutions which constitute a substantial part of the assistance architecture, and are yet intrinsically unsustainable. The fact that PRTs will inevitably require future down-scaling may lead to considerable transition and adjustment challenges; and there is a risk that the more non-security responsibilities the PRTs assume, the more difficult it will be for them to be dismantled.

At a national level, the PRT system has contributed to a disproportionate volume of aid being directed to insecure areas, which in some cases receive some three or four times more per capita than other provinces. In terms of overall donor and Afghan government spending for 2007-2008, southern provinces such as Nimroz, Helmand, Zabul and Uruzgan received more than \$200 per capita, while other provinces, such as Sari Pul and Takhar, received less than a third of this amount.<sup>31</sup> Although this is to some extent understandable given the higher programming costs in the south, the scale of the disparities has created development gaps, and public resentment which, paradoxically, may have contributed to the spread of insecurity.

#### **5 The militarisation of aid**

The centrality of PRTs in the reconstruction process has bolstered a ‘hearts and minds’ approach to assistance which, as identified above, is at odds with accepted principles of development. The stated objective of US PRTs, as justified to Congress, is ‘to capitalize upon battlefield gains and undermine insurgent recruitment by strengthening ties between citizen and state.’<sup>32</sup> This approach designs and delivers assistance according to military priorities, whereas effective development assistance is provided impartially and seeks to address the needs of the poorest and most vulnerable. Not only is militarised aid in contradiction with good development but, given that it is often neither sustainable nor effective, it is highly unlikely to achieve its intended security objectives – and this is especially true in the social, cultural and historical context of Afghanistan.

Separately, the militarisation of aid has led to contractual demands being made of NGOs, such as to engage in ‘post-battlefield clean-up’, which is in contradiction to humanitarian principles. Thus, expert development organizations, which have many years of experience in Afghanistan, have been forced to abstain from participation in major development projects of certain foreign donors, such as USAID.

## **6 Negative impact on NGO security and access**

There has been a marked increase in violence against aid workers globally, which has a range of causes, however one important factor is military engagement in assistance activities.<sup>33</sup> In Afghanistan, such engagement is extensive and wide-ranging, and has blurred the line between military and humanitarian actors. This has adversely affected NGO security, endangered the lives of NGO workers, and restricted their ability to operate.

NGOs are being increasingly subject to direct threats and attacks, and in 2008, 31 NGO workers were killed, twice as many as in 2007.<sup>34</sup> This is significantly decreasing humanitarian operating space: currently, large parts of the country are inaccessible to humanitarian actors, leaving many communities deprived of humanitarian assistance.

NGOs regularly receive warnings that any perceived association with military forces will make them a target. In many areas, NGO offices and staff have been searched for links to the military, and threatened with severe consequences if such links are established. Likewise, NGO projects have been forced to close due to visits from PRTs or foreign donor agencies in heavily armed escorts. In the aftermath of such visits, communities have informed NGOs that they can no longer guarantee the safety of project staff.<sup>35</sup>

## **Recommendations**

For the above reasons we do not believe that PRT engagement in development activities is effective or sustainable, and strongly oppose the expansion of such activities or the establishment of new PRTs. We recommend that:

- Recognizing that at least in the short-term PRTs will continue to undertake activities in the development sector, they should seek to improve the quality, impact and relevance of their assistance; ensure that it is aligned with official national or local priorities; provide full information on their activities to the Afghan government; and achieve greater country-wide consistency and coherence. As recommended by the US Government Accountability Office, PRTs should also be subject to greater levels of oversight, monitoring and evaluation, including of the sustainability and impact of interventions.<sup>36</sup>
- A medium-to-long-term PRT transition strategy and implementation plan is developed by ISAF and all PRT lead nations which sets out the conditions and modalities for a sequenced change of emphasis of PRT activities from providing assistance to fulfilling the PRT mandate to facilitate the development of a *secure* environment. At the same time, wherever possible donors should progressively re-route a greater proportion of funding for PRTs to civilian development institutions and processes at national, provincial and community level.
- As part of the transition strategy, PRTs progressively scale back their assistance activities, and UNAMA correspondingly expands its provincial capabilities, both in human resources and logistics, in order to play a greater role in coordinating, supporting and



enhancing the international effort at local level. In parallel, measures should be taken to ensure that there is a sequenced and coordinated expansion of Afghan government provincial responsibilities.

