



# Game over? The EU's legacy in Afghanistan

EDWARD BURKE

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# Game over? The EU's legacy in Afghanistan

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# »» Acronyms

<b>ANP</b>	Afghan National Police
<b>ALP</b>	Afghan Local Police
<b>ANSF</b>	Afghan National Security Forces
<b>ARTF</b>	Afghanistan Reconstruction Trust Fund
<b>ASGP</b>	UN-led Afghanistan Sub-Governance Programme
<b>ASFF</b>	US Afghanistan Security Forces Fund
<b>AUP</b>	Afghan Uniformed Police
<b>CENTCOM</b>	US Central Command
<b>CSDP</b>	EU Common Security and Defence Policy
<b>CSP</b>	Country Strategy Paper
<b>CFSP</b>	EU Common Foreign and Security Policy
<b>CID</b>	Criminal Investigation Department
<b>COMISAF</b>	Commander, ISAF
<b>CPJP</b>	EUPOL City Police and Justice Programme
<b>BPHS</b>	Basic Package of Health Services
<b>EITI</b>	Extractive Industries Transparency Initiative
<b>EOM</b>	Electoral Observation Mission
<b>EUPOL</b>	EU Police Mission in Afghanistan
<b>EUSR</b>	EU Special Representative
<b>FATA</b>	Federally Administered Tribal Areas of Pakistan
<b>HOO</b>	High Office of Oversight and Anti-Corruption
<b>IPIT</b>	US Interagency Planning and Implementation Team
<b>ISAF</b>	International Security Assistance Force
<b>LOTFA</b>	Law and Order Trust Fund – Afghanistan
<b>MAF</b>	The Mutual Accountability Framework – (Agreed at Tokyo Conference 2012)
<b>MIP</b>	Multi-Annual Indicative Programme
<b>MCTF</b>	Major Crimes Task Force of Afghanistan
<b>NTM-A</b>	NATO Training Mission – Afghanistan
<b>SACEUR</b>	NATO Supreme Allied Command Europe
<b>SIGAR</b>	US Special Inspector-General for Afghanistan Reconstruction
<b>SRSG</b>	Special Representative of the Secretary General of the United Nations
<b>SIU</b>	Special Investigative Unit of Afghanistan
<b>USAID</b>	US Agency for International Development





»» In July 2013 the EU Special Representative to Afghanistan, Vygaudas Usackas, gave a valedictory speech in Geneva where he reflected on his three years as Europe's envoy in Kabul. Much progress had been made since he came to Afghanistan. The EU and its member states had allocated more than one billion euros a year to Afghanistan and negotiations were ongoing for a new cooperation agreement for partnership and development. The EUSR underlined the document's importance to EU-Afghan relations. It would, he said, 'serve as a framework for its relations with the Afghan government for the next ten years.'<sup>1</sup> But what the EUSR did not say was that negotiations over an EU-Afghan agreement had stalled – the key Afghan government interlocutor had left his post and nobody seemed to know when the agreement would be finalised. The Afghan government has been busy haggling over the terms of future US military and development assistance. An agreement with the EU has been nowhere near President Karzai's priority list – in part due to the Afghan government's refusal to reiterate its commitment to the International Criminal Court (an EU requirement for such agreements). And time is running out. The NATO drawdown is due to be completed in 2014. The level of the future EU commitment will not be shaped in isolation – much will depend on the US and NATO role in the country.

The immense volume of international assistance to Afghanistan since 2001 has had a profound effect. 2.5 million refugees and 600,000 internally displaced persons have returned to their homes.<sup>2</sup> In 2002 less than one million children were enrolled in formal education. There are now six million children in school, including 2.7 million girls. 8000 kilometres of roads have been built and access to electricity has improved by 250 per cent. Many more Afghans have access to primary healthcare.<sup>3</sup> Why then do so many Afghans remain deeply sceptical if not hostile to the Karzai regime and to the international presence? The problem is that for all the evidence of socio-economic progress, the government in Kabul remains politically fractious, corrupt and inept – much of the funding for security and development is managed by international donors rather than by the government itself.

Ironically, as the EU has increased its aid to Afghanistan, the commensurate influence of its political leaders and diplomats has declined. Profound introspection and constant griping about a lack of money and coordination between donors obscured a critical

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1. Speech given by H.E. Ambassador Vygaudas Usackas, Head of Delegation and EU Special Representative in Afghanistan, 'The European Union's role in Afghanistan before and after 2014', Geneva Centre for Security Policy (GCSP), July 10 2013.  
2. EU Country Strategy Paper for Afghanistan (2007-2013).  
3. Usackas, op. cit.

conundrum – what to do about a government that increasingly misspent, or wantonly abused, existing aid resources? This problem is by no means resolved. In September 2013 the Special Inspector-General for Afghanistan Reconstruction (SIGAR) reported that the US had spent \$96 billion on development in Afghanistan from 2002 to 2013 without putting in place an anti-corruption strategy.<sup>4</sup> US scholar Matt Waldman has written of how, despite low absorption rates, Afghan provinces ‘were “carpet-bombed” with US dollars. Typical of this attitude was [former US Special Representative for Afghanistan and Pakistan] Richard Holbrooke’s response when told that USAID was to spend \$150 million on an agricultural programme for Kandahar – simply: “Double it.”’ According to Waldman, ‘much of this assistance was unsuitable, ineffective, wasteful or exploited by local power-holders. The subsequent significant expansion of financial resources inadvertently compounded corruption, reinforced criminal and patronage networks, and even funded insurgents.’<sup>5</sup>

One former senior EU official in Afghanistan has summarised the errors in the EU and the international approach: ‘The unwillingness or inability of development agencies to conditionalise aid within a reform context was a fundamental problem. There was also an intense pressure to spend development budgets on time regardless of the results.’<sup>6</sup> Upon his departure from Kabul in 2013 the EUSR to Afghanistan, Vyguadas Usackas warned that, ‘The level of corruption at all levels of society is staggering.’<sup>7</sup> This analysis is not new: in 2009 USAID concluded that, ‘pervasive, entrenched, and systemic corruption is now at unprecedented levels in the country’s history.’<sup>8</sup> And, before he took over as commander of the NATO-led International Security Assistance Force, General David Petraeus described the Afghan government ‘as a criminal syndicate.’<sup>9</sup>

What is surprising is that so little was done to combat such widespread corruption as aid levels rose inexorably. Afghanistan continues to languish near the bottom of Transparency International’s corruption index, alongside Somalia and North Korea. Both government figures and the insurgency have siphoned off millions of aid money in recent years – sometimes in collaboration.

At the end of 2013 the Taliban insurgency is resilient, adaptable and dangerous.<sup>10</sup> Former EUSR Usackas has warned that, ‘Full government control is likely to be limited to major urban centres. There is the danger that large parts of the rural areas could come under insurgent and/or militia control.’ The EUSR’s grim prediction has been echoed by a US National Intelligence Estimate report at the end of 2013, which concluded that the Taliban would continue to make substantial gains as the NATO withdrawal continued. The Taliban administers justice with more effect than the government in almost half of the country’s districts – and that list is growing.<sup>11</sup>

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4. Special Inspector General for Afghanistan Reconstruction, ‘U.S. anti-corruption plans and mechanisms to track progress are needed in fighting corruption in Afghanistan’, September 2013.

5. Matt Waldman, ‘System failure: the underlying causes of US policy-making errors in Afghanistan’, *International Affairs*, 89:4 (2013), 825-843.

6. Interview with an EU official, August 2013.

7. Usackas, op. cit.

8. USAID, ‘Assessment of corruption in Afghanistan’, Washington DC: USAID, 2009, p.1

9. Bob Woodward, *Obama’s Wars*, New York: Simon and Schuster, 2010, p.220

10. Theo Farrell and Antonio Giustozzi, ‘The Taliban at war: inside the Helmand insurgency, 2004-2012’, *International Affairs* 89:4 (2013), 845-871.

