

Afghan civilian protection during security transition: briefing ahead of NATO summit 20-21 May 2012

Summary

As heads of state prepare to gather for the NATO summit in Chicago, the undersigned NGOs call on NATO member states and the Afghan Government to prioritize improving the accountability of the Afghan National Security Forces as well as measures to enhance their capability to protect civilians more broadly.

Over the last decade, millions of Afghan women and men have experienced significant progress in areas such as equal constitutional rights, political participation, and access to health and education. However, these impressive but fragile gains will be at serious risk should the Afghan National Security Forces (ANSF) prove incapable of taking on full security responsibilities as transition progresses.

Despite welcome efforts by NATO member states, their allies and the Afghan government to improve the quality of the ANSF, serious concerns remain about their conduct and the lack of adequate accountability mechanisms. Reliance on irregular forces such as the Afghan Local Police (ALP) in some areas has been problematic, with reported abuses linked to inadequate vetting and training, and command and control issues. In addition, transition is taking place in a context of rising violence against civilians; growing internal displacement and increasing protection concerns – raising the stakes for security forces that are effective, responsive and accountable.

NATO and the Afghan Government must address these issues immediately or risk placing civilians at further risk. Failure to do so would also likely fuel resentment and social tensions, thereby undermining efforts to achieve stability and development in Afghanistan as well as peace and security in the wider region and internationally.

We therefore urge NATO and the Afghan Government to build on measures to reduce civilian casualties and intensify efforts to improve the conduct, responsiveness and accountability of the ANSF in order to enhance their capability to protect civilian men and women.

Key recommendations:

- **A well-publicised, easily accessible, transparent and independent complaints review mechanism** for the ANSF, accessible to both men and women.
- **Prioritisation of the Afghan National Police's civilian policing role over its paramilitary functions**, including expansion of human rights, rule of law, gender awareness and literacy training.
- **A Civilian Casualties Mitigation Unit within ANSF structures** to ensure accurate and timely documentation and analysis of civilian casualties caused by the ANSF.
- **Improved training, recruitment, vetting, oversight and accountability mechanisms for the ALP**, ensuring that all accountability mechanisms for regular ANSF are also applicable to ALP and all other irregular forces.

1. Ensuring oversight and accountability of Afghan National Security Forces (ANSF)

Ensuring that the ANSF adhere to the Afghan Constitution, domestic law and international humanitarian and human rights law is a serious challenge. However, effective oversight and accountability of ANSF is of critical importance as Afghan forces increasingly take the lead in security.

Security forces that uphold human rights; prevent, prosecute and punish abuses; and protect civilians will strengthen the rule of law, and the legitimacy of state institutions. Moreover, they are vital to stability and development goals in Afghanistan and the wider region.

NATO and the Afghan Government, particularly the Ministries of Defence and Interior, must prioritize improving internal and external oversight mechanisms, which are essential to accountability and transparency within the ANSF. Such mechanisms must be realistic and practical in the Afghan context, with the emphasis on improving existing mechanisms.

To ensure internal accountability, NATO and the Afghan government should:

- **Prioritise the Afghan National Police's civilian policing role over its paramilitary functions**, including expansion of human rights, rule of law, gender awareness and literacy training in order to ensure the ANSF are able to understand and comply with applicable laws, with a special focus on women's needs such as enforcement of the Elimination of Violence Against Women Law (EVAW).
- **Strengthen the Offices of Internal Affairs and Military Prosecutor** to ensure that violations of international and domestic law are addressed.
- **Enhance the monitoring role of the Human Rights Focal Points and Legal Officers** within the Afghan National Police (ANP) and Afghan National Army (ANA).
- **Adopt and implement policy and procedural measures to improve police accountability**, such as clear Standard Operating Procedures (SOPs) relating to arrest and detention, use of force, and the treatment of women and juveniles in custody, and ensuring existing SOPs are being used in the field.

To ensure external accountability, NATO and the Afghan government should:

- **Prioritise a well-publicised, easily accessible, transparent and independent complaints review mechanism for the ANSF** which could sit within the Afghan Independent Human Rights Commission (AIHRC) – as with the Police Ombudsman's Office - or as a stand-alone body.
- **Promptly appoint qualified commissioners to the AIHRC** and re-appoint commissioners who are to be retained.

2. Civilian Casualty Mitigation and Response

ISAF and the Afghan government have recently taken welcome steps towards transferring ISAF's civilian casualty mitigation policies and procedures to the ANSF. However, the development of an effective ANSF capability to monitor, minimise and respond to civilian harm will take time and requires greater encouragement, technical resources and sustained attention from NATO member states. Without appropriate training in civilian harm mitigation and a mindset that prioritizes civilian protection, the Afghan government runs the risk of increased civilian casualties caused by its own forces.

NATO and the Afghan Government should:

- **Prioritise a Civilian Casualties Mitigation Unit within ANSF structures** to ensure accurate and timely documentation and analysis of civilian casualties caused by the ANSF, in order to ensure problematic trends are identified; best practices are fed into training; and abuses are recognized and corrected.
- **Promote broader civilian protection and mitigation procedures in the ANSF**, including: non-lethal methods to de-escalate tense situations; how to investigate allegations of civilian casualties; and ways to recognize, respect and take mitigation measures for civilians harmed and displaced by conflict.
- **Create a uniform and transparent Afghan system to compensate civilians harmed** as a result of wrongdoing by the ANSF. They should also consider providing monetary payments to all civilians harmed during their operations despite both the absence of any wrongdoing and/or the legal obligation to do so.