- Donors and the Afghan government should conduct a comprehensive national assessment of the geographical configuration of assistance, including funds channelled through PRTs, and thereby seek to minimise disparities and ensure that levels of assistance more closely correspond to levels of need.

## 5 Civil-military coordination

Humanitarian agencies rely on local acceptance to ensure their security, for which their perceived identity as independent and impartial is critical. 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 Commander ISAF, ACBAR<sup>37</sup> and the UN (the Civil-Military Guidelines). Crucially, the Guidelines hold 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.’

As noted above, in recent years there has been a blurring of this distinction in Afghanistan. Whilst this is partly due to the conduct of some NGOs, such as those who use excessive security measures or who work directly with military forces, it is also attributable, in a number of cases, to the conduct of IMF. In addition to the engagement of PRTs in assistance activities, another important factor has been IMF involvement in relief activities for troop protection purposes, in contravention of the international and Afghanistan Guidelines. Humanitarian assistance must be delivered according to humanitarian 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.

Another egregious example of military forces acting contrary to the Civil-Military Guidelines is the use by military personnel of certain contingents, apparently including the US, France and Spain,<sup>38</sup> of unmarked, white vehicles, conventionally used by humanitarian organisations. This not only breaches section 6 of the Guidelines but also constitutes a breach of international humanitarian law, which requires that combatants should distinguish themselves from civilians in conflict.

It should be stressed that *nothing* can justify militant attacks against civilians or civilian organisations, which are prohibited absolutely under international law, but that the blurring of the civilian-military distinction has made such attacks more likely. If urgent efforts are not made to preserve the civil-military distinction in Afghanistan, the operational reach of expert humanitarian and development agencies may be even further reduced with potentially serious consequences for the Afghan civilian population.

The ‘integrated approach’ being spear-headed by the UNAMA and ISAF, is apparently intended to integrate the development and stabilisation activities by a range of actors at local level. However, there is a lack of clarity about the application of the ‘integrated approach’ in practice and the role of certain actors, especially NGOs. There has been limited involvement of NGOs in the process, and the approach could pose risks to NGO independence. Policy-makers should not

confuse integration with civil-military coordination for humanitarian purposes: the perception of NGO involvement in counter-insurgency activities could seriously threaten staff safety and access.

Further, the Guidelines were provisionally agreed by the Civil-Military Working Group for Afghanistan in August 2007, and at that point the UN agreed to develop and implement comprehensive training for all relevant actors (as set out in section 14 of the Guidelines). With NGO support, the new UN Office of Coordination of Humanitarian Affairs has now developed a training package on the Guidelines, however, it is profoundly regrettable that for over a year the UN took few steps to fulfil this important responsibility.

## **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 that they subsequently adhere to them.
- At the earliest possible opportunity the UN should fulfil its commitment to implement a full and effective training and awareness-raising programme for all actors on the Guidelines, as well as on the application of the Sphere Humanitarian Charter and Minimum Standards in Disaster Response.
- The existing system for monitoring breaches of the Guidelines put in place by UN Office of Coordination of Humanitarian Affairs should be further developed. Accordingly, a sufficient and effective reporting mechanism, which ensures remedial action, should be established as soon as possible.
- All ISAF and troop-contributing nations should ensure that any current and outstanding breaches of the Guidelines are addressed as rapidly as possible. As an immediate first step, with no exception, all vehicles used by IMF should be affixed with insignia (temporary if necessary), which identifies them as being for military use.
- The UN and ISAF should further consult with NGOs about the intended application, scope and policy implications of the ‘integrated approach’ which must be separate from civil-military coordination mechanisms for humanitarian purposes.
- The elaboration and implementation of a phased transition strategy for PRTs, as outlined above, is also an essential step towards preserving the civil-military distinction.

## **6 Community and tribal empowerment and defence**

There are currently two initiatives in this sphere which give cause for concern: the Afghan Social Outreach Programme (ASOP) and the Afghan Public Protection Force (APPF).