11. Usackas, op. cit., Ernesto Londoño, Karen DeYoung and Greg Miller, ‘Afghanistan gains will be lost quickly after drawdown, U.S. intelligence estimate warns’, *The Washington Post*, 28 December 2013 and Gilles Dorronsoro, ‘Waiting for the Taliban in Afghanistan’, Carnegie Endowment for International Peace, September 2012, available at: <http://carnegieendowment.org/2012/09/20/waiting-for-taliban-in-afghanistan/dvkr>

Critical to the Taliban's re-emergence has been a sense of grievance over the empowerment of brutal warlords, corruption and the alienation of religious institutions.<sup>12</sup> At the beginning of 2014 Afghanistan is facing a three-pronged crisis. First, it is braced for an economic crash following the withdrawal of ISAF troops. Aid spending is set to decline and the construction and logistical boom linked to the ISAF presence will also come to a sudden halt. The World Bank has warned that Afghanistan's economy is unprepared for an inevitable and swift decline in aid spending. The country's public finances are already in a parlous state – the IMF has reported that 2032 is the earliest possible date for Afghanistan to reach 'fiscal sustainability'.<sup>13</sup>

Second, presidential elections scheduled for April 2014 will see a fracturing of the old alliance between Pashtuns loyal to the Karzai family and key factions of the old Tajik-led Northern Alliance.<sup>14</sup> Third, the Afghan National Security Forces (ANSF) will struggle to hold the tide against the insurgency without significant and direct foreign assistance. And Afghanistan's soldiers and police men are deeply factionalised. Many commanders prefer to cooperate with the Taliban in their local areas – regardless of what their political masters say.<sup>15</sup>

Given such complexity and uncertainty, what role, if any, should the EU contemplate in Afghanistan post-2014 and under what conditions? This paper draws upon the experience of the EU in Afghanistan since 2001 to make recommendations on what ambitions and red lines the EU should set for its Afghan commitment in the future.<sup>16</sup>

## Influence, ambition and denial: The EU's political objectives since 2001

»» The 2001 invasion of Afghanistan, following hard on the heels of relatively successful operations in Sierra Leone, Kosovo and Timor Leste, saw a confident West anticipate 'the swift establishment of a highly centralized, functional, democratic state.'<sup>17</sup> Moreover, the Bonn Agreement of December 2001 was a victor's peace – the Northern Alliance occupied the key positions while the US military focused on rounding up Taliban leaders, even those who wished to reconcile with the interim government, and sending them to Guantanamo Bay or other prisons. Looking back one senior EU official involved in the Bonn process remarked that, 'The warlords is the original sin ... America had no intention of touching the warlords, only rewarding them, that

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12. Michael Semple, 'The revival of the Afghan Taliban 2001-2011', Orient, 2012

13. Victor Mallet, 'Afghanistan's forgotten crisis – its economy', *Financial Times*, 20 May 2013.

14. Jackson Keith, 'The formation of electoral alliances in the 2014 presidential season', Institute for the Study of War, 3 October 2013.

15. Andrew deGrandpre, 'Have Afghan forces intentionally surrendered turf in Sangin to the Taliban', *Marine Corps Times*, 17 December 2013.

16. The paper does not aim to provide an exhaustive list of all EU assistance to Afghanistan since 2001. Rather it will seek to chart the EU's evolving political relationship with the Afghan government.

17. Waldman, op. cit.

was clear.<sup>18</sup> According to Theo Farrell and Antonio Giustozzi, ‘Once back in power, these warlords returned to their bad old ways. Initially their militias clashed... Increasingly, they turned their attention to violently exploiting communities not in their patronage network.’<sup>19</sup>

Another EU official also saw ‘the Geneva raffle’ – a meeting of G8 donors in the Spring of 2002 where countries carved up areas of competence for Afghanistan’s development – as deeply unhelpful, effectively stove-piping activities as the responsibility of countries, many of which were unsuited for their roles.<sup>20</sup> Japan was in charge of disarmament and demobilisation, for example, but expressed little desire to get involved on the ground to make such a process work. Italy agreed to take on the rule of law mantle but had little or no knowledge of how to reform a country with a long history of looking to Islamic jurisprudence as a linchpin of the rule of law. By 2004 the US could see that Geneva had unraveled and began to add wider state-building to its list of aims in Afghanistan.

In the years after 2001 the EU delegation established a reputation for the best political reporting in Afghanistan, employing experts with years of experience of working in Afghanistan. One diplomat from that time reflected that, ‘It is hard to quantify political skill or knowledge. It doesn’t fit into an Excel chart or powerpoint very well. But it is indispensable ... And we had all the advantages.’<sup>21</sup> According to EU officials in Afghanistan from 2002 to 2007, EU high representative for foreign policy, Javier Solana, largely delegated autonomy of action to the EUSR on the ground, Francesc Vendrell, who had almost a decade of experience in the region to draw on. In addition to producing political insights and making recommendations, the delegation saw itself as trying to coordinate EU member state activities and advise on transitional justice and elections.<sup>22</sup>

On paper Europe’s commitment to Afghanistan looked impressive; by 2008 soldiers from 23 EU countries accounted for close to two-thirds of the NATO-led International Security Assistance Force’s total deployment of 43,250<sup>23</sup> soldiers.<sup>24</sup> Europe was also supposed to be in the lead on police reform through a new Common Security and Defence Policy mission (EUPOL Afghanistan), and its member states had established 11 Provincial Reconstruction Teams (PRTs) under International Security Assistance Force (ISAF) auspices. But the security situation in Afghanistan was going from bad to worse. The consensus in Washington DC was that more resources were needed. The US would lead militarily if necessary but it wanted Europe to take charge of the civilian stabilisation effort in Afghanistan.<sup>25</sup>

In 2006 and 2007 the EU’s overall financial commitment to Afghanistan was lambasted in Washington DC and at NATO headquarters in Brussels. If the war was going badly it was because Europe was not paying enough attention to Afghanistan. The perception

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18. Interview with an EU official, August 2013.

19. Theo Farrell and Antonio Giustozzi, *op. cit.*

20. Interview with an EU official, July 2013.

21. Interview with an EU official, October 2013.

22. Interviews with EU officials, June, July, August and October 2013.

23. This figure also includes a small number of national support elements – not under direct ISAF command.

24. ISAF Troop placemat, February 2008, [http://www.nato.int/isaf/docu/epub/pdf/placemat\\_archive/isaf\\_placemat\\_o8o2o6.pdf](http://www.nato.int/isaf/docu/epub/pdf/placemat_archive/isaf_placemat_o8o2o6.pdf)

25. Daniel Keohane, ‘ESDP and NATO’, in Giovanni Grevi, Damien Helly, Daniel Keohane (eds.), *European Security and Defence Policy: The First 10 Years (1999-2009)*, Paris: EUISS, 2009.

in Washington was that this was the war Europe was supposed to manage while the US focused on Iraq.

Respected US diplomats, defence officials and think tank analysts were outraged by Europe's tight-fistedness; former US Ambassador to NATO Robert E. Hunter wrote an opinion piece in 2006 saying that the EU needed to 'put up or shut up'. In a bizarre twist of logic, he and other US officials stated that European leaders would only be entitled to an opinion on Afghanistan if they committed funds to pay for a US-designed strategy (on which Europe had hardly been consulted).<sup>26</sup>

In 2006 the US defence research institute RAND reported that the US spent 'seven times the resources to counter-narcotics activities provided by the United Kingdom (the lead nation for counter-narcotics), nearly 50 times the resources to the police provided by Germany (the lead nation for police reform), and virtually everything for training the Afghan military (for which the United States was responsible).<sup>27</sup> As the security situation continued to deteriorate from 2006 to 2009 NATO governments habitually retreated into their respective chancelleries to launch internal reviews of their Afghan strategies with one underlying assumption – each country would spend more than before. Lord Ashdown, a former EU High Representative to Bosnia, concluded that 'the paramount reason for our failing grip [in Afghanistan] lies within ourselves.'<sup>28</sup>

According to Ashdown and many others, more aid and better coordination was the answer. Missing was any notion of how to get an extremely corrupt and predatory Afghan government to change its ways. Instead the singularly misguided question being asked was how to spend more money in a shorter time-span. One US Ambassador to Afghanistan would reflect ruefully some years later that, 'budget was driving policy as opposed to policy driving budget.'<sup>29</sup> Meanwhile, the goodwill and reform-minded intentions of the Afghan government were assumed – with disastrous consequences.

