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**GOVERNANCE CHALLENGES IN AFGHANISTAN:
AN UPDATE**

SPECIAL REPORT

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I. INTRODUCTION

1. 2011 is a critical year for Afghanistan. This year, the country is witnessing the beginning of the international community's withdrawal and transition to full Afghan responsibility for the country's security, which is due to be completed by 2014. This withdrawal, however, comes at a turbulent time. The United Nations Assistance Mission in Afghanistan (UNAMA) labelled the first six months of 2011 as the bloodiest¹ in terms of the Afghan civilian death toll.² In July 2011, shortly before the beginning of the handover, a series of murders targeting President Karzai's closest allies, demonstrated the continuous fragility of Afghanistan's security situation. In addition, nine months following the second democratic parliamentary elections in Afghanistan since 2001, the country's political system finds itself in a deep state of crisis characterised by clashes between the executive, legislative, and judicial branches of government.

2. Nevertheless, 2011 is also the year when we can begin to assess the implementation of decisions of landmark international conferences held in London on 28 January 2010 and in Kabul on 20 July 2010, where the international community reiterated its commitment to aid Afghanistan's transition into a secure, prosperous and democratic nation under full Afghan leadership. On the path to attaining this goal, consolidation of central and local-level governance needs to remain a central issue of focus. Bonn-II Conference themed as "From Transition to Transformation" is planned to be held on 5 December 2011 with the aim of mobilising the international community in support of Afghanistan's future. However, one of the factors that would affect the continuation of the pledge of international community to Afghanistan would be the resolution of outstanding issues regarding the Kabul Bank scandal, which involved losses of several hundred million dollars in connection with a series of undocumented loans.

3. The Assembly's Committee on the Civil Dimension of Security has been dealing with the issue of Afghan governance since 2010. Its last year's special report concluded that, despite the Afghan government demonstrating its willingness to take full responsibility for the country's future course, elections in 2009 and 2010 have shown the ongoing fragility of the situation, and the immensity of the challenge that Afghanistan faces in establishing sustainable structures of governance. The report also acknowledged that currently the greatest danger lies in premature disengagement. Allies need to continue to give the current strategy time to bear fruits and the trend towards Afghan ownership needs to be managed with great care. It identified two key areas, which should receive particular attention of the Afghan National Government: stepping up efforts to eradicate corruption and initiating an in-depth review of election laws. In turn, NATO Allies need to step up support for enhancing the Afghan government's ability to deliver services to its population especially in the field of: justice, civil service and public administration, public finances and local governance.

4. Governance in Afghanistan continues to face major challenges in 2011. The recent parliamentary elections and the post-electoral developments were surrounded by allegations of fraud and mutual accusations between the president and his opponents. Despite President Karzai's 2010 pledge to hold district and municipal elections, no date has yet been set and thus local institutions of governance continue to lag behind. Rule of law remains a major concern across all Afghan provinces and especially in the South, which continues to witness intensive insurgency presence. The justice reform is progressing only slowly, while corruption and

¹ UNAMA, *Afghanistan: Midyear Report 2011 – Protection of Civilians in Armed Conflict, 2011* (Kabul: UNAMA, July 2011).

² On the other hand, while the insurgency remained an adaptive and viable threat, ISAF officials told the Assembly delegation visiting Afghanistan in June 2011 that there were early indicators that its capacity was being degraded, thanks in particular to the coalition's focus on interdicting supply lines and targeting insurgent leadership.

the illicit drug trade fuelled by dramatically increasing prices of opium continue to destabilise the country.

5. The 2011 report provides an overview of some of the current challenges to governance in Afghanistan. In addition to updating sections on judiciary, anti-corruption and counter-narcotics, the report includes new chapters on the composition of the new Afghan Parliament and the post-election crisis, which continues to unfold, the country's political parties, NGOs and civil society in support of governance as well as on education and literacy policies. It also aims to put forward recommendations, which could assist the Afghan National Government and the international community in improving Afghan governance and ensuring a smooth transition to full Afghan ownership.

II. BUILDING POLITICAL INSTITUTIONS: PROGRESS AND CHALLENGES

A. CENTRAL GOVERNMENT

1. Parliamentary elections

6. On the national level, the major development was undoubtedly the inauguration of the second parliament since the fall of the Taliban. The experience with the first freely elected Afghan National Assembly 2005-2010 has not been unproblematic but, at the same time, the body has managed to improve its performance and show that it has the potential to serve as an effective and independent legislature. The Parliament, however, has also been criticized for a number of issues such as granting confidence votes to ministers, who have demonstrated weak performance in the government. Some of the Members of Parliament (MPs) democratic credentials have been questioned as a number of them have been accused of corruption. In terms of administrative capacity, the Parliament of 2005-2010 has been understaffed and equipped with only a small research group. This made the parliamentarians heavily dependent on information from those very state institutions, which it was meant to oversee.

7. The parliamentary elections in Afghanistan held on 18 September 2010 were a test of the country's commitment to democratic principles as well as its ability to ensure security for Afghans who have decided to cast their votes. According to the Head of the Independent Election Commission (IEC) approximately 5.6 million ballots were cast, out of which 23% were invalid. The 33% of Afghans who voted chose from a final list of 2,577 candidates (406 female) to occupy 249 seats of the *Wolesi Jirga* (WJ). Almost two thirds of the new parliamentarians have not sat in the legislative body before and many of them are being labelled as former warlords, power brokers, or as having ties to Afghanistan's old elite. Neither President Karzai nor the opposition leader Dr. Abdullah managed to secure a safe majority in the House.

8. The 2010 parliamentary elections, which were heavily funded by foreign governments, were regarded by the international community as legitimate. Nevertheless, it recognised that the electoral process was accompanied by widespread fraud. Allegations of ballot-box stuffing, citizens forced to cast their votes at gunpoint, corrupt election officials, and security forces complicit with corrupt candidates were raised especially in respect to the Southern regions, which are largely Pashtun. Thus, following the 2010 elections, the IEC inspected fraud, audited and recounted votes and referred suspicious or guilty candidates to the Election Complaints Commission (ECC). It audited and recounted votes from 38.39% of the 17,744 stations opened on polling day³ and ended up disqualifying almost one in ten of those who won seats in the elections (among the disqualified were a cousin of Hamid Karzai and seven previous MPs).

³ UN Secretary-General, *The Situation in Afghanistan and Its Implications for International Peace and Security*, (10 December 2010), Report of the Secretary-General, A/65/612-S/2010/630.

According to international observers, the IEC's performance has significantly improved over a short period of time in terms of increasing transparency and improving planning and procedures. The body held open meetings, published its decisions, and made polling stations results available to the public. It also dismissed 6,000 staff members who have been involved or connected to manipulations and fraud during the Presidential election of 2009 and had introduced a new recruiting system.⁴

9. In addition to the IEC, the ECC has also been praised for its increasingly relevant role. After preliminary results have been announced, the ECC obtained 5,860 complaints out of which 47% were serious allegations potentially affecting election results. The Commission disqualified 27 candidates mainly for fraud (in total 118 candidates were excluded for various reasons).

10. The 2010 elections results also significantly shifted ethnic representation in the *Wolesi Jirga*. Pashtuns have lost more than 20 seats due to low Pashtun turnout in the South and East, which was predominantly caused by insecurity as well as political fragmentation of the local Pashtun representation. In the new parliament, Pashtuns will hold 92⁵ out of 249 seats. The decrease of Pashtun representation in the future *Wolesi Jirga* has led to a disproportionately large number of seats being occupied by the Hazara minority. The increase in Hazara *Wolesi Jirga* representation is a reason for concern for President Karzai who is largely viewed as a representative of the Pashtun majority, which has a history of oppressing the Hazara minority.

2. Post-Election Developments

11. Despite the fact that according to the Afghan constitution and electoral law, the IEC and ECC are the only bodies which have legitimate jurisdiction over election results, two other actors came into play shortly after the elections. Two weeks after election results have been announced, the Attorney General's Office opened a number of its own investigations and secretly indicted all of the Afghan members of the two commissions on charges of fraud and abuse of power. The IEC considered this as a direct and illegal attempt to change election results.⁶

12. In addition, in December 2010 President Karzai at the request of the Supreme Court used his decree powers to establish a five-judge Special Election Tribunal, which would investigate allegations brought forward by unsuccessful candidates. The tribunal claimed that large-scale fraud has taken place during the September 2010 elections and pressured the President to postpone the new parliament's inauguration until the Tribunal reaches a verdict. The tribunal's legitimacy and legality has been questioned by all official election authorities as well as the election 'watchdog' Free and Fair Election Foundation of Afghanistan. Also, the opposition viewed the establishment of the Tribunal as a means for President Karzai to misuse his powers in order to annul or change election results in his and his allies' favour.

13. Under the pressure of the international community and domestic opposition, Karzai was eventually forced to inaugurate the parliament on 26 January 2011. Nevertheless, the Tribunal continued in its investigation and had allegedly recounted almost all of the country's 34 provinces.⁷ Consequently, in June, the Tribunal came to a conclusion that 62 sitting members of the parliament should be replaced. In reaction to the tribunal's decision, the parliament immediately voted for the removal of the Attorney General and six members of the Supreme Court for having

⁴ Office for Democratic Institutions and Human Rights (ODIHR), Organization for Security and Co-operation in Europe (OSCE), *Islamic Republic of Afghanistan: Parliamentary Elections, 18 September 2010* (Warsaw: OSCE/ODIHR, 26 November 2010), OSCE/ODIHR Election Support Team Report.