### **1 Afghan Social Outreach Programme**

This *political* outreach programme involves the creation of district councils which are intended to strengthen support for and improve communication with the Afghan government, as well as provide information on insurgent activities. The method of appointments to the councils may

vary, but it appears that they are ultimately endorsed by the Provincial Governor and the (national level) Independent Directorate of Local Governance (IDLG), and council members will receive remuneration equivalent to or more than an Afghan civil servant salary. Despite being criticized by a range of Afghanistan experts,<sup>39</sup> the programme has been endorsed by the Joint Coordination and Monitoring Board<sup>40</sup> and several donors are intending to implement the programme: the US in six provinces, the UK in Helmand, Canada in Kandahar, and possibly others elsewhere. As it stands, the programme carries a high risk of failing to deliver positive political or security outcomes, or even exacerbating local conditions, for the following reasons.

### **Legitimacy**

The councils' perceived lack of legitimacy may undermine their effectiveness. There is an inherent contradiction in the government itself creating councils which are intended to represent communities. It seems that some donors, such as the UK, are acknowledging this concern by allowing local people to determine the membership of the councils. However, the fact that council members will be paid by the government, for few formal duties, is likely to confirm the perception that the councils are an extension of government, rather than truly representative bodies.

This also opens the door to political patronage precisely at a time when it is most valuable to politicians given that there are presidential, provincial, parliamentary and district elections scheduled for this year and next. In fact, there are indications that officials will seek to use the ASOP councils to pre-determine the outcome of district elections due next year. Yet what the overwhelming majority of Afghans want to see is less, and not more, political patronage.

The councils' legitimacy will be further undermined by the fact that they have responsibilities which could be expected of a government security agency, in particular to: 'Monitor security and anti-community activities within the district and provide quick and valid information on the anti-social activities to the government'.

### **Efficacy**

Although IDLG and the UN are intending to vet ASOP council members there is a risk that the Programme may empower those who are not reliable or representative, which may actually weaken rather than strengthen a community's links with government. Further, if faced with threats from militant groups, councils may well be subverted, thereby undermining the security objectives of the scheme.

Paradoxically, the perception of the councils as an extension of government may ultimately defeat one of the Programme's central purposes: when the councils fail to meet public expectations it is the Afghan government that will take the blame.

### **Civilian security**

In Afghanistan on average every four days three people are summarily executed by militants for being associated with the Afghan government, international forces or foreign organisations.<sup>41</sup> As militant groups become aware that the central purposes of the councils are to strengthen government support and inform on insurgent activities, there is a high risk that they will target those involved.

Appointments may be perceived as favouring a particular ethnic, tribal or other group, which could create local antipathy or anger; and could even magnify existing rivalries or conflicts. This will also provide opportunities for militants to form strategic alliances in order to strengthen their influence. Local security could also be jeopardized if the councils are perceived as undermining the authority of the communal and tribal *shuras* and *jirgas*, which in some parts of the country have considerable power and influence at district level.

NGOs are conceived as the implementing agencies of ASOP, but their association with such an obviously political and security-related initiative will necessarily undermine their perceived independence, and would therefore put NGO staff safety at risk.

### **Sustainability**

Given the significant overall cost of the programme, which will be borne by donors, it is difficult to see how the programme could possibly be sustainable. It is easy to turn on the taps, but turning them off may generate resentment and contribute to instability. On the other hand, if the programme is only to run until district elections (as currently envisaged), then serious questions must be answered about the value of yet another short-term political initiative. Rather than investing in a political stop-gap, foreign donors and the Afghan government should focus on ensuring that there are well-run elections for village and district councils, as required by Article 140 of the Afghan Constitution.

### **Consistency with state institutions**

The statutory role and authority of ASOP councils, and their relationship to the myriad of other local-level institutions, is far from clear. There is an obvious danger of duplication, obfuscation or overlap of responsibilities and activities, which could further undermine vital efforts to enhance the effectiveness and accountability of existing sub-national institutions. In particular, the IDLG appears to have planned and developed ASOP with insufficient consultation with other relevant ministries such as the Ministry for Rural Rehabilitation and Development. There is thus uncertainty about the relationship of the new ASOP councils to other district-level institutions such as the 308 District Development Assemblies established under the National Area-Based Development Programme.