In 2009 the Swedish presidency of the EU sought to arrest the EU's diminishing political role in Afghanistan – a response to the immense energy and resources being poured by the US into the country. EU foreign ministers approved a 'plan for strengthening EU Action in Afghanistan and Pakistan' on 27 October 2009. The EU would now take on a full menu of Afghan problems as its priorities including regional cooperation, supporting political dialogue in Afghanistan, reintegrating insurgents, building civilian capacity, sub-national governance, democratic institutions, the rule of law, improving policing and the agricultural sector. The new EU strategy also promised to merge the EU's focus on the east of the country with those regions over the border in the north-west of Pakistan.<sup>30</sup>

The 2009 EU strategy did help to focus member states' attention; annual Commission funding during the period from 2011 to 2013 increased from 150 million to 200 million euros. But it was by no means a game-changer. Much of the document reiterated



26. Robert Hunter, 'The EU should put up or shut up in Afghanistan', Rand, 18 November 2006.

27. Seth Jones, Olga Oliker, Peter Chalk, C. Christine Fair, Rollielal, James Dobbins, 'Securing tyrants or fostering reform? US International security assistance to repressive and transitioning regimes', RAND, 2006.

28. Lord Ashdown, 'We are failing in Afghanistan', *The Guardian*, 19 July 2007.

29. Interview with a US diplomat, September 2012.

30. EU Council, 'Strengthening EU Action in Afghanistan and Pakistan', 27 October 2009.



commitments that the EU was already delivering upon in Afghanistan, while a weakened EU delegation (in terms of political influence compared to the US and ISAF) was never going to be in the lead on issues such as the reintegration of insurgents. And President Karzai had already expelled the deputy head of the EU delegation, Michael Semple, for talking to the Taliban (both the EU and the member states failed to respond robustly to such ill-treatment of a senior EU official). The new strategy also grossly over-stated the EU's influence with the Pakistani government and, indeed, the Pakistani government's desire to engage in a more hands-on governance role over the Federally Administered Tribal Areas (FATA) on its Afghan frontier.

From 2002 to the present day EU officials have observed a pronounced reluctance from some member states to take a contrary position to the United States. One diplomat commented that, 'The main problem was with the two key countries – Germany and the UK. It was very difficult to get the UK to follow a policy that was in any way independent of the US. Meanwhile the Germans were very passive.' This was compounded after 2006 when key member states increasingly began to focus their political attention and resources provincially, where their PRTs were, rather than at the national level in Kabul. The reluctance to challenge the US meant that EUSRs sometimes found that member states encouraged them to work on anti-corruption and human rights strategies but later discovered that these same countries did little to back their efforts if these were not strongly embraced by the US.<sup>31</sup>

An immediate priority of the first EUSR, Francesc Vendrell, upon taking up his appointment as EUSR in 2002 was to draw up a blueprint for transitional justice in Afghanistan. Vendrell was determined that the crimes of the past could not simply be forgotten, including those committed by the Northern Alliance, and that those guilty of war crimes should not hold public office – a vetting process was needed. The EU delegation was the driving force behind the Transitional Justice Action Plan and the Appointment Panel for Senior Political Appointments. The EU also provided critical support for the establishment of the Afghan Independent Human Rights Council (AI-HRC) – which prospered due to its dynamic Afghan staff.<sup>32</sup>

However, EU vetting proposals, including for the 2005 parliamentary elections, came to nothing. Hamid Karzai's victory in Afghanistan's presidential elections in 2004 strengthened his position and he resisted putting in place any viable vetting procedures. The US was not interested in vetting – and EU member state governments were not willing to pick a fight on the issue.<sup>33</sup>

Things got worse in 2009 when massive fraud was reported during the presidential elections. Former EU political officer Joanna Buckley has written that the 2009 election 'fiasco was predictable and probably preventable had the EU and other foreign actors paid sufficient attention during the build-up. The voter registration process conducted in 2008 was flawed, and the candidate vetting process for both the presidential and

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31. Interviews with EU officials, July and August 2013.

32. Interviews with EU officials, June, August and October 2013.

33. Interviews with EU officials, August and October 2013.

provincial council elections was inconsistent, as a number of observers pointed out.<sup>34</sup> Meanwhile a major mistake by the EU and other donors was the push to ensure that the Afghan government took responsibility for the funding of the AIHRC – a decision that made it prone to government pressure.<sup>35</sup>

The EU played an important enabling role in the 2005 elections, providing €17.5 million to support the process, and deployed an Electoral Observation Mission (EOM) led by current Italian Foreign Minister Emma Bonino (then an MEP). The 2005 elections were a remarkable logistical success for a country with such limited infrastructure, even if the EOM detected serious deficiencies and irregularities with the electoral process. However, the mission's findings were mainly confined to the unrolling of the elections and were not taken up at the political level. Fraud was widespread, including by those linked to the Afghan president, Hamid Karzai.<sup>36</sup>

The Dutch MEP Thijs Berman subsequently played a leading role in the 2009 EOM. He found that either the situation had deteriorated further since the 2005 mission or the true extent of electoral malpractice in the country had been underestimated. Berman later recalled that, 'There was fraud everywhere. We discovered whole books of voting slips thrown into ballot boxes without being separated. We kept noticing whole figures all the time – everything was nicely rounded off, which was perhaps not surprising because the voting slips came in books of 50.' But Berman resented the hand-wringing of EU leaders in responding to such obvious fraud, instigated primarily by supporters of President Karzai, 'If you send an EOM that finds widespread fraud you need to back it politically. To have no consequences is a dangerous precedent ... EU assistance is very technical. Technically we are good; we are smooth. Politically do we know what we are doing? And the technical side cannot work without the political.'<sup>37</sup>

## Progress, paralysis and graft: The EU's shifting aid priorities

›› The EU reacted quickly to the fall of the Taliban regime, delivering humanitarian and development assistance during the winter of 2001. From 2002 to 2009 the European Commission contributed a total of \$1.8 billion towards Afghanistan's reconstruction. The Commission was for a long time the largest contributor to the Law and Order Trust Fund-Afghanistan (LOTF-A). And the Commission also contributed €35 million to the UN fund to prepare the 2009 elections.<sup>38</sup>

34. Joanna Buckley, 'Can the EU be more effective in Afghanistan?', The Centre for European Reform, April 2010.

35. Interview with an EU official, June 2013.

36. Interviews with EU officials, July and August 2013.

37. Interview with Thijs Berman MEP, Brussels, 9 July 2013.

38. Buckley, op. cit.

When it came to economic development, the European Commission told EU diplomats not to interfere – aid was a technical, not a political affair.<sup>39</sup> According to some EU diplomats this was a profoundly misguided approach – politically informed diplomats have a useful role to play in preventing the abuse of aid.

As the security situation got worse, the singular response was to invest more – Afghanistan was initially to receive \$1 billion of international assistance annually from 2002 to 2006. At the Berlin Conference in the spring of 2004, the international community pledged a total of \$8.3 billion over the next three years. The London conference in January 2006 saw some \$10.5 billion in pledges. The EU also partnered its member states on key infrastructure projects such as the Kabul-Jalalabad-Torkham road project with Sweden, the rehabilitation of Kabul's power network with Germany, etc. Cumulatively the EU and its member states committed €8 billion to Afghanistan's security and reconstruction from 2002 to 2010.<sup>40</sup>

In 2006 the EU announced a shift in aid emphasis from infrastructure development to governance-focused aid. Much progress had been made in terms of the physical reconstruction of the country; now the country's new institutions had to be consolidated through the training of civil servants and an improvement in education standards and volumes of trade. This announcement coincided with the publication of a new Afghan Compact (which led to the adoption of the Afghan National Development Strategy) between donors and the Afghan government. From 2002 to 2006 the EU had focused on rural development, health and social protection and public administration reform as the main areas of its assistance. Additional, 'non-focal' areas included demining, regional cooperation, refugees and counter-narcotics. The European Commission also spent €95 million on fielding the Afghan National Police (ANP), mostly through the UNDP administered Law and Order Trust Fund-Afghanistan (LOTF-A) from 2002 to 2005. However, the Commission's supervision of such aid (like that of many other donors) was questionable. Reviewing its assistance in 2007 the Commission observed that, 'Other sectors, such as education and security sector reform, are being covered by other donors, notably the US; as such, the EC is not closely involved in evaluating lessons learned in these areas.'<sup>41</sup> Considering that the EU was one of the largest donors to LOTF-A and the police, such complacency is alarming.