⁵ The number of seats allocated to Pashtuns ranges from 92 to 99.

⁶ UN Secretary-General, *The Situation in Afghanistan and Its Implications for International Peace and Security* (9 March 2011), Report of the Secretary-General, A/65/783-S/2011/120.

⁷ Dion Nissenbaum, "Afghan Legislators Pick Leader," *The Wall Street Journal*, 28 February 2011.

either endorsed or assisted the Tribunal. Shortly after, the Afghan political crisis deepened even further, when the parliament reportedly began considering impeaching President Karzai due to his alleged meddling with election results. Based on Afghan news reports, this crisis motivated MPs to start carrying firearms into sessions of the parliament, and has also resulted in physical assaults among MPs.⁸ At the time of writing, however, a compromise was emerging, whereby the President admitted that the IEC had a final say on the matter and disbanded the Tribunal. In response, the IEC announced the replacement of nine MPs. It remains to be seen if these decisions would lead to a settlement of the conflict as many parliamentarians insist that the removal of even nine MPs was unacceptable.⁹

14. The Parliament, however, is not the only branch of the government, which has been paralysed as a result of this political crisis. Nine months after the election, the permanent government is still not fully formed, and the executive and judicial powers are executed by a number of acting ministers and acting Supreme Court justices. The country is essentially ruled by presidential decrees.¹⁰ The Parliament had postponed its recess, and was on “silence strike” in protest against the failure of the government to submit nominations of officials for parliamentary approval.

15. During its visit to Afghanistan in June 2011, the NATO PA delegation also heard that the ratification of the US-Afghan agreement on long-term partnership was yet another issue of contention between the Afghan government and Parliament. The Parliament insists that only it had constitutional authority to ratify international treaties and rejects any suggestion that a traditional *Loya Jirga* could take over this function.

16. These clashes between the government, legislature, and the judiciary are bound to persist until the clear constitutional rules are established and followed. Otherwise, during any future elections in Afghanistan, candidates will be unlikely to respect the authority of an election commission whose decisions they know can be overruled by ad-hoc courts. Thus, it is essential for the executive to stop undermining the power of Afghan constitutional institutions and, in order to prevent similar crisis from repeating, the Afghan Parliament needs to make electoral reform its key priority.¹¹

3. Political parties

17. Afghanistan’s political parties could roughly be divided into political currents representing the country’s previous eras – the Islamists (for example Organisation for the Islamic Call of Afghanistan, National-Islamic Front of Afghanistan, Afghanistan National Liberation Front), the left and the ethnic nationalists (National United Party of Afghanistan or National Congress Party of Afghanistan), and ‘New Democratic Parties’ (NDPs, such as, Afghanistan Labour and Development Party, National Solidarity Party of Afghanistan’s Youth, or the Republican Party). There are three key dividing criteria, the first being their stance on Islam’s role in the government (secularism vs. Islamic State), the second is based on whether they have participated in the resistance against the Soviet-allied Afghan regime or were a part of it, and the third being their preference for federalism (mostly minority ethnic parties) and those who advocate centralism. The centre of the political spectrum, however, remains void.¹² Most parties’ internal organisation is

⁸ Jed Ober, “Karzai’s Court,” *AfPak Channel, Foreign Policy*, 7 July 2011, http://afpak.foreignpolicy.com/posts/2011/07/07/karzais_court.

⁹ Rod Nordland and Abdoul Waheed Wafa, “Seeking a Functioning Parliament, Afghan Panel Upends Vote Results,” *The New York Times*, 21 August 2011.

¹⁰ Alissa J. Rubin, “Brawl Erupts During Impeachment Talks in Afghan Parliament,” *The New York Times*, 5 July 2011.

¹¹ Ober, “Karzai’s Court.”

¹² Thomas Ruttig, *Islamists, Leftists – and a Void in the Center: Afghanistan’s Political Parties and where they come from (1902-2006)* (Kabul: Konrad Adenauer Stiftung, 2006).

top-down, lacking coherent strategy, and most parties rely on several top personalities within the party.¹³ Party programmes do not play a significant role and keep on repeating the main catchwords such as “independence”, “national unity”, or “democracy”.¹⁴ Article 35 of the Afghan Constitution prohibits parties to form “on the basis of tribalism, parochialism, language, as well as religious sectarianism” and the government fully supports this provision because minority ethnic groups are the best-organized anti-government groupings in the Parliament.¹⁵ Following the enactment of the new political party law in September 2009¹⁶ (which required parties to reregister) out of previously 110 registered parties, only five fulfilled the re-registration requirement allowing their candidates to run in the 2010 Parliamentary elections. All in all, out of approximately 2,500 candidates running for seats in the Parliament, only 31 ran for a particular party.

18. The NPDs have expressed their commitment to democratization, oppose fundamentalism, call for justice, and seek co-operation with the International Community. They are, however, facing three fundamental problems: they – the educated elite leadership cannot relate to the populous; NDPs lack internal democratic mechanisms; without having their own armed wings like the old parties, the security situation prevents them from campaigning in most of the country.¹⁷

19. Experts also note additional obstacles for the development of a robust party system in Afghanistan:

- During the decades of war in Afghanistan, political parties have often been held responsible for the conflict and associated with different ethnic, Communist or Islamist parties or factions.¹⁸ It is due to this legacy that today the government and the people either ignore political parties, oppose them being a part of the new Afghan democratic environment, or directly undermine their position.
- Afghanistan’s electoral system was built on the Single non-Transferable Vote system (SNTV). This system is not used in any democracy because it directly undermines political parties by not guaranteeing them a fair share of parliamentary seats. In a SNTV system, the majority of parliamentary seats do not automatically go to the party with the majority of votes, but the number of seats won depends on individual candidates’ performances within the party. As a result, usually individuals win votes for parties, not the other way around. In addition to that, the SNTV system significantly lengthens legislative procedures by having every MP represent and speak for him/herself. The government, including President Karzai, have systematically opposed changing the SNTV system based on the rationale that it protects the Parliament from dangerous political parties. The President’s antagonism towards political parties is understandable since the current system causes the fragmentation of the opposition and legislature.¹⁹
- There exists no tracking system of MPs voting records, which prevents the parties from consolidating connections between their members and to be held accountable by the party’s voters for their decisions.²⁰

¹³ Anna Larson, “Afghanistan’s New Democratic Parties: A Means to Organise Democratization?,” *Briefing Paper Series*, Afghanistan Research and Evaluation Unit (March 2009), also see footnote 12.

¹⁴ Ruttig, *Islamists, Leftists – and a Void in the Center: Afghanistan’s Political Parties and where they come from (1902-2006)*.

¹⁵ Larson, “Afghanistan’s New Democratic Parties: A Means to Organise Democratization?,” also see footnote 12.

¹⁶ The Political Parties Law prohibits political parties from opposing Islam, using force or instigating ethnic, racial, religious or regional discrimination, infringing rights and freedoms of citizens, disrupting public order and security, affiliating with military or armed organizations, and from receiving funds from foreign sources.

¹⁷ Ashley Elliot, *Political Party Development in Afghanistan: Challenges and Opportunities* (Washington, DC: School of Advanced International Studies (SAIS), Spring 2009).

¹⁸ Elliot, *Political Party Development in Afghanistan: Challenges and Opportunities*.

¹⁹ Elliot, *Political Party Development in Afghanistan: Challenges and Opportunities*.

²⁰ Larson, “Afghanistan’s New Democratic Parties: A Means to Organise Democratization?”

20. Weaknesses that Afghan political parties have to face under current political arrangements and legislation are further destabilising the already fragile Afghan democracy. The international community's pressure for change is key to reforming the current state of affairs in relation to political parties. Namely it needs to exert pressure on the government and the president, provide funding, and train political parties' representatives. In respect to ethnic and religious representation, recognising that Afghanistan is composed of different group identities and giving them a voice in the parliament might be less dangerous than suppressing them. Afghanistan's parties, and especially NDPs, have to expand their membership and capacity and send out a clear message about their mission. They must find common interests and create coalitions in order to compete with the more conservative older parties. Parties should also increase their public activities by, for instance, encouraging voter registration and organising their own civic awareness activities. The government should remove restrictions on registering, provide government funds for legitimate political party activities in order to reduce corruption, implement a country-wide political party education programme, and proscribe parties with links to armed factions.²¹ Most of all, however, it is necessary to replace the SNTV system with some form of proportional representation or party list system, which would encourage party development.²²

B. JUDICIAL BRANCH

21. The latest International Crisis Group Report on the Afghan justice system describes it as being "in a catastrophic state of disrepair" due to the majority of Afghans having no or extremely limited access to justice institutions, which are either dramatically understaffed or simply inoperable. The staff is suffering from lack of training and low salaries,²³ which only drives those working in the sector away and corruption continues to dominate the judiciary. The quality of capacity-building programmes for judges and attorneys as well as training programmes for the police are not being monitored or assessed. Prisons, which are under the Ministry of Justice jurisdiction, have been reformed to meet humanitarian standards, but many still house innocent prisoners, including hundreds of women jailed for "moral crimes", which are not a part of Afghan law.²⁴ One of the commendable examples of international assistance is the June 2011 decision of NATO Defence Ministers to establish a rule of law field mission, which will be tasked with providing enablers – such as transport, communications, and security – for judges and prosecutors to perform their function.