## **2 Afghan Public Protection Force**

Non-state armed groups in Afghanistan have been empowered by three decades of war and disorder, whether associated with powerful individuals, or communities and tribes, and they are present in many parts of the country. Since 2003 a significant number of militias and their members have been disarmed or brought into the formal security apparatus of the state, either through the lengthy and costly (at US\$150m) processes of Disarmament, Demobilisation and Reintegration process (DDR), or Disbandment of Illegal Armed Groups (DIAG).

DDR was a partial success disarming some 60,000 former combatants, and collecting 35,000 light and medium weapons, though there was a significant level of corruption involved and reintegration measures were less effective. With respect to DIAG, despite the Afghanistan Compact commitment that ‘all illegal armed groups will be disbanded by the end of 2007’, a lack of Afghan and international political will has resulted in little progress being made. Although 42,000 weapons have been collected, fewer than 400 illegal armed groups have been disbanded and there may still be more than 3,000 such groups nationwide.<sup>42</sup> Indeed, since the termination of

DDR in 2005 there has been notable a rise in the number of pro-government militias, some of which have been hired by PRTs.

The APPF is a pilot programme which is being implemented by the Afghan Ministry of Interior and United States military in Wardak province. It involves the creation of a force of local men, which may be selected by ASOP district councils, who will be expected to protect key community and government assets and may also have a local level counter-insurgency role. The men, who are trained for less than a month, will have no powers of arrest, but will be issued with guns and vehicles. They will ultimately report to the district chief of police and their salaries will be paid by the Ministry of Interior.

The NGO signatories to this paper have grave concerns about this initiative, which may be replicated elsewhere in the country, for the following reasons.

### **Potential for abuse of power**

The professionalism and discipline of the forces is highly questionable, given their cursory training. Without a well-developed system of command and control there is a danger that militias will abuse their powers, through engaging in extortion or violating human rights. But to develop an effective system of monitoring and supervision is difficult, time-consuming and costly, which largely defeats the purported advantages of such an initiative. Given the prevalence of abuses against civilians by the Afghan National Police (ANP), it is hard to believe that the APPF would not be more difficult to control.<sup>43</sup>

Policy-makers should not overlook the lessons of the failed Afghan National Auxiliary Police (ANAP), which bears a striking resemblance to the APPF. This programme was dismantled in 2008 due to insufficient control and supervision, lack of professionalism and impartiality, and in some cases ANAP forces were actually contributing to local insecurity. Notably, approximately 3,000 ANAP trainees disappeared after initial training, having been issued with guns and uniforms; and a further 3,000 former ANAP have reportedly never been disarmed.<sup>44</sup>

International experience of civil defence groups, such as the United Self-Defence Forces of Colombia (AUC) or the Civil Defence Patrols in Guatemala (PAC), suggests that any short term political gains from community defence initiatives are likely to be outweighed by their potential for violating human rights. The AUC engaged in widespread human rights abuses, committing hundreds of atrocities against Colombian civilians, and was ultimately designated a terrorist organisation by the EU and US. The PAC in Guatemala also operated beyond the control of the state, committing egregious human rights abuses and fomenting community mistrust and division.<sup>45</sup>

### **Potential for aggravating local security**

With intensive efforts it may be possible to exercise some control over local forces in the initial stages of the programme, but there is the potential for them to develop in a malignant way. In areas where tribes or communities have weak leadership or oversight, there is a risk of infiltration, exploitation or cooption by militants, warlords or criminal groups. Equally, legitimising existing militias could provide them with the cloak of authority for conducting activities in furtherance of their own objectives or interests, which could include corruption, criminality (for instance the production and trafficking of narcotics) or gaining advantage in local, tribal or ethnic conflicts and rivalries.

The APPF initiative has been likened to the Sunni Awakening programme in Iraq, but the ethnic, social and tribal environment in Afghanistan is quite different from that which exists in Iraq. Proponents of community defence point to the existing *arbakai* (community militias) of the Loya Paktia region of Eastern Afghanistan, but these forces are strongly tied to tribal *shuras* (local councils), and therefore to some extent have an inherent legitimacy and accountability.