The purported shift from building to training was not as pronounced as the Commission claimed. The EU had already invested a large amount of funding prior to 2006 to develop the Afghan civil service – the Commission had also invested €212 million from 2002 to 2006 on improving Afghanistan's public sector – with little to show for it. Afghanistan's ministries remained extremely inefficient; many Afghan public officials complained that EU skills-training was overly complex and not suited to the challenges of administering a poor country like Afghanistan. A much more successful use of EU funds was the Basic Package of Health Services (BPHS) programme – the EU funded the rolling out of basic health care provision in ten provinces, with striking benefits to the local populace. In 2007 the EU again expanded its support for the BPHS.<sup>42</sup>

39. Interview with a European diplomat, August 2013.

40. EU Country Strategy Paper for Afghanistan (2007-2013) and Usackas, op. cit.

41. Ibid.

42. Interview with an EU official, June 2013.



At the same time as the EU was spending increasing millions of euros in aid, however, its delegation was suffering from basic technical problems – the EUSR had to ask embassies for copies of EU internal reports and EU staff members were often forced to use Google or Hotmail accounts to communicate.<sup>43</sup> Meanwhile the Commission was taking on critical leadership roles in key areas of assistance, including as co-chair of three consultative working groups on public sector reform, rural livelihoods and social protection.

In its new 2007-2013 Country Strategy Paper (CSP), the EU was too quick to celebrate success and overlook problems, proclaiming that, ‘The Bonn Agreement of December 2001, intended to put in place a “broad-based, gender-sensitive, multi-ethnic and fully representative government”, has been successfully implemented.’<sup>44</sup> Parts of the new CSP were bordering on the delusional, describing how GDP growth of 11 per cent for 2006 was mainly driven by ‘agricultural production coupled with sound macroeconomic policies.’ Such growth was driven by the flood of aid cash that created an artificial boom that had little to do with the aptitude of the Afghan government or its macroeconomic policy.<sup>45</sup> The CSP was also very ambitious in places, including the objective of helping the Afghan government to become financially self-sufficient by 2013 (the current IMF target is 2032). The EU was very much at pains to publicly stress how well things were going. This irritated some MEPs who were not convinced that up-beat EU reporting matched the situation on the ground. According to Thijs Berman MEP, ‘What we have seen is years of collective self-deceit by the EU proclaiming imaginary successes.’<sup>46</sup>

The EU was confident that its 2007-2013 spending plans would meet with more success in improving Afghan governance. The Afghan Compact of 2006 would see to that, as it contained ‘detailed benchmarks and timelines in each of these areas, as well as provisions on aid effectiveness and training.’ Hence the European Commission was willing to assign 40 per cent of total funds towards governance reform.<sup>47</sup> And EU aid would be spent on more long-term strategies, a shift away from annual programmes to ‘Multi-Annual Indicative Programmes’ (MIPs).<sup>48</sup>

By 2010, however, it had become clear that the ‘mutual accountability’ outlined in the Afghan Compact had not materialised. A Kabul Conference was convened in July 2010 in order to better organise relations and expectations between donor countries and the Afghan government. Moreover, each line of activity – whether in security sector reform or agriculture – would be carefully monitored to ensure that both parties delivered upon their commitments.

The EU claimed that the 2010 Kabul conference was a resounding success, announcing that it marked the start of ‘a continuing “Kabul process” about benchmarks and accountability.’ However, in late 2010 the Commission reported that it remained difficult to channel funds through the Afghan government due to ‘weakness in public finance management’. Only 20 per cent of all donor funds went through government

43. Buckley, op. cit.

44. EU Country Strategy Paper for Afghanistan (2007-2013).

45. Victor Mallet, ‘Afghanistan’s forgotten crisis – its economy’, *Financial Times*, 20 May 2013.

46. Interview with Thijs Berman MEP, Brussels, 9 July 2013.

47. Sonia Alison Careless, ‘An assessment of institutional-learning by the EU in state-building in Afghanistan’, PhD thesis submitted to the University of St. Andrews, August 2013.

48. Ibid.

systems and only half of this amount was used for general ministerial funding instead of specific programmes. To some Commission officials this implied that the solution was a significant increase in funds for the Kabul Civil Service Institute in order to improve the management and accounting skills of Afghan bureaucrats.<sup>49</sup> But, according to senior EU officials, even where such expertise was available many ministries deliberately spurned it – good bookkeeping reduced opportunities for graft.<sup>50</sup>

By the end of 2010 EU reporting on Afghanistan was almost schizophrenic on the question of corruption. In the same paragraph of a report to member states the EU welcomed ‘the strengthening of the High Office of Oversight [HOO]’, but then went to say that despite such ‘strengthening’, ‘the allegations of corruption against the head of the HOO make any visible progress and real commitment from the Afghan side doubtful.’<sup>51</sup> By 2010 most diplomats knew the HOO was not working and were looking to invent new anti-corruption agencies as a way around it. The problem remains, however, that Afghan instruments for anti-corruption such as the HOO, the Anti-Corruption Tribunal, the Major Crimes Task Force (MCTF) and the Joint Monitoring and Evaluation Committee are either critically ineffective or highly selective in their investigations.<sup>52</sup>

In 2009 some member states such as the UK and Germany argued for a strengthening of provincial and district-level governance as a solution to blockages and inefficiencies at the central government level. Ahead of the Kabul Conference in 2010, the EU led a working group on sub-national governance and was a leading supporter of the UNDP-led Afghanistan sub-national governance programme (ASGP). But proposals to strengthen sub-national governance had little effect. President Karzai’s primary instinct and that of his ministers was to centralise power – to give enough power to provincial governors to make those posts appealing but without ceding too much discretion over use of funds or control over the security forces. Relations between the security ministries and the Independent Directorate for Local Governance (IDLG) often bordered on the poisonous – the IDLG would request assistance for governors on policing matters but, more often than not, to little avail.<sup>53</sup>

Despite disappointments with a lack of reform on wider governance, the EU also had some success stories to report. EU aid to the Ministry for Rural Rehabilitation and Development (MRRD) was having a good effect by 2011 – agricultural production increased significantly as a result of EU programmes. In 2010 the EU felt particularly satisfied with the MRRD, making a contribution to the ministerial main budget of €60 million. The capacity of the IDLG had also improved with EU help – even if it lacked the political weight to improve governance in many Afghan provinces. And the BPHS programme was also continuing to draw much praise.<sup>54</sup> These were islands of efficiency in a persistently inept and corrupt system of governance.

49. Ibid.

50. Interviews with EU officials, August and October 2013.

51. EU, ‘Second Implementation Report to the Council on the Plan for Strengthening EU Action in Afghanistan’, Brussels, October 2010.

52. Interviews with a US diplomat, September 2012 and an EU official, October 2013.

53. Interview with an international police adviser, January 2012.

54. Interviews with EU officials and NGO activists, June, July and August 2013.

## The EU's role in justice reform and the fight against corruption

» In 2007 the EU announced that it would take on a leading role on justice reform. It had become clear that the Italian government was struggling to make progress on developing Afghanistan's justice framework since 2002. Italy was frequently criticised by the US and other countries for 'dropping the ball' on rule of law. The Italians had adopted a clumsy approach to the rule of law, introducing an Interim Criminal Procedure Code widely seen as unsuited to Afghanistan. One European expert on justice sector reform in Afghanistan commented, 'The Italians focused on small initiatives – refurbishing buildings, training judges – short-term, quick stuff. There was no connection between what people were trained in and what they needed to learn in the Afghan context.'<sup>55</sup> Moreover, the Italians did not coordinate their activities with the Ministry of the Interior or the German government – the latter had the international lead on police reform. Even the most senior Afghan police officers did not know what laws to enforce.<sup>56</sup>

Neither was the fault Italy's alone. As one EU official observed, 'The Italians got a lot of blame – but really the issues were huge: limited funding, nobody understood the issues, and there was no political will to reform on the Afghan side. Rule of Law/Justice Sector Reform in Afghanistan is so complicated that it got pushed down below more pressing issues.'<sup>57</sup> At the 2007 Rome Conference on the rule of law in Afghanistan, the European Commission agreed to take on a lead coordination role for the rule of law. But little changed – and by 2010 the US government had set up its own rule of law agency to coordinate international assistance to the justice sector, the Interagency Planning and Implementation Team (IPIT).