22. It is estimated that up to 80% of all disputes, both civil and criminal, are being dealt with through traditional dispute resolution mechanisms, which represent a mixture of customary law and Sharia law. These tribal and community councils (also known as *shuras* or *jirgas*) have operated in Afghanistan for centuries and are composed of community elders and other respected members of the community. Most cases adjudicated by the council's are civil – family, water, land, community – disputes.²⁵ Such form of traditional justice is employed all around Afghanistan but remains mostly popular in areas under insurgent control where state nor traditional systems do not work. Some refer to these justice mechanisms also as "Taliban justice" due to the fact, that in many provinces transitional justice mechanisms would be operated by members of the Taliban or Taliban-associates.²⁶

²¹ Elliot, *Political Party Development in Afghanistan: Challenges and Opportunities*.

²² Larson, "Afghanistan's New Democratic Parties: A Means to Organise Democratisation?"

²³ The Assembly delegation visiting Afghanistan in June 2011 was told judges and prosecutors receive roughly \$75 per month or half the level of police salaries.

²⁴ Nader Nadery, "Getting Serious About Justice," *Parliamentary Brief Online*, 23 July 2010, <http://www.parliamentarybrief.com/2010/07/getting-serious-about-justice>.

²⁵ Elizabeth Lee Walker, *Culturally-Attuned Governance and Justice in Helmand Province* (St. Petersburg, Florida: International Media Ventures, April 2010).

²⁶ John Dempsey and Noah Coburn, "Traditional Dispute Resolution and Stability in Afghanistan," *Peace Brief*, no. 10, US Institute of Peace (February 2010).

23. Not all traditional justice mechanisms are under Taliban control. Proponents of traditional justice argue that these mechanisms offer a functioning alternative to the currently weak state justice system.²⁷ In addition to that, the population is familiar with them. They are less costly, much faster, and more accessible than courts.²⁸ Nevertheless, community trials (even those not necessarily connected to the Taliban) have been a matter of public dispute among Afghans as well as international community representatives. Their opponents argue that they only confuse and interfere into the process of building a formal judicial system. They are also accused of violating human rights because of their exclusive male membership and for basing their decisions on local customs and interpretations of Islamic law. Thus, women, the poor, and individuals disadvantaged by family or tribal affiliation have known to be treated unequally.²⁹ Having said that, a recent study of the Afghanistan Research and Evaluation Unit suggests that in more stable areas, serious crimes are being increasingly referred to official state courts. This indicates that formal justice systems are gradually earning public legitimacy.³⁰

24. Thus, the Afghan government and international community must set the rule of law as one of its key priorities and as part of its counter-insurgency strategy - protect rights as much as they try to protect life. Because only the creation of a functioning and democratic judicial system and support for legal education, case management, data collection and legal aid will ensure long-term stability in Afghanistan.³¹ Working with Afghans, however, to address needs in line with their own traditions is also necessary for this process to succeed.

C. LOCAL GOVERNANCE CHALLENGES

25. The constitution defines Afghanistan as a unitary and highly centralised state and tasks its government with “preserving the principles of centralism”. The country is divided into 34 provinces and approximately 400 districts. The president appoints provincial and district governors, whereas members of provincial, district, village and municipal councils are chosen in direct elections. These provincial and district councils can exert significant influence over legislative affairs at the central level due to their power to select members of the Upper House of the Parliament. Elections have so far only been held for provincial councils in 2005 and 2009. In 2010 President Karzai announced plans to hold district council elections nationwide in the spring of 2011. Nevertheless, district nor municipal elections have not been announced to this date (there have been continuous conflicts over the issue of delimitating district boundaries).

26. Over the decade, however, the situation concerning local governance has been slowly improving. In 2007, the Independent Directorate of Local Governance (IDLG) has been established and assigned with vetting all key candidates for local offices. NATO officials told the Assembly delegation visiting Afghanistan in June 2011 that 75% of deputy provincial governors would have been appointed based on merit by the end of 2011.

27. As a part of the National Solidarity Programme (NSP), voluntary elected Community Development Councils (CDCs) have been established. Their role is to set development priorities for the respective community (based on local consultation) and to apply for funding from the national development fund. In March 2007 more than 16,000 CDCs had been established as a

²⁷ Carolyn Dubay, “Rule of Law Reform in Afghanistan and the Improvement of Women’s Rights,” *International Judicial Monitor* (Summer 2010).

²⁸ Dempsey and Coburn, “Traditional Dispute Resolution and Stability in Afghanistan.”

²⁹ Nadery, “Getting Serious About Justice.”

³⁰ Douglas Saltmarshe and Abhilash Medhi, *Local Governance in Afghanistan – A View from the Ground* (Kabul: Afghanistan Research and Evaluation Unit, June 2011).

³¹ International Crisis Group, “Reforming Afghanistan’s Broken Judiciary,” *Asia Report*, no. 195 (November 2010).

part of this program.³² And a total of 30,000 are planned to be set up. Overall, the NSP has been considered fiscally efficient and effective.³³

28. Another step on the way to improving local governance is the 2010-2014 Sub-National Governance Policy (SNGP) adopted in 2010. This policy aims to strengthen provincial councils' oversight powers and empower them to approve provincial development plans and provincial budgets before their submission to the central government. Nevertheless, the Policy's results on-the-ground are yet to be seen and critics already consider it too modest of a policy when it comes to decentralising power in Afghanistan and they argue, that Kabul continues to hold all policy, budgetary, and revenue-generating authority.³⁴

29. Despite all these developments, Afghan local governance still faces some key challenges. IDLG, with its direct links to the President's office, remains a highly politicised institution, and its methods tend to reinforce rather than reduce central control.³⁵ The local councils' powers are very limited and ill-defined, they have very limited control over local budgets and thus cannot fulfil their roles of local decision-making bodies adequately. In addition to that, local authorities continuously compete with other parallel structures at the local level, such as the traditional *shuras* and *jirgas*, the CDCs (whose role will need to be redefined once elected local councils are finally formed), or Taliban-sponsored institutions and alternative justice systems. Local authorities also lack adequate capacity and resources, which could be attained by diverting resources away from the Taliban's taxation scheme towards a legal taxation system of the local authorities.

30. Many governors and other local officials appointed by Karzai have based their rule on their local security and economic power network, which operate outside the law but with the implicit acceptance of Kabul. In some provinces (Balkh and Nangarhar), this approach has brought about relative peace and decrease in poppy cultivation. In other areas, however, strongmen have caused instability. In Helmand, for example, several years of corrupt rule by Sher Mohammad Akhundzada alienated significant groups in the province and sent poppy cultivation soaring, fuelling the insurgency.

31. It is possible that increased local autonomy could win over Afghans who distrust distant Kabul. The responsibility for internal security, however, should remain with the central government, which would prevent even the more autonomous territories from supporting and hosting terrorism or lending support to insurgency.

D. TRAINING AFGHAN CIVIL SERVANTS

32. The depletion of human resources as a result of three decade-long conflict is a major problem for the country's administrative capacity, on both national and sub-national levels. According to UNDP, less than 10% of Afghan civil servants have higher (post-secondary) school diplomas. Sixty per cent of civil servants are approaching the retirement age.³⁶ In addition, the salary levels in the public service remain unattractive (about \$200 per month, on the average).³⁷

³² Eldis, *Community Development Councils in Afghanistan – Implementation and Impacts* (April 2009), <http://www.eldis.org/id21ext/s8chn1g1.html>.

³³ Stephen Biddle, Fotini Christia and J. Alexander Thier, "Defining Success in Afghanistan," *Foreign Affairs* (July-August 2010).

³⁴ Biddle, Christia and Thier, "Defining Success in Afghanistan;" also based on NATO PA, "Challenges to Afghan Governance," *Report of the Committee on the Civil Dimension of Security* (2010), [209 CDS 10 E rev 1].

³⁵ Saltmarshe and Medhi, *Local Governance in Afghanistan – A View from the Ground*.

³⁶ United Nations Development Programme (UNDP), *Outcome of the Conference on Public Sector Capacity Development Assistance in Afghanistan* (Kabul: UNDP, April 2009).

³⁷ Kenneth Katzman, "Afghanistan: Politics, Elections and Government Performance," *CRS Report for Congress*, RS21922, Congressional Research Service (21 January 2011).

33. As a result, there is a severe lack of adequately qualified, motivated and honest bureaucrats who could implement state's policies on the ground and to provide leadership and initiative in local communities. In addition, the government finds it very difficult even to fill all administrative positions, particularly in the least secure regions: for instance, less than one-third of all positions in the province of Kandahar and Kandahar City government are filled. The situation in the neighbouring Helmand province is similar and thus international experts and officials are often forced to perform administrative functions.³⁸

34. A number of programs have been put in place to address this problem, mostly in the form of substantial international assistance to Afghan institutions such the Independent Administrative Reform and Civil Service Commission. For instance, UNDP, one of the key contributors in this area, sponsors the 3-year National Institution Building Project (NIBP), launched in January 2010 to replace two previous UNDP projects. NIBP is designed to build the organisational capacity at the national and sub-national level as well as strengthening the capacity of the Afghanistan Civil Service Institute. The cost of the project is \$115 million, but so far only about \$9 million were allocated or pledged by donors.³⁹

35. Without adequate funding, according to Paul D. Miller, Director for Afghanistan in the US National Security Council from 2007-09, "the international community was effectively asking Afghans with no shoes to lift themselves up by their bootstraps".⁴⁰ Although as of 2006, the international community roughly doubled its financial support to Afghan administrative and judicial capacity building, it still remain disproportionately low comparing to other areas of international engagement. For instance, one of the key donors the United States has spent \$85 million to programmes dedicated to the training and development of Afghan civil servants in 2010,⁴¹ while on ANSF training alone the US spends more than \$1 billion per month.