Although tribal structures are well-established in some parts of Afghanistan, in many cases they have been damaged, distorted or even destroyed by nearly three decades of war or disorder, and social, ethnic and power dynamics are complex. Across Afghanistan there are many and various patterns of power and influence, involving a range of different actors, as well as an array of ongoing, often interconnected, feuds and tensions. Thus, steps to empower certain tribes, communities or power-holders could easily exacerbate the already fragile security situation.

### **Reversal of the disarmament process and the dangers of warlordism**

In the years following the intervention in 2001 the US military supported powerful figures who commanded substantial militias. However, in acknowledging that this was inconsistent with efforts to achieve the rule of law and build effective state security forces, the DDR and DIAG processes were initiated. If replicated nationally, the APPF programme risks reversing the limited gains made by DDR and DIAG, and creating an unintended knock-on effect of provoking warlords, tribes or other groups to bolster their military strength. Afghanistan already has one of the highest concentrations of guns in the world; steps which could fuel rearmament efforts and lead to greater proliferation of weapons carries a substantial risk of further undermining, rather than strengthening local security. There is also a risk that weapons provided as part of the APPF may ultimately be used by militant groups: it is estimated that over 50% of the weapons being obtained by insurgents are procured inside Afghanistan, which is at least partly due to inadequate government weapons management and controls.<sup>46</sup>

### **Consistency with existing state institutions**

As with ASOP, there is a lack of clarity about the exact powers of the APPF and its relationship with the ANP. It is hard to see how the establishment of local militias is consistent with efforts to build reliable and effective Afghan national security forces.

### **Recommendations**

Given the serious concerns raised above, it is recommended that ASOP is suspended and subject to review, and the APPF initiative is discontinued. This is also necessary because of their potential to distract national and international policy-makers from security sector reforms and measures to improve local governance that are so urgently needed. In particular, we believe the international community and Afghan government should (in brief):

- Intensify and expedite **public administration reforms**, especially at local level, focussing on: the removal of incompetent or manifestly corrupt officials; achieving greater levels of transparency; improving financial scrutiny and oversight; clarifying institutional powers and responsibilities; and streamlining processes and procedures. Concerted action to root out corruption in government, which is increasingly prevalent, is far more likely to meet Afghan expectations than the creation of yet more political institutions of questionable legitimacy and effectiveness.

- Redouble efforts to build the capacity, accountability and effectiveness of the **provincial departments of line ministries**, such as of Agriculture, Irrigation and Livestock. Many provincial line departments have limited capabilities and impact, with profoundly inadequate human and financial resources. There is an urgent need for international support to transform the capabilities of key line departments, *at local level*, so that they are able to bring visible, positive changes in sectors of central importance to Afghan livelihoods. This would do far more to promote social cohesion and stability than ever could be achieved by political outreach.
- Devote greater political, financial and technical resources to the development a professional, capable and operationally autonomous **Afghan national police force** – which is regarded as corrupt and largely ineffective:
  1. Establish effective internal and external mechanisms for ANP oversight and accountability, including for parliamentary and civilian review, at both national and local level.
  2. Ensure rigorous and transparent implementation of police pay and rank reform, and vetting of senior appointments, combined with steps to ensure appropriate levels of ethnic balance and a greater number of women in the service.
  3. Support, expand and enhance pre- and in-service training and professional development; including through increasing the number of international police mentors and advisers, of which there is currently a shortfall of over 60% – some 2,200 positions.<sup>47</sup>
  4. Develop a coherent international strategy, which is currently lacking, that can mobilise sufficient resources and support over the long term, including by reforming and strengthening the patently inadequate EU Police Mission to Afghanistan (especially in light of the EU role as ‘key partner’ in police reform), as well expanding the limited support for police reform provided by the UN.<sup>48</sup>
  5. Ensure that police reform is tied to parallel reform in the ministries of Interior and Justice, which have considerable capacity deficits, to ensure that the ANP operates within a coordinated and functioning justice system.
  6. Refrain from deploying the ANP for war-fighting or offensive counter-insurgency purposes and ensure that the clear focus of the ANP is law enforcement and protecting communities. The militarisation of the police, which is to some extent attributable to the US military’s domination of police training efforts, has put the police in the frontline against the insurgency (casualty rates for the ANP are three times higher than for the Afghan National Army, with over 900 police were killed and 1,500 injured in 2008 alone).<sup>49</sup>
  7. Accompany these measures with concerted efforts to reinvigorate and strengthen the DIAG process, which requires greater resources and political support.
- Develop and fully-fund a national strategy for local and **community level peace-building** and conflict resolution.<sup>50</sup> Some of the analysis which underpins ASOP is sound, especially that which identifies the adverse consequences of a largely top-down, centralized approach to political decision-making in an acutely local society. As field research indicates, insecurity in Afghanistan often has local causes and consequences, yet the central institutions of authority in matters of local governance and justice – the communal and tribal *shuras* and *jirgas* – have been largely neglected in the state-building process. Developing an effective strategy, led by civil society, to build their capacity to manage local affairs, resolve conflict and promote peace at local level, as well as to strengthen and