The initial Italian-German error of not joining up their activities on police-justice reform was compounded by the *Inteqal* or 'Transition' process (whereby a NATO drawdown would be accompanied by a simultaneous surge in Afghan government capability and presence), announced by NATO in 2010. Justice and governance were dealt with in a separate pillar to 'Security', with the latter focusing narrowly on taking the fight to the insurgency. Meanwhile, the ministry responsible for law enforcement – the Ministry of the Interior – was initially not invited to attend meetings dealing with justice.

The 'stove-piping' of activities and the gap that emerged between police development and wider justice reform reflected a lack of integration between international partners (there has been particular friction in the past, for example, between the NATO Training

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55. Interview with a European Rule of Law adviser, June 2013.

56. Interview with an international police adviser, January 2012.

57. Interview with an EU official, June 2013.

Mission – Afghanistan [NTM-A<sup>58</sup>] and the US Embassy).<sup>59</sup> The potential for the EU Police Mission in Afghanistan (EUPOL) to lead on ‘bridging’ between the police and wider justice sector was also frustrated by a split between the police and rule of law components within the EUPOL Mission itself, whereby many civilian rule of law advisers did not work with their police counterparts as part of an integrated programme – instead working solely in the Ministry of Justice or the Attorney General’s Office but not working directly with police officers.<sup>60</sup>

On the Afghan side, the application of the rule of law is crippled by a complex web of weak capacity, competing legislation, Presidential directives and wide divergences of opinion among judges on the interpretation of Islamic jurisprudence (fiqh), that in turn co-exist with more secular legislation. Since 2002 layer upon layer of highly complex laws have been piled up in a society where illiteracy is widely prevalent. The international community shares a large proportion of the blame, importing foreign legislation that does not fit readily into the Afghan legal context. Few international rule of law advisers have any knowledge of Islamic jurisprudence, a critical weakness to comprehending pre-existing justice systems in a profoundly devout society.<sup>61</sup>

Meanwhile the appointment of a religiously conservative Supreme Court judiciary sits uneasily with the more secular agenda promoted by international rule of law experts. And there was a clash between those international advisers who advocated a common law system and a continental law system – UK police officers, for example, saw the police as the primary agency investigating crime whereas other European rule of law advisers insisted that the job of investigation is for a magistrate to fill. More damningly, Afghanistan’s Police Law directly contradicted the Interim Criminal Procedure Code on crime investigation. Afghan police officers and their international police advisers at the Ministry of the Interior found a way around this: ‘The ICPC was simply ignored.’<sup>62</sup>

The current Chief Justice of Afghanistan, Abdul Salam Azimi, has been careful to almost never over-rule the will of the President.<sup>63</sup> Even if he or his colleagues wished to exercise a divergent opinion from the executive, the powers of the Supreme Court as the ultimate arbiter of the constitution are uncertain. The President retains the right to establish an Independent Commission for the Supervision and Implementation of the Constitution as he sees fit – the relationship between this body and the judiciary is not clear. EU capacity building in such a context is difficult if not impossible.

The dismissal of Fazl Ahmed Faqirkyar as Deputy Attorney General in August 2010, and his virtual house-arrest in Kabul, highlighted a serious problem affecting the EU and the international community’s presence in Afghanistan – an inability to ensure that those who challenge corruption are encouraged and protected instead of persecuted. Faqirkyar

58. The NATO Training Mission – Afghanistan (NTM-A) became operational in mid-2009 as part of a US drive to make Coalition training of the ANSF more coherent and better resourced and to allow for a major expansion of US-led training of the ANP due to the failure of EUPOL, GPPT and others to provide results.

59. Interview with a US diplomat, September 2012.

60. Christian Bayer Tygesen, ‘A cloud over the EU’s legacy in Afghanistan?’, FSI Stanford, the Europe Center Op-ed, 19 February 2013.

61. International Crisis Group, ‘Reforming Afghanistan’s broken judiciary’, Crisis Group Report, 17 November 2010.

62. Antonio Giustozzi and Mohammad Isaqzadeh, *Policing Afghanistan: The politics of the lame leviathan*, London: Hurst and Company, 2013, p.154

63. International Crisis Group, ‘Reforming Afghanistan’s broken judiciary’, op. cit.

was leaned on heavily by the US Embassy in his key role of overseeing the Major Crimes Task Force (MCTF) and the Special Investigative Unit (SIU) to investigate key aides close to President Karzai. This was essentially a litmus test to see if the President could be taken at his word in his pledge to reduce alarming rates of corruption.

An investigation into corruption perpetrated by New Ansari currency exchange, closely linked to one of Afghanistan's largest banks, Afghan United Bank – itself with close links to the Karzai family and several cabinet ministers, revealed that up to \$2.5 billion of international aid was funneled out of Afghanistan to Dubai through New Ansari and other couriers in 2009 alone. The US Treasury Department subsequently named New Ansari 'a major money-laundering vehicle'. However the arrest of one Presidential aide, Mohammed Zia Salehi prompted President Karzai and his government to dismiss the Deputy Attorney General, expel foreign advisers from the Attorney General's office and announce that the international community could no longer pay 'top-up salaries' to Prosecutors that boosted salaries from \$60 to up to \$600 per month.

Among the investigations that were blocked were serious incidents of corruption by other top ranking officials including allegations of collusion with the insurgency. EU and other international advisers were subsequently temporarily banned from accessing investigation case files on the order of the President. The Chief of the MCTF, Nazar Mohammad Nikzad asked US Ambassador Karl Eikenberry for permission to leave Afghanistan and reside in the United States.<sup>64</sup>

## The EU takes, and loses, the lead on police reform

»» The EU Police Mission in Afghanistan was established in response to US concerns that the German Police Project was not building up the ANP quickly enough. According to the then Commander of NATO Supreme Allied Command Europe (SACEUR), General James Jones, the German police development effort had been 'very disappointing'.<sup>65</sup> Berlin was under pressure; its response was to Europeanise the police effort during its EU presidency of 2007. The EU delegation pressed for the Germans not to announce the opening of the mission until the required personnel were in place, but such concerns were ignored. The mission was unveiled during the German presidency with only approximately 10 police officers to man it. The new German Head of Mission resigned within a few months.<sup>66</sup>

64. Dexter Filkins and Alissa Rubin, 'Graft fighting prosecutor fired in Afghanistan', *The New York Times*, 28 August 2010.

65. Christian Bayer Tygesen, 'A cloud over the EU's legacy in Afghanistan?' FSI Stanford, The Europe Center Op-ed, 19 February 2013.

66. Interviews with EU officials, August and October 2013.



Things went from bad to worse for EUPOL from 2007 to 2008. Initially it was expected that the German Police Project Office (GPPO) would merge with EUPOL. Instead the larger member states such as Germany, the UK, Italy and even some smaller ones (such as Denmark) maintained their bilateral police missions. Indeed in 2011 Germany had more police officers in Afghanistan than EUPOL – even though German officers were concentrated in only a few locations in the north of the country. EUPOL was woefully undermanned in 2008 and went through a succession of Heads of Mission who resigned in frustration. Even in mid-2010 the mission was still one-quarter under-strength, due to a lack of support from member states, with barely 300 Mission personnel out of a planned 400.<sup>67</sup> Senior Ministry of Interior officials learned quickly that EUPOL had few financial resources of its own.<sup>68</sup>

EUPOL hoped to gain influence and traction when the reforming Hanif Atmar was appointed as Minister of the Interior in 2008. But, as Antonio Giustozzi and Mohammed Isaqzadeh have pointed out, he struggled to exert the necessary influence to change the Ministry: ‘His reform plans, aiming to curb corruption and promote meritocracy, faced strong resistance from the networks now well-embedded in the MoI structure, even before they started being implemented ... His efforts to sack corrupt and untrusted officers failed due to political vetoes.’<sup>69</sup> President Karzai had wanted to sack Atmar as early as 2009 and succeeded in finding an excuse – the failure to prevent an attack on a peace Jirga<sup>70</sup> – to do so in 2010.