36. On the positive side, the international community and the Afghan authorities are trying to think creatively and do their utmost with the resources available. For instance, the Afghan Expatriate Program brought well-qualified Afghan expatriates to serve as senior advisors. In the Ghor province, high school graduates were invited to join the government offices for a certain period as apprentices. Civil servant training agencies also developed close co-operation with Asian partners in India, Japan and Singapore. Achievements also include improved technical capabilities, at least on the central government level: most ministries are equipped with computers and other communication systems.⁴²

III. ANTI-CORRUPTION POLICIES

37. The most startling feature of the corruption debate in Afghanistan is the mismatch between the words and the deeds. Corruption is increasingly being acknowledged as the single most important problem facing Afghanistan, undermining efforts in the fields of security, development and governance. Fifty nine per cent of Afghans believe that corruption and public dishonesty is the nation's number one concern, surpassing even insecurity (54%) and unemployment (52%). President Karzai declared the fight against corruption as his key priority for his second term in office. Anti-corruption measures featured prominently at the 2010 London and Kabul conferences. President Obama also made anti-corruption one of the most prominent themes on his Afghanistan

³⁸ Katzman, "Afghanistan: Politics, Elections and Government Performance."

³⁹ UNDP, *National Institution Building Project (NIBP)* (April 2010), http://www.undp.org.af/whoweare/undpinafghanistan/Projects/sbgs/prj_nibp.htm.

⁴⁰ Paul D. Miller, "Finish the Job: How the War in Afghanistan Can Be Won," *Foreign Affairs* (January/February 2011).

⁴¹ Katzman, "Afghanistan: Politics, Elections and Government Performance."

⁴² Katzman, "Afghanistan: Politics, Elections and Government Performance."

agenda. Senator Kerry, chairman of the US Senate Foreign Relations Committee, asserted that many US legislators view corruption and poor governance as a far more important problem than the failure to achieve military victory against the insurgency.⁴³

38. The overwhelming nature of corruption that permeates all levels of the Afghan government and society is difficult to overstate. It is estimated that some \$2,5 billion in bribes were paid out in Afghanistan over a one-year period, which amounts to almost a quarter of the country's GDP. Corruption is widespread among the Afghan political elite, including senior government officials and members of Parliament: surveys show that in 40% of their encounters with senior politicians the Afghans were requested to pay a bribe.⁴⁴

39. Corruption is fuelling insurgency not only through leakage of financial resources to the wrong hands and paying off rogue groups for security, but also through eroding the legitimacy of the Karzai's administration, which is compared with the allegedly corruption-free Taliban regime. According to public opinion surveys, corruption is cited as the main argument of those who believe that the country is moving in the wrong direction.⁴⁵ It is clear that without a substantial breakthrough in this field, one cannot expect to achieve sustainable success in Afghanistan.

40. It is often suggested that bribery and nepotism are deeply entrenched in the Afghan society and that it is practically impossible to eradicate the culture of "baksheesh". Indeed, only 9% of the urban population has ever reported a corruption-related incident to the authorities, despite the fact that Afghans experience dishonesty almost on daily basis. That said, the recent surveys show that the attitude towards corruption is changing in the Afghan society, and the people want to see concrete action from their government tackling this formidable challenge.

41. Unfortunately, the actual achievements are unimpressive, despite a number of projects and initiatives launched in this area. The lack of progress is related to the fact that while pursuing its anti-corruption policies the government of Afghanistan has to consider the potential trade-offs. The current constitutional arrangement of Afghanistan, coupled with the tradition of tribalism, implies the existence of the overly centralised and yet weak hierarchical structure, wherein the central authority depends heavily on regional power brokers and is forced to tolerate their dishonesty in return for loyalty. The regional and local leaders, on the other hand, are directly appointed by the president; they are not accountable before their constituents and remain in power thanks to their ties with the people associated with the central government. This system creates favourable preconditions for corruption and makes it very difficult to defeat it because the trade-off of prosecuting corrupt officials is the possible loss of control over a region and increased insecurity.

42. The international community is providing mentors and financial and technological support to Afghan anti-corruption institutions. Further strengthening these institutions rather than establishing new ones is key. On a policy level, the High Office of Oversight for Anti-Corruption was established in 2008, and is widely praised as a pro-active and audacious body. Its achievements include simplification of certain administrative procedures (such as car registration, that create preconditions for bribery); establishing a hotline to report corruption incidents; pressing for implementation of legal norms requiring high-ranking officials to declare their income and assets; as well as conducting wide public awareness campaigns.⁴⁶

⁴³ Karen DeYoung and Joshua Partlow, "Congress Growing More Wary about Corruption in Afghanistan, Sen. Kerry Says," *The Washington Post*, 15 August 2010.

⁴⁴ United Nations Office on Drugs and Crime (UNODC), *Corruption in Afghanistan: Bribery as Reported by Victims*, (Kabul: UNODC, January 2010).

⁴⁵ The Asia Foundation, *Afghanistan in 2010: A Survey of the Afghan People* (San Francisco: The Asia Foundation, November 2010).

⁴⁶ The Asia Foundation, *Afghanistan* (2011), <http://asiafoundation.org/country/overview/afghanistan>.

43. On the operative level, the Major Crimes Task Force (MCTF) and Special Investigative Unit (SIU) are the most renowned of the anti-corruption institutions and are well-equipped to address the corruption cases, including those leading to the highest ranks of the government. Trained using Western methods and employing state-of-the-art technologies (such as wiretaps), these two FBI-type units are investigating hundreds of high-profile corruption cases and their actions led to arrests of more than 50 people, 10 of them high-ranking officials.

44. However, the zeal of anti-corruption agencies met with considerable discontent on the part of the country's political leadership, particularly when one of President Karzai's top aides, Mohammed Zia Salehi, was detained for soliciting bribes based on the information collected by these agencies. The President intervened facilitating the release of his aid, and accused the MCTF and SIU of violating the laws and the Constitution of Afghanistan and being a tool of foreign powers. It was feared that the administration could abolish these units altogether. This did not happen, but the incident has poisoned the relationship between President Karzai and his Western counterparts; and had a negative impact on the climate for co-operation, impeding progress in the field of anti-corruption. "Bad blood" between the President and the West is also caused by other allegations of corruption in his inner circle, including against his brother Mahmoud Karzai and half brother Ahmad Wali Karzai, as well as Mohammad Haseen who is the brother of the First Vice president Mohammad Quasim Fahim.

45. The international community must understand the dilemma the Afghan leadership is facing and refrain from cornering President Karzai. At the same time, however, the international community must continue to apply reasonable pressure on the Government of the Islamic Republic of Afghanistan (GIROA) to demonstrate steady progress in the area of anti-corruption, gradually replacing and even prosecuting dishonest officials. The Rapporteur does not share the view that one should focus exclusively on low-level corruption – that allegedly irritates the people most. Opinion surveys actually show that people are more concerned about the nation-wide rather than petty corruption.⁴⁷ Therefore, occasional prosecution of high-level corrupt official would send a strong positive signal to the Afghan society.

46. The international community needs to step up its assistance to Afghanistan in terms of reinforcing anti-corruption institutions, strengthening legislative oversight and building investigation, prosecution and judicial capacity. It should also revisit its project contracting and sub-contracting policies, because the money that fuels corruption mostly comes from abroad. In more specific terms, the UN Office on Drugs and Crime (UNODC) has come up with a number of concrete proposals that include the following:

- The vetting of officials must be pursued using polygraph technology;
- The implementation of norms requiring disclosure of incomes and assets by high-ranking officials and politicians must be ensured;
- Administrative and public services procedures must be further simplified and made more transparent and user-friendly;
- Full transparency in public procurement and tendering processes as well as political campaigns must be ensured;
- The media and civil society institutions need to be supported to become more involved in disclosing and fighting the cases of corruption;
- Salary levels should be increased whenever possible for public servants to discourage bribery;

⁴⁷ According to the Asia Foundation survey, 50% of Afghans say that corruption is a major problem for their neighborhood, 56% say corruption is a major problem in local authorities, 65% say this about their provincial government and 76% say corruption is a major problem for the country as a whole.

- The proceeds of crime must be confiscated. Measures must be taken by international community to implement the UN Convention as well as the World Bank/UNODC Stolen Asset Initiative against legitimization of corrupt monies in foreign banks.

47. The Afghan government is reportedly drafting new anti-corruption and auditing laws. The Rapporteur hopes that this package will include some of the abovementioned measures. While it is hardly realistic to expect complete eradication of corruption in the country, the real achievement would be reducing it to the level where it stops fuelling the insurgency.