clarify links to the formal institutions of the state, could play an important role in arresting the spread of insecurity and achieving a greater level of protection for civilians.

## **7 A comprehensive strategy**

In the three-to-four years which followed the international intervention in Afghanistan in 2001, state-building objectives were sidelined both in terms of political attention and international resources due in part to the US military's overwhelming focus on the pursuit of Islamist extremists. The consequent lack of success in developing a functional and effective Afghan government, and in promoting development, especially in rural areas, has undoubtedly contributed to the deterioration in security conditions.

There is now wide agreement among policy-makers and politicians that military solutions alone cannot bring peace and stability to Afghanistan. Yet there is far less agreement about what this means in practice – and so far much of the international focus has been on the deployment of more troops and many of the other interventions being implemented or considered have a significant military dimension, such as community defence initiatives, the expansion of PRTs and further militarisation of aid. Notably, overall US spending on military activities and operations is twenty times US spending on development. The US military currently spends \$35 billion a year in the country,<sup>51</sup> nearly \$100 million a day; yet USAID spending for 2008 is \$1.6 billion,<sup>52</sup> some \$4.4 million a day.

### **Recommendations**

As is evident from Afghanistan's recent past, where solutions are configured according to foreign military priorities although they may yield short-term security 'gains', there is a risk that they will fail to lay the foundations for a longer-term peace. There is therefore a need for a truly comprehensive strategy for the long-term reconstruction and stabilisation of the country.

However, NATO and other international military actors should acknowledge the limits to the scope of activities which are suitable and legitimate for their engagement. The military 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.

In addition to recommendations made elsewhere in this paper we believe any new strategy for Afghanistan should ensure a major expansion of support for rural development as well as an enhanced international response to the humanitarian situation: some eight million Afghans are currently food insecure, and approximately 55,000 recent returnees are living in temporary settlements. Foreign donors should ensure increased funding for humanitarian assistance, the expansion of UN humanitarian personnel, and close regional cooperation, especially with Pakistan and Iran, to address humanitarian challenges that have cross-border dimensions.

Among other things, donors should support bold, new measures to enhance aid effectiveness, including full transparency and the establishment of a powerful mechanism for donor coordination and monitoring. Major governance reforms are also required to address corruption, including at the highest levels, and to achieve Afghan government accountability and transparency.



Policy-makers must recognise that the existing international approach to Afghanistan lacks clarity, coherence and resolve, especially in the pursuit of critical development, governance and stabilisation objectives. In order to succeed, a comprehensive strategy urgently requires a substantial, coordinated and long-term international commitment, both in terms of resources and political will.

## Notes

<sup>1</sup> In close collaboration with, and incorporating input from the signatories to this report and a number of other NGOs operating in Afghanistan. Ashley Jackson, Research and Communications Specialist, also provided extensive support in the drafting of this paper.

<sup>2</sup> USFOR-A was established in October 2008 as a command and control headquarters, commanded by General McKiernan, for US forces in Afghanistan, including 20,000 forces operating under Operation Enduring Freedom.

<sup>3</sup> *Quarterly Data Report*, ANSO, January 2009.