EUPOL was supposed to be in the strategic lead on police reform. Among its six objectives was the eradication of corruption within the Ministry of the Interior and it employed numerous anti-corruption advisers. But the mission lacked political information on the Ministry of Interior. As one EUPOL Ministry of the Interior adviser observed, ‘It is very hard to do anti-corruption if you don’t know who is corrupt in the first place.’ Other EUPOL personnel thought that it was not their job to ‘second-guess our Afghan partners’.<sup>71</sup>

ISAF, and more specifically the NATO Training Mission – Afghanistan (NTM-A), did make some progress in curbing Ministry of the Interior corruption over pay by the use of the Electronic Funds Transfer system and a new personnel assets inventory. But in 2011 SIGAR reported that it had received ‘little assurance international funds are used only to reimburse eligible police payroll and other costs.’<sup>72</sup> Conditionality was never forthcoming – the Commander of NTM-A, General Caldwell, was upset when he learned that the IMF were threatening to lead a donor push back on corruption in 2011. He was alarmed that it would interfere with his ‘campaign cycle’, NTM-A’s recruitment and training target figures. Ultimately General Caldwell got his way; the money kept flowing to the Ministry of the Interior and the Afghan government.<sup>73</sup>

67. UK House of Lords report, ‘The EU Police Mission in Afghanistan’, London: Houses of Parliament, 2010.

68. Antonio Giustozzi and Mohammad Isaqzadeh, *op. cit.*, p. 141.

69. *Ibid.*

70. Although a largely Pashtun concept – denoting a tribal gathering of elders – a jirga has also been used nationally in Afghanistan in recent history to include non-Pashtun groups.

71. Interview with European police advisers, January 2012.

72. SIGAR, ‘SIGAR audit shows Afghan National Police payroll costs, force size cannot be fully verified’, 25 April 2011.

73. Edward Burke, ‘Why France is leaving Afghanistan’, The Centre for European Reform, February 2012.

The US was dismayed at the failure of Germany and later EUPOL to train sufficient Afghan police officers. EUPOL initially defined itself as a 'mentoring' rather than a training mission. The three-year cadet training programme at the Afghan National Police Academy seemed absurdly long to US military officers who were fighting to overcome a fast-paced insurgency campaign.

In 2009 EUPOL's performance was improving as it rolled out its City Police and Justice Programme (CPJP), which focused on providing improved policing in key urban areas. But ISAF decided to change gear – from June 2009 to June 2010 ISAF, through NTM-A, increased its overall capacity to conduct ANP training by 400 per cent.<sup>74</sup> The budget of the United States Afghanistan Security Forces Fund (ASFF) expanded from \$8.6 billion in 2010 to \$11.6 billion in 2011, of which approximately \$4 billion went towards ANP force development.<sup>75</sup> NTM-A was now by far the largest and most important actor in the development of every constituent part of the ANSF.

But the amount of funds dedicated to police training and the number of recruits were far from telling the whole story. In late 2009 over 70 per cent of ANP recruits were deployed operationally without any training. And even in 2010 there was a 75 per cent illiteracy rate among the ANP.<sup>76</sup> Annual ANP losses due to attrition (resignation, desertion, death or injury) were reduced to more manageable figures. However, some units such the gendarmerie-style ANCOP – regarded as the 'premier force' by then Commander of ISAF (COMISAF) General David Petraeus – continued to suffer from attrition rates as high as 73 per cent in 2010. In March 2010 the UK Foreign and Commonwealth Office (FCO) reported an overall attrition rate of 60 per cent for the main component of the ANP, the Afghan Uniformed Police (AUP), in Helmand Province.<sup>77</sup> And of the last graduating class in 2009 from the Afghan National Police Academy only 2 per cent deployed to the south while 74 per cent remained in Kabul.<sup>78</sup> These figures improved considerably from 2011 to 2013 but the Ministry of the Interior continued to keep its best units in Kabul and the North.<sup>79</sup>

From 2005 until early 2010 the US and ISAF training programmes used the Capability Milestone (CM) rating system to monitor and report on progress in developing the ANP. The CM mechanism was weighed heavily in terms of numbers assigned and equipment allocated rather than leadership, absenteeism and operational effectiveness. Following significant criticism by the Special Inspector for Afghanistan Reconstruction (SIGAR), ISAF developed the Commander's Unit Assessment Tool (CUAT) to allow Police Mentoring Teams 'to provide subjective assessments in a narrative format.'<sup>80</sup> However, these assessments continued to judge whether a unit was effective based only on whether they could 'move, shoot and communicate'; little else was evaluated including core policing duties such as crimes prevented or detected, arrests made, files passed to the

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74. Prepared Statement of the Honorable Michele P. Flournoy, Under-Secretary of Defense for Policy, 'Developments in Afghanistan', Testimony before the US Senate Armed Services Committee, 15 June 2010.

75. Department of Defense, 'United States Plan for Sustaining the ANSF', Report to Congress in accordance with section 1231 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181), April 2010, p. 94.

76. NTM-A/CSTC-A, 'A response to the Draft SIGAR Audit Report no. 10-11', Kabul, 29 May 2010.

77. Brian Brady, 'Drugs and desertion: how the UK really rates Afghan police', *The Independent*, 28 March 2010.

78. 'United States Plan for Sustain the ANSD', Report to Congress in accordance with section 1231 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181), April 2010, p. 120.

79. Interview with an international police adviser, January 2012.

80. NTM-A/CSTC-A response to the Draft SIGAR Audit Report no. 10-11, 29 May 2010.

prosecutor, etc. The US was largely to blame for this focus on ‘light infantry’ tasks ahead of policing duties – a situation it is belatedly trying to correct in 2014.

The model police officer in Afghanistan, according to General Petraeus, is the self-appointed warlord in Kandahar, Brigadier-General Abdul Razzaq.<sup>81</sup> Giustozzi and Isaqzadeh tell a different story: ‘When Col. Razzaq was appointed CoP [Chief of Police] in Kandahar, he rapidly purged the provincial police of its professional element, which had been in control of the CID [Criminal Investigation Department].’<sup>82</sup> Razzaq was a brutally effective fighter but he knew nothing about policing. In such a context the experienced and professional police officers of EUPOL struggled to make themselves heard.

Despite its problems working with the Afghan Ministry of the Interior – and ISAF – EUPOL has infused some ANP leaders with professional policing skills that a different Afghan regime may be able to draw upon in the future. The EU decision to move EUPOL from being a loosely defined ‘strategic mentoring mission’ towards one with a clear ANP leaders’ training mandate was the correct one. The National Police Staff College in Kabul is arguably the greatest legacy of international police development in Afghanistan during the last ten years and a credit to the EU, but particularly the UK and the Netherlands, the member states that most resolutely backed its construction and staffing.<sup>83</sup>

The introduction of a number of Afghan civil service graduates to the Ministry of the Interior has had a visible impact in terms of increasing competence in some areas of the Ministry of Interior. But there continues to be some resistance among uniformed police officers towards empowering professional civil servants.<sup>84</sup>

On the other hand, EUPOL has not succeeded in greatly improving the gathering of crime data at the national level in Afghanistan. There has been an overwhelming focus on the gathering of information on kill counts and insurgent attacks – this is the core task of the National Police Coordination Cell at the Ministry of the Interior. There is no effective crime data collected centrally in Afghanistan – this impacts upon decision-making in relation to ANP growth, which in the past has been occasionally made according to counterinsurgency theory, i.e. numbers of minimum counterinsurgents required to contain an insurgency, with examples ranging from the British colonial experience in Malaya more than 60 years ago to, more recently, the US campaign in Iraq.<sup>85</sup>

Polls of public perceptions of the police by the ISAF and EU member states are also notoriously ineffective. Levels such as 83 per cent satisfaction with the ANP and 93 per cent satisfaction with government performance in transition areas were reported by ISAF in October 2011 – absurdly high figures which may have more to do with the unreliability of polling companies who are generally linked to the government and often travel with

81. Mathieu Alkins, ‘Our man in Kandahar’, *The Atlantic*, 7 February 2011.

82. Antonio Giustozzi and Mohammad Isaqzadeh, op. cit., p.144.

83. The role of UK (Strathclyde) police officer, Detective Chief Superintendent Brian Johnson, and the Scottish Police College were particularly important in the early stages of formulating a plan for the establishing of the National Police Staff College. Interviews with international police advisers and UK and EU officials, January 2012, June and July 2013.

84. Interview with an EU official, July 2013.

85. Interview with an international police adviser, January 2012. See, for example, Karl Hack, ‘Extracting Counterinsurgency lessons: The Malayan Emergency and Afghanistan’, *The Royal United Services Institute*, 28 November 2009.



armed security guards who can be somewhat intimidating.<sup>86</sup> There is still a lot of work to do to consolidate Afghan policing in the future. Much will depend on the shape of a post-Hamid Karzai Afghanistan.