IV. COUNTER-NARCOTICS AND ALTERNATIVE LIVELIHOODS

48. The link between narcotics production and governance is undeniable: the rapid expansion of poppy production in the aftermath of the downfall of the Taliban in 2001 (tenfold increase between 2001-2002) helped to create powerful and wealthy regional elite that was disloyal to Kabul and reluctant to co-operate with the international community. Drug trafficking constitutes approximately 30% of Afghanistan's GDP.⁴⁸ In 2010, total opium cultivation remained the same as in 2009 – 123,000 hectares. In terms of total opium production, however, the amount had decreased in 2010 by 48% due to an opium disease, which had spread throughout the main opium cultivation regions – Helmand and Kandahar. Despite this decrease in actual opium production, the total farm-gate income had increased from \$438 million in 2009 to \$604 million in 2010.⁴⁹ According to the Executive Director of the UNODC in Afghanistan, this is due to the fact that opium prices have dramatically increased over the past months. This increase in opium prices in combination with a decrease in wheat prices is dangerous, because it encourages farmers to either launch or increase their current level of opium cultivation. This increase in price of opium might result in increased surface planting of poppies throughout 2011.⁵⁰ According to UNODC in order to prevent this, international assistance needs to be enhanced and alternative livelihoods need to be made available.

49. In June 2009, the late US Special Representative to Afghanistan and Pakistan, Richard Holbrooke, announced the “phasing out” of eradication measures from US counter-narcotic strategy. This was due to the fact that by eradicating the farmers' sole source of living and not replacing it with licit income would only make former poppy cultivators turn to or directly join insurgency groups. Since then, primary focus has been put on providing farmers with alternative crops, investment into judicial, public awareness campaigns, and economic assistance.⁵¹ Eradication policies were not completely abandoned, however: while the centrally-led eradication unit Poppy Eradication Force has stopped its activity (partly due to the withdrawal of the US support), the Governor-Led Eradication Programme continues to function. Its efficiency, however, has also slightly diminished in recent years due to the security situation in some provinces. Overall, the number of hectares eradicated in 2010 fell by 57% comparing to the previous year.⁵²

⁴⁸ Senate Caucus on International Narcotics Control, *U.S. Counternarcotics Strategy in Afghanistan*, (Washington, DC: United States Senate, July 2010).

⁴⁹ United Nations Office for Drugs and Crime (UNODC), *Afghanistan Opium Survey 2010: Summary Findings* (Kabul: UNODC Country Team, September 2010).

⁵⁰ On the positive side, the UNODC Rapid Assessment Survey, published in the beginning of 2011 (UNODC, *Afghanistan Opium Survey 2011: Winter Rapid Assessment All Regions, Phases 1 and 2*, (Vienna: UNODC, April 2011)), predicts that the overall cultivation will not increase, or possibly even decrease slightly, in 2011, despite rising opium prices.

⁵¹ Senate Caucus on International Narcotics Control, *U.S. Counternarcotics Strategy in Afghanistan*.

⁵² Bureau Of International Narcotics And Law Enforcement Affairs, United States Department of State, *2011 Narcotics Control Strategy Report* (Washington, DC: United States Department of State, 3 March 2011).

50. Since 2008, the Helmand Food Zone Programme, a programme designed to assist farmers in switching from growing poppy to legal crops, has introduced a more comprehensive strategy than ever and received support from a variety of Afghan ministries. Farmers received diverse agricultural inputs (including wheat seeds and fertilisers), a targeted eradication campaign was executed, which targeted only those who had access to alternative livelihoods, markets and to good agricultural land. As a result, almost 50,000 farmers will benefit from this program in 2011 and some 150,000 have taken part in the programme since its launch.⁵³ These programs were, however, carried out mainly in the central part of Helmand, which is considered one of the more secure parts of the province. Reaching farmers in localities such as Sangin is much more difficult.⁵⁴

51. The US National Intelligence Director James Clapper, however, is more sceptical about the success of alternative livelihood programs. According to him, in 2011 these programmes will not significantly discourage Afghan farmers from poppy cultivation especially due to the fact that the lack of security prevents effective implementation of these programmes.⁵⁵

52. The Rapporteur is convinced, however, that the International Security Assistance Force (ISAF) nations should further support efforts in this area, particularly by contributing qualified civilian agricultural experts to Provincial Reconstruction Teams (PRTs). In addition to that, it is important to spread efforts across all regions, rather than focus excessively on problematic regions. Also preference should rather be given to long-term projects promoting structural change and job creation than to short-term cash-for-work programmes. Before alternative livelihoods become available and profitable for Afghan farmers, non-orthodox short-term counter narcotics projects should be considered. One example of such projects is the Poppy for Medicine (P4M) Pilot Project, which aims to verify, whether legal production of opium-based medicines would be a realistic short-term option for Afghanistan. The pilot project was to be introduced in the first half of 2011.⁵⁶ It goes without saying, however, that licit opium production should be handled with extreme care to prevent the abuse, particularly given the level of corruption in Afghanistan.

V. PROMOTING RECONCILIATION AND REINTEGRATION

53. Afghan reconciliation⁵⁷ and reintegration⁵⁸ is obviously an issue of paramount importance for the whole Afghanistan stabilisation and reconstruction mission, particularly when it comes to enhancing the security situation and ending the counter-insurgency campaign. However, the process of reconciliation and reintegration also has direct implications for the governance sector for its goal is to increase the legitimacy of the Afghan government and to bring all Afghan ethnic, political and ideological groupings into one political and constitutional framework. Once various groupings in Afghan begin using the existing constitutional structures and procedures rather than armed struggle, the international mission in Afghanistan would be largely over.

⁵³ United Kingdom Stabilisation Unit, *Eighteen Months in Helmand: Complexities, challenges and (No) Complacency* (11 January 2011), <http://ukun.fco.gov.uk/en/news/?view=News&id=532380882>.

⁵⁴ Charlotte Cross, "Afghanistan's Opium Trade," *British Forces News*, 26 August 2010, <http://bfbs.com/news/afghanistan/afghanistans-opium-trade-38538.html>.

⁵⁵ Anna Mulrine, "Who is Winning Afghanistan War? US Officials Increasingly Disagree", *The Christian Science Monitor*, 16 March 2011.

⁵⁶ The International Council on Security and Development (ICOS), *Afghanistan Transition: Dangers of a Summer Drawdown* (London: ICOS, February 2011).

⁵⁷ Reconciliation refers to a political dialogue designed to reach a political accommodation between the Karzai government and the insurgency leaders.

⁵⁸ Reintegration refers to efforts to persuade Taliban foot soldiers to abandon the insurgency and to return to civilian life.

54. In terms of reconciliation with the insurgency leaders, in broader sense the idea is widely welcomed. It is also agreed that the process must be Afghan-led. However, the views differ as to the conditions upon which the process would be based. President Karzai appears to be prepared to make significant concessions towards the Taliban. Reconciliation was identified as one of his key priorities in his inaugural speech in 2009. The President publicly used the term “dear Talib brothers” and urged the international community to take out the names of prominent insurgency leaders from the UN “black list”. He is also advocating a release of many detained insurgents from Afghan prisons and frequently uses rhetoric designed to show his determination to limit foreign influence in Afghanistan. The reconciliation efforts enjoy a wide domestic support: according to opinion polls, more than 80% of Afghans support the government’s attempts to seek reconciliation with armed anti-government elements.⁵⁹

55. The nations of ISAF as well as most non-Pashtun Afghan leaders base their support for reconciliation on a number of pre-conditions, most importantly, on the Taliban’s willingness to renounce violence and to accept universal human rights, particularly the rights of women. The insurgency groups are also expected to cut off ties with al-Qaeda and to embrace the Constitution of Afghanistan.⁶⁰ Many believe that the ongoing counterinsurgency campaign does not contradict the reconciliation process. On the contrary, it is expected that finding themselves under the increasing military pressure the insurgents will be more inclined to negotiate. Nevertheless, as the military campaign has yet to produce convincing results demonstrating success, the number of voices calling for dialogue with the Taliban is growing, including in Western countries. The UK Parliament has recently produced a report, authored by Richard Ottaway, chairman of the Foreign Affairs Committee, which stated that counterinsurgency measures are not working in Afghanistan and therefore argued in favour of bringing the Taliban to the negotiation table. US Special Representative for Afghanistan and Pakistan Ambassador Marc Grossman acknowledged that “reconciliation was a way forward in Afghanistan”.

56. The efforts to reach out to the Taliban have so far been largely futile, mainly because their leadership insist on the withdrawal of foreign forces from Afghanistan as a precondition for talks to start. The Taliban as well as the Hezb-i-Islami and other insurgency groups boycotted the National Consultative Peace Jirga (NCPJ) convened by President Karzai in Kabul on 2-4 June 2010 as an attempt to bring together representatives of all regions and factions of the Afghan society. The High Peace Council (HPC), established by the President in October 2010 and led by the former Afghan President Burhanuddin Rabbani, was designed to legitimise and make transparent the contacts with the Taliban. It has yet to demonstrate tangible progress domestically, despite the fact that provincial peace councils were established in all regions of the country. On the positive side, the Council’s foreign relations endeavours met with notable success: the Council reached an agreement with Pakistan to hold a joint peace *jirga*; while the Iran’s Permanent Representative to the UN Mohammad Khazaei has saluted the establishment of the Council and announced readiness of Iran to host the its meetings that would include all Afghan political factions. The NATO PA delegation that visited Afghanistan in June 2011 heard that the role of the HPC is growing, but its representative character is being increasingly challenged. Some ethnic and political groups as well as women representatives are concerned that the efforts of the HPC and the parallel efforts by the President might result in excessive concessions to certain groups. This, in turn, might risk antagonising others, jeopardising Afghanistan’s fragile ethnic and political balance as well as limiting the rights of women.