<sup>4</sup> The figure of over 2,100 deaths is derived from *Annual Report on Protection of Civilians in Armed Conflict 2008*, UNAMA, January 2009; this may be a conservative figure as the Afghan NGO Safety Office estimate there were a total of 2,366 civilian deaths in 2008 – *Quarterly Data Report*, ANSO, January 2009. The difference between the figure of 2,100 deaths and the total for 2008 in Table 1 of this report is because the former includes killings by causes other than those specified in the Table. According to the UN 1,523 civilians were killed in 2007, although Human Rights Watch gives a higher figure of 1,633. UNAMA put the percentage increase in casualties between 2008 and 2007 at 40%, our figure is lower – 30% – as we use of higher estimate for total casualties during incurred during 2007.

<sup>5</sup> *Annual Report on Protection of Civilians in Armed Conflict 2008*, UNAMA, January 2009.

<sup>6</sup> *Ibid.*

<sup>7</sup> According to ISAF figures for 2008, 139 civilian deaths were caused by forces serving in OEF and 97 deaths caused by ISAF forces.

<sup>8</sup> Oral briefing, ISAF HQ, Kabul, October 2008. See also *US forces abandon Wanat outpost in Afghanistan after fierce Taliban attack*, The London Times, 17 July 2008.

<sup>9</sup> Figures for 2006 and 2007 are largely taken from *Troops in Contact, Airstrikes and Civilian Deaths in Afghanistan*, Human Rights Watch, September 2008 (so far as we are aware the UN did not provide figures for the total number of civilian casualties caused by airstrikes for these years) and those for 2008 are from *Annual Report on Protection of Civilians in Armed Conflict 2008*, UNAMA, January 2009. Please note that these figures are the most reliable estimates available though all monitoring organisations accept that it is difficult to obtain accurate figures on civilian casualties given the security situation and limited access.

Cause	2006	2007	2008
Deaths caused by air-strikes	116	321	552
Deaths caused by pro-government forces other than by airstrikes	114	308	276
Deaths caused by insurgents	699	950	1,160

<sup>10</sup> *From Hope to Fear, An Afghan Perspective on Operations of Pro-Government Forces in Afghanistan*, Afghan Independent Human Rights Commission, December 2008.

<sup>11</sup> *Ibid.*

<sup>12</sup> *Annual Report on Protection of Civilians in Armed Conflict 2008*, UNAMA, January 2009.

<sup>13</sup> *Ibid.*

<sup>14</sup> *The situation in Afghanistan and its implications for international peace and security*, Report of the UN Secretary-General, 10 March 2009.

<sup>15</sup> See *Fight Poverty to End Insecurity - Afghan Perceptions of Insecurity*, Human Rights Research and Advocacy Consortium, March 2009.

<sup>16</sup> *From Hope to Fear, An Afghan Perspective on Operations of Pro-Government Forces in Afghanistan*, Afghan Independent Human Rights Commission, December 2008; and *Press Statement*, Philip Alston, UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, 15 May 2008.

<sup>17</sup> *Losing the People, The Costs and Consequences of Civilian Suffering in Afghanistan*, CIVIC, February 2009.

<sup>18</sup> *Ibid.*

<sup>19</sup> PRT Executive Steering Committee, 27 Jan 2005. There are two main types of PRT reconstruction and development activities: projects carried out by the military / CIMIC (Civil-Military Cooperation) team, and those delivered or overseen by the relevant national development agency.

<sup>20</sup> *Report to Congress*, Special Inspector General for Afghanistan Reconstruction, 30 January 2009, p 10.

<sup>21</sup> *Agency Stovepipes vs Strategic Agility*, US House of Representatives Committee on Armed Services, Sub-Committee on Oversight and Investigations, April 2008, p 72.