## 2014 – the year of uncertainty: Risks, opportunities and recommendations

»» Given past trends, electoral turmoil in 2014 is probable and fraud may well be on a scale similar or greater than that seen in the presidential elections of 2009. Meanwhile reconciliation prospects remain dim owing to mistrust between the Afghan government and its international allies over what terms should be offered to the Taliban but also due to a hesitance on the part of the Taliban to negotiate with a Karzai government on its last legs. Former EU official Michael Semple has noted that, ‘The key political deal would probably not be between the Kabul government and the Taliban but between the old “Northern Alliance” and the Taliban as the former constitute the most organized political force in a position to resist the Taliban.’<sup>87</sup> Important leaders in the Northern Alliance, including Vice-President Fahim, have as yet shown no major appetite for a substantive deal with the insurgency.

A more immediate and escalating problem is the inability of the US and the Afghan governments to agree a bilateral security deal. Relations between Presidents Obama and Karzai are very difficult and Washington is said to be considering a ‘zero option’ – the complete military withdrawal from Afghanistan following successive breakdowns in talks.<sup>88</sup> Neither side wishes to budge on key issues including immunity for prosecution under Afghan law of US troops stationed in the country.

The EU presence in the country will have to be completely reevaluated in the absence of a significant US presence. Practicalities over security for EU personnel will undoubtedly become more complicated in such a scenario. EUPOL should only agree to stay in Afghanistan if the Afghan government provides and adheres to basic guarantees over EUPOL’s freedom of movement and security. Ultimately, EUPOL’s ambitions are greatly dependent on bilateral US-Afghan talks. Key member state contributors to the EU in Afghanistan have said that the deployment of personnel on EU service would be impossible without a wider US/NATO agreement. In November 2013 the UK Secretary for Defence, Philip Hammond, underlined this point during a visit to Kabul, ‘Without those agreements we can’t do anything because we won’t be able to protect our own people and clearly if we can’t protect our own people we won’t be able to have them here.’<sup>89</sup>

86. ISAF public briefing on transition, Kabul, 10 October 2011.

87. Michael Semple, ‘The Taliban Movement and prospects for reconciliation in Afghanistan’, Carr Center Working Paper Series, 1 October 2011.

88. Teresita Schaffer, ‘The United States and Afghanistan: The negotiating minefield’, Brookings, 24 October 2013.

89. BBC News, ‘Philip Hammond warns over Afghanistan commitment’, 11 November 2013.

Afghanistan stands on the precipice of an extraordinary fall in GDP as the flood of short-term aid begins to subside. And donor fatigue is becoming more entrenched. The latest donor-Afghan government conference at Tokyo in 2012 yielded another mutual accountability framework to succeed the aborted Afghan Compact (2006) and Kabul conference (2010) benchmarking and oversight mechanisms. It too is failing. The Afghan government has not delivered upon most of its pledged reforms. Agencies such as SIGAR have criticised the Tokyo Mutual Accountability Framework (MAF) as being defective from the start: the MAF ‘does not contain specific anti-corruption goals and objectives, align necessary resources, or identify performance metrics in a comprehensive way that would enable an evaluation of progress in achieving measurable results.’<sup>90</sup> So far international donors remain committed to delivering \$6 billion over three years. But donor enthusiasm for maintaining aid levels is waning in the wake of another failure – the Tokyo framework – of the Afghan government to honour its commitments.<sup>91</sup>

Meanwhile, violence is getting worse. In June 2013 UNAMA announced a 24 per cent increase in civilian casualties from January to June compared to the same period in 2012. The ANSF, particularly the ANP, are also taking unsustainably high casualties – almost 1000 were killed or wounded for the month of June 2013 alone.

Recently former COMISAF General John Allen tried to argue that the corner had been turned in the war against the Taliban. He pointed out that the ANSF is responsible for protecting 87 per cent of the population, leads on 85 per cent of operations and takes 75 per cent of overall casualties. None of these figures show that they are winning against the Taliban, however – rather, they merely demonstrate that the ANSF are increasingly on their own.

Given the political uncertainty in the country, levels of corruption, modest pay and medical support, it is unsurprising that some ANSF units prefer to tread with the Taliban than fight them. If the ANP is to hold together it should reform – scandals such as the theft of money from wounded police officers should not be allowed to reoccur if morale and performance are to improve.<sup>92</sup> The Ministry of Interior’s administrative capability remains critically weak – largely due to wanton corruption on the part of its leadership. Any future extension of EUPOL’s mandate should include a credible plan to deal with administrative reform once and for all. A new Afghan government should not be given endless opportunities to improve its performance – its credibility with the Afghan people will be intrinsically linked to reform and better delivery of services. It is therefore in the EU’s interest to set stricter, but realistic, conditions on its aid and to reduce funding accordingly if these are not met.

A clearer line of authority should also be established over the militia-like Afghan Local Police (ALP), formed at ISAF’s insistence in 2010, and which now stands at 30,000 strong. Currently the ANP has nominal command over this force but in reality it operates under the control of local militias – sometimes taking revenge against rival tribes or economic competitors. Clashes with regular police are common – the use of the term

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90. Special Inspector General for Afghanistan Reconstruction, ‘U.S. anti-corruption plans and mechanisms to track progress are needed in fighting corruption in Afghanistan’, September 2013.

91. Interviews with EU officials and Thijs Berman MEP, July and August 2013.

92. Maria al-Habib, ‘Neglect at Afghan military hospital’, *Wall Street Journal*, 3 September 2011.

‘police’ for the ALP is unfortunate as it ascribes a professional justice function the ALP is unable and unwilling to exercise. General Allen has claimed that attacks upon the ALP are indicative of their success – however, it could also be interpreted as evidence of the conflict they stir up in some local areas through racketeering and brutality.<sup>93</sup> Warlords such as Governor Atta Muhammed Noor in Balkh are continuing to seize territory from rivals (also nominally allied with the government in Kabul) using militia labeled as ‘ALP’.<sup>94</sup> Reducing the ANSF, including the ALP, to levels that the international community and, increasingly, the Afghan government can afford will be a key challenge for the international community and the EU in the future – Europe still provides much of the funding for ANP salaries.

EU officials could be forgiven for feeling a pronounced sense of fatigue in plotting the next steps of their engagement in Afghanistan. One leading NGO activist on Afghanistan said that, ‘You can hear the frustrations of diplomats and parliamentarians in their voices. They are saying let the show go on but nobody believes what we are doing. Such cynicism is really dangerous.’<sup>95</sup> A new seven-year assistance programme and strategy paper is due to be announced in 2014 with rounds of debate and budget haggling scheduled for the preceding months.

Despite the temptation of giving in to fatigue and the huge challenges ahead, the EU should look at 2014 as a new beginning. New beginnings are frequent occurrences for Afghanistan and are usually announced by donor countries in a foreign capital. By contrast, provided that security across most of the country can be sustained beyond 2014, this year could mark a genuine shift in Afghan politics. There is a widespread sense of despair among Afghan leadership circles that Hamid Karzai has overplayed his hand by ignoring the concerns of the international community over corruption.<sup>96</sup> A new start by a new president may yet provide an opportunity to challenge more egregious corruption and to professionalise the Afghan civil service. A change at the top is the best chance for reform in Afghanistan in some years. What can Europe do to make sure that its achievements in Afghanistan are consolidated, its mistakes overcome and that the abuse or waste of its resources is not repeated?

First, the EU and its allies need to work to limit fraud by the president, his allies and rivals during the electoral process. The UN is best placed to do this and the EU should encourage the United Nations Assistance Mission to Afghanistan (UNAMA) to show more robust leadership and coherence on election fraud than was the case in 2009. The work of the Independent Electoral Commission and other bodies should not be thwarted or corrupted, and electoral laws should be respected. The EU has already set a red-line on elections that it should now be seen to uphold. At a meeting on 3 July 2013 the EU and the US ‘delivered a strong unified message that holding inclusive, transparent and credible elections with a legitimate outcome is key to continuing with the current exceptional levels of aid.’<sup>97</sup>



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93. General John R. Allen, USMC (Ret.), Michele Flournoy and Michael O’ Hanlon, ‘Towards a successful outcome in Afghanistan’, op. cit., Human Rights Watch, ‘Just don’t call it a militia’, September 2011 and Vanda Felbab-Brown, ‘Afghanistan trip report V: The Afghan Local Police: “It’s local, so it must be good” – Or is it?’, Brookings, 9 May 2012.