57. In terms of reintegration of insurgents, an ambitious Afghanistan Peace and Reintegration Program (APRP) was launched in 2010. It is led by the Afghan government and supported by ISAF and other international actors. The programme is based on a premise that more than 80%

⁵⁹ The Asia Foundation, *Afghanistan in 2010: A Survey of the Afghan People*.

⁶⁰ These preconditions, however, should be seen as end-state conditions rather than prerequisites for talks to commence.

of insurgents are not fanatical ideological jihadists and can be reintegrated. Therefore, it offers incentives to fighters to return to normal life in their communities (the programme offers political, not criminal amnesty). As long as their practical economic, social and personal security needs are met and they accept basic human rights, the reintegration is possible. In return, they agree to refrain from combat and support the Afghan national constitution. Insurgent groups started joining the peace process in August 2010. Today, APRP reintegration is taking place in 16 provinces and is soon to be introduced in five to eight additional provinces.

58. APRP is not the first attempt to redirect insurgents to peaceful activities: it succeeded the 'Peace Through Strength' Programme which achieved little, mainly due to the lack of proper funding and personnel.⁶¹ APRP is apparently a much more promising endeavour. Firstly, its budget might reach more than \$230 million based on pledges from several nations, including Japan, the United States, the United Kingdom, Australia and Germany. It also pays much more attention to cultural factors and specificity of each local community. Although still a very young programme, APRP has achieved rather good results. According to Gen. Petraeus, ISAF Commander, approximately 700 insurgents went through all the procedures envisaged by the programme and have been re-integrated while roughly 2,000 are at various stages of the process. He also estimated that several thousands of fighters have left the insurgency and resettled in their villages without formally participating in the programme.⁶² According to APRP, by mid-June 2011 the Afghan government was reportedly negotiating with another 40-50 groups of insurgents representing up to about 2,000 fighters.⁶³

59. Nevertheless, a number of challenges remain: the awareness is limited among the Afghans about the programme and its incentives; insurgents often are unaware who the responsible persons to be contacted are; security of reintegrees is not always assured; there were cases when people would join the programme merely to profit from it economically only to join the insurgency again later.

60. In order for the reintegration effort to succeed, it is extremely important to understand the mentality of Afghan people. As noted, APRP has substantial budgetary means, but simply buying off insurgents is hardly a durable solution. Firstly, a cash-for-peace scheme is almost impossible to administer in conflict zones.⁶⁴ Secondly, experts such as Waliullah Rahmani, Executive Director of Kabul Center for Strategic Studies, argue that buying the insurgents' loyalty is the wrong approach because the Pashtuns in particular consider it shameful to accept donations. Instead, Rahmani suggests creating a system of short term loans that would help the Afghans to finance their enterprises. Such schemes would welcome in every community.⁶⁵

61. In the context of this report, it is also important to note that one of the key challenges to reconciliation and reintegration is the weakness and inefficiency of the administrative institutions. Interviews with local population in one of the eastern regions conducted in 2010 show that if government institutions remain corrupt and weak as they are, no insurgent would be interested in talking to them, and, in fact, those who are brought in, would soon be inclined to rejoin the insurgency.⁶⁶

⁶¹ Heinrich Böll Stiftung, *Afghanistan: Reconciliation and Reintegration in Loya Paktia* (January 2011), <http://www.boell.de/worldwide/asia/asia-reconciliation-and-reintegration-in-loya-paktia-10925.html>.

⁶² General David Petraeus, *Speech at the Royal United Services Institute (RUSI)*, London (23 March 2011).

⁶³ ISAF, *Afghanistan Peace and Reintegration Program* (June 2011), <http://www.isaf.nato.int/article/focus/afghanistan-peace-and-reconciliation-program.html>.

⁶⁴ Fabrice Pothier, "Afghanistan: Shifting from a State of War to a Political State," in ed. European Security Forum, Working Paper (The Political Future of Afghanistan), No. 34 (October 2010).

⁶⁵ Rahmani Waliullah, "Afghanistan's Political-Military Crises and Future Prospects," in ed. European Security Forum, Working Paper (The Political Future of Afghanistan), No. 34 (October 2010).

⁶⁶ Heinrich Böll Stiftung, *Afghanistan: Reconciliation and Reintegration in Loya Paktia*.

VI. BUILDING CIVIL SOCIETY IN AFGHANISTAN

“The three great evils Afghanistan has faced in its history are communism, terrorism, and NGO-ism.”⁶⁷

President Hamid Karzai

A. CIVIL SOCIETY ORGANISATIONS (CSOs)

62. Despite the Afghan sense of community being shattered by decades of conflict, overthrow of the Taliban in December 2001 marked the launch of development and humanitarian aid programmes provided by international NGOs as well as the emergence of an Afghan-bred civil society.⁶⁸ Professional associations such as the Afghan Lawyers’ Association and trade associations were re-established, study groups and intellectual associations, and different women’s organisations began to mushroom.⁶⁹ According to Elizabeth Winter, who has conducted extensive field research on Afghan civil society, in comparison to “...similar countries, Afghanistan has a rich and diverse array of civil society groups that take collective action on shared interests and values.”⁷⁰

63. The civil society’s relation to other major power-holders in Afghanistan is, however, under-developed. This is predominantly because political and ideological struggles, which Afghanistan has been a part of for decades, have politicised aid assistance. Due to their performance during the civil war and the Cold War, the current Afghan government and the public considers NGOs as a part of the process of Western expansionism, which wants to take control over the Afghan society and undermine government’s activities.⁷¹

64. Humanitarian and development NGOs are probably the most visible representatives of today’s civil society in Afghanistan. They primarily focus on the development of local communities, civil society empowerment, human rights and assistance to women and women’s rights, health care, education systems, reintegration, and training governmental officials, to name but a few.⁷² Their number has increased from 46 registered international NGOs in 1999 to some 2,000 international and Afghan NGOs and private sector agencies in 2003.⁷³ Currently, NGOs operate under the 2005 Law on NGOs, which, despite having significantly changed their status, still contains problematic provisions complicating the NGO-government relationship. For example, it

⁶⁷ David Moore, “Civil Society Law Reform in Afghanistan,” *The International Journal of Not-for-Profit Law*, vol. 8, no. 1 (November 2005).

⁶⁸ Until today, there has not been a generally-accepted definition of the term ‘Afghan civil society’. In this report, CSOs are all organisations, which form the Afghan civil society: Afghan and international nongovernmental organisations (NGOs), media, human rights organisations, tribal elders and religious leaders, other social, ethnic, religious, women, youth, art groups and trade unions.

⁶⁹ Jude Howell and Jeremy Lind, “Civil Society with Guns is Not Civil Society: Aid, Security and Civil Society in Afghanistan,” *Non-Governmental Public Action Working Paper Series* (London School of Economics and Political Science), no. 24 (July 2008).

⁷⁰ Elizabeth Winter, *Civil Society Development in Afghanistan* (London: London School of Economics and Political Science, June 2010). (The study was conducted in urban as well as rural areas: Kabul, Farza, and the Ghor region).

⁷¹ Šárka Waisová, “Post-war Reconstruction in Afghanistan and the Changing NGO-Government Relationship,” *China and Eurasia Forum Quarterly*, vol. 6, no. 3 (2008).

⁷² Šárka Waisová, “Post-war Reconstruction in Afghanistan and the Changing NGO-Government Relationship.”

⁷³ Howell and Lind, “Civil Society with Guns is Not Civil Society: Aid, Security and Civil Society in Afghanistan.”

prohibits NGOs from taking part in construction projects, which impedes their work on a number of projects.⁷⁴

65. As President Karzai's quote above indicates, CSOs in Afghanistan, and NGOs especially, have been operating in a highly suspicious and distrustful environment. According to Human Rights Watch, "Threats, violence, and intimidation are regularly used to silence [...] civil society activists, particularly those who speak out about impunity, war crimes, government officials, or powerful local figures." The government's weak response to some violent attacks against NGO staff only underlines this tense relationship. Government representatives resent NGOs for perceived high salaries, draining human resources from state institutions, and the government has accused them of "...corruption, luxurious life-styles, immoral behaviour and pursuance of foreign interests."⁷⁵ Nevertheless, some former activists have moved on to join the government or ministry staff, which means that CSOs representatives can rely on at least some co-operation with decision makers.⁷⁶

66. Since the launch of the civilian surge in Afghanistan in late 2009, the ISAF has turned to Afghan CSOs to help win over the Afghan 'hearts and minds'. By agreeing to co-operate, foreign and Afghan CSOs have put themselves into a difficult situation.⁷⁷ They have essentially allied themselves with partners - the government and the ISAF - which are perceived by much of the public as illegitimate and responsible for civilian casualties. CSOs feel that by setting themselves apart from the ISAF and the ANSF, they could operate more freely and gain access to Afghans of all backgrounds, carry out projects based on humanitarian needs and not on short-term goals of the military and the politicians, and makes civilians less vulnerable to attacks by opposition groups. So far, the civil society-military Contact Group was established to enhance co-operation between several (predominantly) international NGO directors and the ISAF and holds regular meetings with the ISAF Deputy Commander. The Group's most pressing goal now is to deal with violence, which has penetrated humanitarian space.⁷⁸ Thus, better co-ordination between the military and civilians-CSOs is essential to the success of the each sector's mission in Afghanistan.⁷⁹

67. International aid organisations have been channelling substantial sums of money into the Afghan civil society. The largest foreign donor focusing on strengthening this sector is USAID's \$15 million programme of Counterpart International established in 2006. The aim of this model is to promote and build a democratic civil society where, "...people voluntarily form associations to address their diverse needs."⁸⁰ Based on the 2006 programme, USAID launched a new Afghan civil society initiative in December 2010, which is going fund Afghan CSOs until August 2013.