- 
- <sup>22</sup> See: *Fight Poverty to End Insecurity - Afghan Perceptions of Insecurity*, Human Rights Research and Advocacy Consortium, March 2009.
- <sup>23</sup> *Afghan Hearts, Afghan Minds, Exploring Afghan perceptions of civil-military relations*, British Agencies in Afghanistan Group, 2008.
- <sup>24</sup> *Service Delivery and Governance at the Sub-National Level in Afghanistan*, World Bank, July 2007, p xiv.
- <sup>25</sup> *Quarterly Report to the United States Congress*, Special Inspector General for Afghanistan Reconstruction, January 2009, p. 39.
- <sup>26</sup> The annual running costs of a US PRT (not including staffing costs) exceeds \$20 million; see *Agency Stovepipes vs Strategic Agility*, US House of Representatives Committee on Armed Services, Sub-Committee on Oversight and Investigations, April 2008, p 24.
- <sup>27</sup> Information provided by the International Rescue Committee, March 2009.
- <sup>28</sup> *Report to Congress*, Special Inspector General for Afghanistan Reconstruction, 30 January 2009, p 50.
- <sup>29</sup> *Provincial Reconstruction Teams, Lessons and Recommendations*, Woodrow Wilson School of Public and International Relations, Princeton University, January 2008.
- <sup>30</sup> *The US experience with Provincial Reconstruction Teams in Afghanistan*, United States Institute for Peace, Robert Perito, June 2005.
- <sup>31</sup> *Falling Short – Aid Effectiveness in Afghanistan*, Matt Waldman, ACBAR, March 2009.
- <sup>32</sup> *Congressional Budget Justification*, Budget Justification, Fiscal Year 2009, South and Central Asia Regional Overview, p 556.
- <sup>33</sup> *No room for humanitarianism in the integrated approach*, Cornish and Glad, The Norwegian Atlantic Committee, 2008.
- <sup>34</sup> Figures from Afghanistan NGO Safety Office, January 2009.
- <sup>35</sup> *No room for humanitarianism in the integrated approach*, Cornish and Glad, The Norwegian Atlantic Committee, 2008.
- <sup>36</sup> *Securing, Stabilising and Reconstructing Afghanistan: Key Issues for Congressional Oversight*, US Government Accountability Office, May 2007, p 22.
- <sup>37</sup> The Agency Coordinating Body for Afghan NGOs.
- <sup>38</sup> Information provided by UN sources on the condition of anonymity.
- <sup>39</sup> For example, see *Afghanistan: New Administration, New Directions*, Crisis Group, 13 March 2009, p 9.
- <sup>40</sup> The JCMB has the primary responsibility for the coordination and oversight of international efforts in Afghanistan.
- <sup>41</sup> UNAMA reports that a total of 271 people were executed by anti-government forces in 2008. See also: *The situation in Afghanistan and its implications for international peace and security*, Report of the Secretary-General, 24 September 2008, para 54.
- <sup>42</sup> Information provided on the basis of anonymity by a senior western diplomat, February 2009.
- <sup>43</sup> *Press Statement*, Philip Alston, UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, 15 May 2008.
- <sup>44</sup> *Police in Afghanistan, Still Searching for a Strategy*, Update Briefing, Crisis Group, 18 December 2008, p 4.
- <sup>45</sup> *Community Defence Initiatives in Afghanistan*, British Agencies in Afghanistan Group, April 2008.
- <sup>46</sup> Information provided on the condition of anonymity by an Afghan-based security analyst familiar with DIAG, March 2009.
- <sup>47</sup> *Securing Afghanistan: Getting on Track*, C. Fair and S. Jones, United States Institute for Peace, January 2009, p 1 and 13; and *Police in Afghanistan, Still Searching for a Strategy*, Update Briefing, Crisis Group, 18 December 2008, p 12. See also *Afghanistan: New Administration, New Directions*, Crisis Group, 13 March 2009, p 11.
- <sup>48</sup> See *Reforming Afghanistan's Police*, Crisis Group, 30 August 2007.
- <sup>49</sup> *Police in Afghanistan, Still Searching for a Strategy*, Update Briefing, Crisis Group, 18 December 2008, p 3. See also: *Royal Marine Killed in Afghanistan at end of worst year for British deaths*, The (UK) Guardian, 1 January 2009.
- <sup>50</sup> See *Community Peacebuilding in Afghanistan – the Case for a National Strategy*, Matt Waldman, Oxfam International, February 2008.
- <sup>51</sup> *Report for Congress, The Costs of Iraq, Afghanistan and Other Global War on Terror Operations since 1911*, Congressional Research Service, 14 July 2008, p19.
- <sup>52</sup> *Country Profile*, USAID Afghanistan, 11 May 2008.