94. Vanda Felbab-Brown, ‘Aspiration and Ambivalence: Strategies and realities of counter-insurgency and state-building in Afghanistan’, Brookings Institution, 2012, p. 148.

95. Interview with NGO activist, July 2013.

96. Interviews with Afghan officials, May 2012.

97. Usackas, op. cit.

Second, given the Afghan government's pre-occupation with negotiations with the US, in addition to upcoming elections, the EU should also announce the suspension of negotiations on a new Partnership and Cooperation Agreement until presidential elections are over. EU assistance, including the viability of its CSDP mission, will be greatly affected by the US negotiations – which currently continue to drag on. Negotiations with the US are an all-consuming priority for the Afghan government; aside from EU officials, nobody (not even member state diplomats) is focused on the EU Partnership and Cooperation Agreement negotiations in Kabul.<sup>98</sup> And there is no point in trying to draft a long-term plan for overall EU assistance without first knowing whether the leading international actor, the US, will have a significant role or opt for a 'zero option' – the EU will have to tailor its approach accordingly. Consequently the EU should launch a comprehensive dialogue with a new Afghan president in 2014 and not try to negotiate any long-standing agreement with President Karzai in his last months in office.

Third, conditionality is an admission of an inability to persuade a partner to change its ways. But it is also a necessary diplomatic tool. Conditionality should be used very carefully and only if EU concerns over corruption are being deliberately and repeatedly ignored. The failure to honour a laboriously negotiated MAF at Tokyo in 2012 should have consequences. For the EU to get conditionality right it will need an outstanding cadre of diplomats in Kabul who can cultivate relationships and anticipate problems before they escalate. Humanitarian or emergency relief aid should be exempt from conditionality. If development aid does need to be cut, it should be cut selectively and only in those ministries that are demonstrating a willful disregard for standards of accountability.

Fourth, the EU should maintain its support to the MRRD and the Ministry of Public Health. These ministries have worked hard to improve their capacity and deliver worthy programmes. The EU should continue to consistently support such projects that deliver results. Incentives should be provided to those ministries that register clear improvements in performance.

Fifth, the EU should not engage in 'tokenism' by funding projects that have a slim chance of success because of adverse political conditions or an unrealistic timetable. A mid-2013 call for proposals by the European Instrument for Democracy and Human Rights illustrates this problem – NGOs were asked to make substantial improvements in electoral awareness and gender issues according to an impossible timetable and geographical range.<sup>99</sup> Such timetables are often dictated more by the EU's funding cycles than by practical prospects of success.

Sixth, Afghanistan needs a root and branch reform of its justice system. Over-lapping laws – often rushed through at the behest of international advisers – need to be unpicked and clarified. The role of the president in 'supervising' the application of the constitution also needs review as it gives too much scope for unwarranted interference by the executive into legal matters. The EU should seize the opportunity of a new presidency to renew such a conversation on judicial reform.

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98. Interview with an EU official, July 2013.

99. Interview with an NGO activist and Thijs Berman MEP, July 2013.

Seventh, the EU should promote extractive resources transparency as a priority. Afghanistan's current engagement with the Extractive Industries Transparency Initiative (EITI) is encouraging – its vast copper and other mineral deposits are key to the future success of the country's post-aid economy. The EU should actively champion and prioritise the full implementation of the EITI.

Eighth, the EU should narrow its focus to 'its genuine comparative advantage', including policing, justice and electoral reform, health and rural development.<sup>100</sup> EUPOL should be consolidated towards delivering only on leadership training and mentoring for the ANP and police-prosecutor cooperation. These are the niche areas it can fill better than any other international actor. However, despite the well-known difficulties in identifying suitable and available profiles, it is crucial that EUPOL receives experienced advisers from member states. In the past some police officers sent as advisers to the Ministry of the Interior had never previously worked in a ministry.<sup>101</sup>

EUPOL also needs to be better politically informed. EUPOL Afghanistan still lacks adequate political information or understanding of the Ministry of Interior. Such a problem is symptomatic of an approach in Brussels that views civilian CSDP missions as an almost completely technical affair, placing these missions under the control of the Civilian Planning and Conduct Capability (CPCC), and removed from the respective regional EEAS political division (despite well-meaning but largely ineffective coordination meetings). EUPOL's programmes are constantly undermined by corruption, yet it remains largely oblivious to the causes and not sufficiently reactive to the occasional information it receives on why its Mission objectives are failing.<sup>102</sup> Either the delegation should regularly provide such information or EUPOL should recruit qualified political officers to undertake such analysis in cooperation with member states and other international partners.

Ninth, the EU should provide more support for UNAMA. The NATO drawdown leaves a void of a lead international actor in Afghanistan. UNAMA's budget has been cut at a time when the international community needs the UN presence in Afghanistan most. But the EU should also insist that UNAMA, and particularly the Special Representative, is empowered to do a much better job at coordinating the many UN agencies in Afghanistan. As one EU official observed, 'there is an issue of leadership at the heart of UNAMA's problems.'<sup>103</sup> The EU should take the lead in arguing for more resources and authority for the UN Special Representative of the Secretary General (SRSG). The SRSG needs to take the lead responsibility for mediating between a new Afghan government, the Taliban leadership and key external parties including the US and Pakistan. Qatar, the UAE and Turkey have all attempted to fulfill this mediation role but to poor effect.

Tenth, the EU should maintain its level of spending from 2007 to 2013 in its overall budget for Afghanistan for the coming seven years. The EU also needs to improve transparency over its development spending. According to MEPs such as Thijs Berman, the European Court of Auditors is under-staffed for such a role. And there is no European equivalent to SIGAR. MEPs increasingly question the upbeat and almost wholly positive reporting they

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100. Interview with a UK official, August 2013.

101. Interview with an EU official, August 2013.

102. Interview with an EU official, June 2013 and October 2013.

103. Interview with an EU official, July 2013.



get from the EEAS on the EU's activities in Afghanistan. A mechanism should be found where sensitive issues on the EU's engagement in Afghanistan could be discussed with policymakers, if necessary in closed-door parliamentary sessions.

## Conclusion

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»» The experience in Afghanistan has certainly proved to be a steep learning curve for the international community and the EU. If the last decade and more in Afghanistan has a lesson for the EU it is to heed Senator Robert F. Kennedy's exhortation that development assistance is 'political first, political last, political always'<sup>104</sup> – there is no technical way out of a political impasse. Corruption should be confronted through political knowledge and cultural deftness, both of which were lacking at key periods of the EU's commitment in Afghanistan.

Afghanistan is still important for the EU. As has often been repeatedly, but rightly stressed, the country is a regional cockpit, affecting the security of its neighbours and being used in turn as a venue for proxy wars. And neither is Europe exempt. In October 2013 the UK's foreign intelligence service warned that the risk of international terrorists operating out of Afghanistan will greatly increase after 2014.<sup>105</sup> Moreover, instability in Afghanistan may see an escalation in the already large amounts of refugees seeking asylum in the EU. In 2012 Amnesty International reported that up to 400 Afghans were becoming internally displaced on a daily basis, an already alarming trend as international troops begin to withdraw from the country.<sup>106</sup>

But Afghanistan is also a test for the EU, whether it will complete its swing from high optimism to deep despair and in the process lose sight of the lives it has changed for the better – the progress it has made and can still make. This paper has dwelt more on what needs to be fixed rather than the very real success stories of EU human development in Afghanistan. It does so in the hope that a new political deal is possible between the EU and Afghanistan. If a damaged relationship is to be mended for the future, both the EU, its member states and the Afghan government need to acknowledge what went wrong in the past. 2014 can be a new beginning or a disastrous end. The decision is not Afghanistan's alone; much will depend on what future bargain the international community and Europe will offer the country.

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<sup>104</sup>. Senator Robert F Kennedy, as quoted in Arthur M Schlesinger Jr, 'Robert Kennedy and his Times', Harcourt, 2002.

<sup>105</sup>. Steven Swinford, 'MI6 demands more spies in Afghanistan to fight terrorism', *The Daily Telegraph*, 21 October 2013.

<sup>106</sup>. Anne Ferris-Rotman, 'As foreign troops leave, Afghan refugees and poverty increase', *Reuters*, 14 May 2012.

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