68. The relationship between Afghan CSOs and foreign donors, however, has also not been left without criticism. According to Professor Mary Kaldor at the London School of Economics (LSE), the international community has failed to reach out to the Afghan civil society and create space for its representatives to participate in public discourse. International conferences on Afghanistan have failed to include relevant CSO representatives in policy debates on issues integral to their

⁷⁴ Moore, "Civil Society Law Reform in Afghanistan."

⁷⁵ Howell and Lind, "Civil Society with Guns is Not Civil Society: Aid, Security and Civil Society in Afghanistan."

⁷⁶ Winter, *Civil Society Development in Afghanistan*.

⁷⁷ Howell and Lind, "Civil Society with Guns is Not Civil Society: Aid, Security and Civil Society in Afghanistan."

⁷⁸ Sippi Azarbaijani-Moghaddam, Mirwais Wardak, Idrees Zaman and Annabel Taylor, *Afghan Hearts, Afghan Minds: Exploring Afghan Perceptions of Civil-Military Relations* (London: European Network of NGOs in Afghanistan (ENNA) and the British and Irish Agencies Afghanistan Group (BAAG), 2008).

⁷⁹ Spiegel Online International, "A New Look at Afghanistan: 'Civil Society is Very Much Alive'," *Spiegel Online International*, 1 January 2010 (online interview with Afghanistan expert Almut Wieland-Karimi).

⁸⁰ Howell and Lind, "Civil Society with Guns is Not Civil Society: Aid, Security and Civil Society in Afghanistan."

lives and work.⁸¹ Afghan CSO representatives agree and complain that few donors consult the civil society about which areas of civil life should be targeted by their aid programmes. According to some analysts, the dependency on foreign funding has created a 'rentier civil society' in Afghanistan, which is struggling to maintain its independence and set its own priorities, goals and roles.⁸² Nevertheless, positive trends have also been identified in this respect - women have started increasingly speaking out for their rights and have participated at meetings in Kabul, European Commission and European Network for NGOs in Afghanistan conferences in Europe.

69. It is necessary to create a database of all active Afghan CSOs in order to understand the scope of the civil environment in Afghanistan. Also clearer guidelines for donors as well as recipients of aid should be developed.⁸³ CSOs should actively engage in improving Afghan governance and, namely, the electoral reform, which seems inevitable. They should also be encouraged to actively take part in election observing missions.

B. MEDIA

70. Since November 2001 when broadcasting in Kabul resumed, the Afghan media environment has undergone substantial growth. In 2002 the country had one non-governmental radio station and today over 75 television channels, 175 FM radio stations and 800 publications provide news to the Afghan public. Phone penetration is 61%, operated by four mobile operators, and optic-based internet networks are under construction. Afghanistan has so far seen four Media Laws, which were meant to provide a free media environment.⁸⁴ The most recent one (September 2008) gave relative independence to the state media, but has also been criticised for different restrictions such as the requirement of the new print and electronic media to be licensed by the government.⁸⁵ In its recent report, the US State Department has summed up the findings of various media watchdog organisations on the media situation in the country and concluded that despite numerous obstacles "the country's independent media continued to expand and became increasingly sophisticated."⁸⁶

71. According to the Freedom House 2009 Afghanistan country report, the Afghan media environment has had to face increased threats such as physical attacks and intimidation. Some independent media have been subjected to criticism by conservative clerics for running programmes, which "oppose Islam and national values," or the state authorities have fined them for similar reasons. According to the USAID comprehensive media report, "...pressure, self-censorship and insecurity are part of the daily lives of media actors." The notion of 'independent media' remains questionable also due to the fact that most media depend on funding from political parties, ethnic groups, the military, neighbouring countries, or international donors. In July 2010, the government went as far as to close a private TV station based on charges of threatening national unity. In terms of media bias, state-controlled media have been said to have provided inadequate information on new opposition political parties, which only adds to the political confusion already dominating the country. Government media and international correspondents are also being given better access to different areas and situations (covering security related

⁸¹ London School of Economics and Political Science, *Afghanistan Civil Society Meeting at LSE Leads to Criticism of Conference* (January 2010), <http://www2.lse.ac.uk/newsAndMedia/news/archives/2010/01/Afghanistan%20conference.aspx>.

⁸² Howell and Lind, "Civil Society with Guns is Not Civil Society: Aid, Security and Civil Society in Afghanistan."

⁸³ Winter, *Civil Society Development in Afghanistan*.

⁸⁴ USAID/Altai Consulting, *Afghan Media in 2010: Synthesis Report* (Washington, DC: 13 October 2010).

⁸⁵ Katzman, "Afghanistan: Politics, Elections and Government Performance."

⁸⁶ Bureau of Democracy, Human Rights, and Labor, United States Department of States, *2010 Human Rights Report: Afghanistan* (Washington, DC: United States Department of States, 8 April 2011).

issues, the Taliban) at the expense of local reporters.⁸⁷ The civil-military debate on how to win over the Afghan “hearts and minds” has largely excluded media and journalists, who admit that they would probably not get engaged even if asked due to fear of reprisals.⁸⁸ Due to conservative attitudes, the number of female journalists remains insignificant.⁸⁹

C. LITERACY AND EDUCATION POLICIES

72. The Rapporteur believes that literacy and education policies constitute an important part of the overall effort to make Afghanistan a functioning and efficient state. Progress in this area is a critical precondition for emergence of active and responsible citizenry and efficient bureaucracy.

73. After having toppled the Taliban, education became the top priority for the Afghan government as it did for foreign donors who have, since then channelled some \$1,9 billion into the Afghan educational system. In 2002 the Back to School campaign, a joint programme of the Afghan government and the UN, was launched with an aim to expand enrolment of Afghan children with a special focus on elementary schools. Children’s school enrolment witnessed an impressive increase from approximately 900,000 school children in the year 2000 to 6,7 million in 2009. Girls’ enrolment progress was even more dramatic, increasing from 5,000 before 2001 to today’s 2,4 million. Only over the past two years, 2,281 schools have been built across the country.⁹⁰ Also the number of universities has increased from one operating before 2001 to ten operating throughout the country today.⁹¹

74. Nevertheless, according to a recent Joint NGO Report (February 2011), by 2006 education development efforts in Afghanistan started slowing down due to poverty, increasing insecurity, lack of investment in infrastructure and insufficient staff training. Despite the impressive improvement embodied by the figures above, there is a major gap between enrolment and attendance. In respect to girls’ enrolment, which was the Report’s main focus, a much lower number of girls than the stated 2,4 million are actually attending schools. Only in 2009 some 22% (approximately 446,682) female students were registered as long-term absentees.⁹² Overall, 7 million Afghan children are still not receiving education and in some rural areas as many as 92% of girls do not have access to education. Restrictions on women based on both socio-cultural traditions and religion have not been obliterated yet (see Table no. 1 below) and have resulted in low enrolment of girls.⁹³ Quite interestingly, recently there has been a shift in Taliban’s policy towards girls’ education. The Taliban have opted for a “cultural shift” and is said to have stopped opposing girls’ school enrolment.⁹⁴ It will, however, take much more than the Taliban leadership’s decision to alter the gender imbalance, which has been present and endorsed in the country for decades.

⁸⁷ Cillian Donnelly, “Afghan Media Growing in Difficult Conditions,” *New Europe Online*, 31 October 2010, <https://www.neurope.eu/article/afghan-media-growing-difficult-conditions>.

⁸⁸ Azarbaijani-Moghaddam, Wardak, Zaman and Taylor, *Afghan Hearts, Afghan Minds: Exploring Afghan Perceptions of Civil-Military Relations*.

⁸⁹ Bureau of Democracy, Human Rights, and Labor, United States Department of States, *2010 Human Rights Report: Afghanistan*.

⁹⁰ All Afghan Women Union et al., “High Stakes: Girls’ Education in Afghanistan,” *Joint NGO Briefing Paper* (February 2011); Annie Kelly, “Afghan Girls’ Education Backsliding as Donors Shift Focus to Withdrawal,” *The Guardian*, 24 February 2011.