3. Afghan Local Police and other community defence forces

Paramilitary-style community defence forces such as the Afghan Local Police (ALP) and Critical Infrastructure Police (CIP) were originally proposed as temporary solutions to bolster local security. They are paid less than other ANSF; receive far shorter and less comprehensive training; often don't fit well within already existing ANSF accountability structures and hence tend to mainly report, and be responsive to, their immediate commanders only.

The ALP has supported security improvements in some areas and ISAF has stated its commitment to addressing problems within the programme. However, major problems remain, particularly as effective oversight and accountability for the ALP remains limited as they are predominantly deployed in the most remote and insecure areas where regular ANSF such as the ANP cannot operate. Reliance on irregular forces such as the Afghan Local Police (ALP) in some areas has been problematic, with reported abuses linked to inadequate vetting and training, and command and control issues. There is also evidence these forces can sometimes exacerbate local conflicts, or even suffer from insurgent infiltration.

Given it is clear that the US military and Afghan security ministries will continue to rely on these forces, the US military and the Ministry of Interior (MOI) should immediately develop a strategy to ensure that the ALP and other forces are either increasingly merged with and subordinated to regular ANSF, or stood down, demobilised and provided livelihood assistance.

In light of this, we urge the US military and the Afghan Government to:

- **Intensify efforts to improve training, recruitment, vetting, oversight and accountability mechanisms for the ALP**, ensuring that all accountability mechanisms for regular ANSF are also applicable to ALP and all other irregular forces.
- **Effectively incorporate forces such as the ALP and CIP into ‘regular’ ANSF structures** – with the latter clearly in the lead.

4. Women, Peace and Security

In the past decade, millions of Afghan women - and men - have experienced real progress in areas such as equal constitutional rights, political participation, and access to health and education. Yet, these impressive gains remain fragile – especially for women and girls – and are at serious risk of being eroded as NATO transfers security responsibilities to the ANSF.

Women are particularly vulnerable to increased insecurity and the breakdown in local rule of law, which fosters a sense of impunity. Women’s freedom of movement and access to services is increasingly restricted due to conflict, particularly in the areas where anti-government groups are in control.

The Afghan government and its international partners including NATO all need to do much more to comply with the letter and spirit of UN Security Council Resolution 1325, which stresses the importance of the role of women in all efforts to promote peace and security as well as requiring all parties to conflict to take special measures to protect women and girls in armed conflict.

NATO and the Afghan Government should:

- **Improve ANSF responsiveness to women’s needs** by accelerating female recruitment at all levels of the ANSF, especially in the police, while ensuring that this is matched with sufficient support to female recruits and programmes to promote community and institutional support.
- **Create more effective military and civilian mechanisms, accessible to women**, for monitoring, investigations, and providing justice when abuses and harm by the ANSF occur.
- **Systematically include Afghan women’s groups**, who understand the drivers of insecurity in their communities, in conferences on Afghan security and transition.
- **Make high level NATO gender advisers** an integral part of all future missions to Afghanistan.
- **Provide funding for the expansion of the Gender Units** at the Afghan Ministry of Interior and Ministry of Defence, as well as the expansion of the Domestic Violence Units of the ANP.

5. Impact of transition on civilians

There is a lack of official and systematically collected data on the impact of transition on civilians. However, initial anecdotal evidence from organisations working on the ground suggests that the inability of the ANSF and local government to uphold law and order has had a negative impact on civilians in transitioned areas through increased insecurity and greater intimidation, particularly of women.

This situation is likely to deteriorate further with the imminent start of the next tranche of transition, which will include a number of volatile provinces and districts, and the decreased ability of the UNAMA Human Rights Unit to effectively track human security trends.

NATO and the Afghan Government should assess the source of such threats and ensure ANSF conduct upholds Afghan men and women's rights and well-being. Support for civil society to monitor transition impacts will help identify problems and contribute to stability.

In addition, the proposed plan to rapidly increase the ANSF to 350,000 by the end of 2014 only to cut it to 250,000 within two or three years is greatly concerning. Such a push is not only a waste of resources that otherwise could have been focused on training and equipping a smaller ANSF, but also may contribute to the proliferation of arms and armed groups, thus increasing the risks to civilians. These personnel will be armed and trained, and without a coherent demobilization plan they could potentially further destabilise local communities.

NATO and the Afghan Government should:

- **Ensure transition is conditions-based** to ensure communities are well-equipped to handle law and order responsibilities and ensure the protection of civilians.
- **Provide funding for independent monitoring by civil society of the impact of transition on civilians** in transitioned areas with particular emphasis on key protection of civilian benchmarks, including women's rights, the protection of children, access to education and forced displacement.
- **Develop adequate demobilisation strategies** should the anticipated cut in ANSF go ahead.

The note is issued on behalf of the following national and international development, humanitarian and human rights agencies working in Afghanistan:

Agency Coordinating Body for Afghan Relief (ACBAR); British and Irish Agencies Afghanistan Group (BAAG); Cooperation Centre for Afghanistan (CCA); Christian Aid; Campaign for Innocent Victims in Conflict (CIVIC); Human Rights, Research and Advocacy Consortium (HRRAC); Human Rights Watch (HRW); MedicaAfghanistan; Norwegian Afghanistan Committee (NAC); Norwegian Project Office / Rural Rehabilitation Association for Afghanistan (NPO / RRA); Norwegian Refugee Council (NRC); Open Society Foundations (OSF); OXFAM; Peace, Training and Research Organisation (PTRO); Research Institute for Women Peace & Security – Afghanistan; Swedish Committee for Afghanistan (SCA); The Liaison Office (TLO).