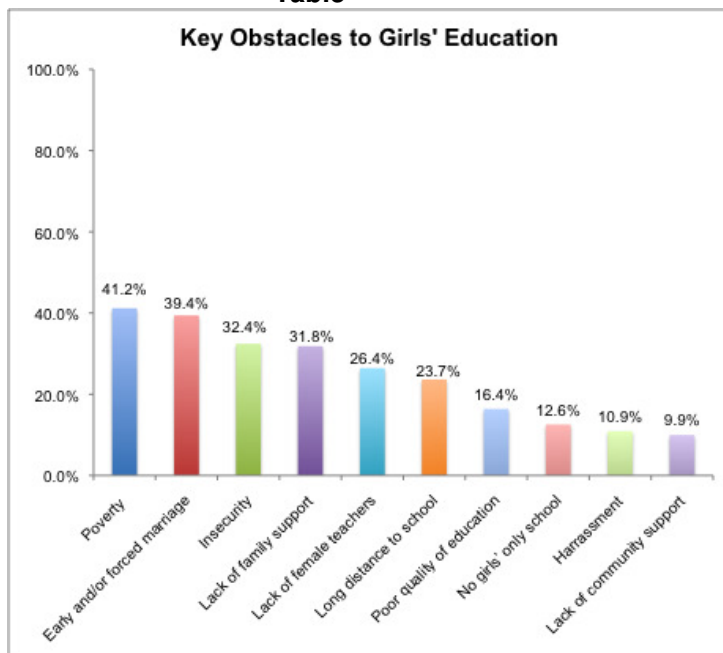
⁹¹ John Lyman, “Education in Afghanistan,” *Foreign Policy Digest*, 1 May 2009, <http://www.foreignpolicydigest.org/2009/05/01/education-in-afghanistan/>.

⁹² Kelly, “Afghan Girls’ Education Backsliding as Donors Shift Focus to Withdrawal.”

⁹³ Global Campaign for Education, *Back to School? The Worst Places in the World to be a School Child in 2010*, (Saxonwold, South Africa: Global Campaign for Education, 2010); and World Food Programme (WFP), *Education* (2011), http://foodsecurityatlas.org/afg/country/socioeconomic-profile/copy_of_introduction.

⁹⁴ AFP, “Taliban ‘to Allow Girls Education’,” *AFP*, 14 January 2011.

Table



Source: High Stakes: Girls' Education in Afghanistan, Joint NGO Briefing Paper, February 2011.⁹⁵

75. The major problem for the country's university system is, reportedly, the serious shortage of adequate funding. Thus, universities are incapable of producing sufficient numbers of skilled civil servants. Afghan institutions of higher education require roughly \$35 million a year, and the USAID is determined to contribute substantially by requesting \$20 million for 2012 from the US national budget.⁹⁶

76. According to UNICEF, Afghanistan's youth (15-24 years) literacy figures belong to the worst in Asia with 50% male literacy and only 18% for women. In order to tackle this problem, the Afghan Ministry of Education launched a general literacy programme for those who did not previously have access to education (between the ages of 15 and 45). From 2002 to 2007, this programme provided literacy training to between 300,000 and 400,000 Afghans a year through about 400 teachers. Illiteracy is, however, a major problem when it comes to training members of the Afghan National Police (ANP) and the Afghan National Army (ANA), who are to be responsible for Afghan security starting from 2014. Before the NATO Training Mission to Afghanistan (NTM-A) launched its Literacy Programme, only 14% of the Afghan National Security Forces were literate. Since October 2009, NTM-A has educated over 28,000 soldiers and police, with approximately 34,000 currently in training. Despite these major improvements, NATO itself admits its Literacy Programme has considerable deficiencies. This is especially due to the lack of educated and qualified teachers and inadequate security provided to instructors.⁹⁷ Trainers also complain about the 6-week literacy courses being too short. Thus, as of July 2011, the NATO-run training course for the ANP will be extended by two extra weeks.⁹⁸

77. Schools have also become victims of widespread insurgency. According to UNICEF statistics, between 2007 and mid 2009, approximately 697 incidents such as arson, armed attacks or

⁹⁵ All Afghan Women Union et al., "High Stakes: Girls' Education in Afghanistan."

⁹⁶ Katzman, "Afghanistan: Politics, Elections and Government Performance."

⁹⁷ Lt. Gen. William B. Caldwell, IV with Capt. Nathan K. Finney, *Security, Capacity, and Literacy, Military Review* (January-February 2011).

⁹⁸ Amie Ferris-Rotman, "NATO Beefs Up Afghan Police Training as 2014 Looms," *Reuters*, 22 May 2011.

explosions have taken place all around the country leaving hundreds of students and educators dead and wounded. Despite this frequency of attacks and warnings from NGOs, more than 2,700 polling stations were stationed on school premises during the 2009 Presidential elections. On election day, at least 26 attacks took place in polling stations situated on school grounds. Schools have also been attacked by opposition groups for displaying posters of President Karzai or for displaying pro-government logos. The above described practices must be stopped in order for Afghan schools to be considered as places of learning and not as pro-government agents.⁹⁹

78. Apart from increasing enrolment, another challenge Afghan schools and education authorities will need to deal with is the quality of education. Curricula remain highly divisive for example by pitting Sunni against Shi's Muslims. Also, schoolbooks in Pashto and Dari do not represent the rich cultural diversity of Afghanistan's population.¹⁰⁰

VII. CONCLUSIONS

79. In the immediate future, the Afghan National Government as well as the international community need to make national and local governance in Afghanistan their priority and allocate adequate resources for improving this sector. Out of the three pillars of Afghanistan reconstruction and stabilisation efforts (security / development / governance), the governance pillar still receives far too little attention, despite some progress in recent years. The Rapporteur pleads for a more balanced approach, elevating governance to the same level of importance as the other two pillars. So far, there is a tendency to think that security is the key pre-condition for good governance. In fact, vice versa is also true.

80. Some experts suggest abandoning the idea to implement a Western model of constitutional and secular governance, transferring political power to *jirga* system, security responsibilities to warlords and judiciary to local elders and *shuras*. However, while on the tactical level one should be prudent and flexible, the constitutional/secular model must remain as the ultimate objective. The "Arab Spring" shows that no nation should a priori be considered as not being ready for democracy.

81. So far, all success stories of governance in Afghanistan (e.g. governor of Helmand Ghulab Mangal, or Minister of Agriculture Asif Rahimi) depend largely on integrity and efficiency of concrete individuals. To ensure sustainability of good governance, however, the international community and the government of Afghanistan must embrace a more comprehensive approach and to build a system which includes the presence of vibrant civil society, unlocks bottom-up initiative, encourages inclusiveness and transparency, promotes widespread literacy and education, ensures the right balance between various branches of government as well as provides adequate funding.

82. In terms of more specific policy areas, The Rapporteur would like to support the following suggestions:

- The international community and inter-parliamentary bodies in particular should provide assistance and advice to the new Afghan Parliament, encouraging its independent but constructive role within the country's political system.

⁹⁹ Ajmal Samadi, "Education Policy Today Will Determine What Afghanistan is in 2020," *Radio Free Europe/Radio Liberty*, 31 August 2009.

¹⁰⁰ Morten Sigsgaard, *Education and Fragility in Afghanistan: A Situational Analysis* (Paris: United Nations Educational, Scientific and Cultural Organization (UNESCO)/International Institute for Educational Planning (IIEP), 2009).

- Efforts should be redoubled to discourage the Afghan leadership from setting up ambiguous institutions such as the Special Election Tribunal that undermine the authority of independent electoral bodies and the independence of the parliament.
- The Single non-Transferable Vote system has to be replaced by one that would encourage development of the party system.
- The government should remove restrictions on party registration and provide government funds for legitimate political party activities in order to reduce corruption.
- Efforts need to be redoubled to overcome obstacles for holding local and municipal elections at the earliest possible date.
- The regional and local authorities need to gradually gain more responsibilities, particularly in terms of financial resources, and draw their legitimacy more from the local community and less from the central government.
- The judicial system should gradually but firmly evolve from 'traditional' model towards a constitutional one.
- Training programme for civil servants require much more substantial attention and funding.
- Pro-active and audacious anti-corruption institutions need to be protected from political pressure.
- Successful counter-narcotics policies need to combine poppy capture operations, targeted eradication, alternative livelihoods and improving security; preference should rather be given to long-term projects promoting structural change and job creation than to short-term cash-for-work programmes
- Reconciliation and reintegration should be promoted, but not at the expense of sacrificing universal rights and values;
- Civil society organisations must be supported in a way that would gradually make them less associated with foreign actors; also CSOs need to be more engaged into improving Afghan governance.
- The international community's support for education and literacy programmes should be increased, including through strengthening the educational dimension of the ANSF training effort.

83. We have to accept that pacifying Afghanistan is going to be a very long process that requires patience and long-term commitment to build a sustainable and enduring stability. Governance should be regarded as a part of 'transformation' of Afghanistan rather than 'transition', which ends in 2014. Instead of quick-fix and short-term policies, a complex and long-term strategy needs to be devised and implemented in order to improve all levels of Afghan governance. As this report argues, support and empowerment of local civil society organisations is essential for making Afghan governance work. These policies need to be continuously employed and assessed well after the 2014 deadline.

84. The NATO Parliamentary Assembly should continue its dialogue with and assistance to the Afghan parliamentarians, fully exploiting the existing mechanisms of inter-parliamentary co-operation. The Assembly should also be actively involved in a debate on devising the long-term framework for Afghanistan's transformation and the role of NATO beyond 2014.
