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Backgrounder: Literature Review of Local, Community or Sub-State Forces in Afghanistan

By: Erica Gaston and Kate Clark

From dynastic rulers' co-option of tribal forces to forge the early Afghan central state in the pre-modern era, to the emergence of partisan and mujahedeen forces following the Communist coup d'état and Soviet invasion, to the anarchic militia contests that stood in for politics in the 1990s, Afghanistan's history has long been dominated and shaped by the interaction of militias with the state. In the post-2001 era, international actors, sometimes with Afghan state cooperation, have tried to use militias to fill gaps in security and support the re-establishment and strengthening of a modern Afghan state. Since 2002, a range of foreign-backed local, hybrid or non-state security forces (LHSFs) have emerged. While not the sole focus of international efforts, which have also been directed at setting up a 300,000-plus Afghan National Army and Police, LHSFs are nonetheless a significant element in the security landscape.[2] The most prominent, active LHSFs in Afghanistan today are the Afghan Local Police (ALP), which are approximately 28,000 strong.

In Afghanistan as elsewhere, standing up local forces have been framed as an attractive solution because they know the local terrain and threats, are relatively inexpensive and quick to stand up, and may be more dedicated to providing local security to protect their communities. In their initial conception, forces such as the ALP were thought to offer an immediate, and relatively inexpensive way to increase force numbers in rural areas where Afghan state forces were weakest. From 2009 onward, supporting bottom-up, local forces was also tightly wedded to the counterinsurgency strategy, with forces raised from local communities thought to be better at 'winning hearts and minds', holding areas once they were cleared of Taleban, and improving governance.[3] They have also

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[1] *This is a working draft, and will be updated over the course of the research project (until May 2019). This draft is not available for citation but comments or additional research sources could be shared with egaston@gppi.net.*

[2] As of February 2015, ISAF reported that there were "173,000 soldiers, airmen, and Ministry of Defence (MoD) civilians serving in the Army; approximately 154,000 policemen and civilians serving in the Ministry of Interior (MoI)). http://www.rs.nato.int/article/rs-news/afghan-national-defense-and-security-forces-operational-update.html.

[3] Seth Jones, *The Strategic Logic of Militia,* (Santa Monica: RAND National Defense Research Institute, 2012); Seth Jones and Arturo Munoz, *Afghanistan's Local War: Building Local Defense Forces,* (Santa Monica: RAND National Defense Research Institute, 2010).

increasingly fit into a narrative of 'bottom-up' state-building in Afghanistan, which brought with it a greater emphasis on supporting locally driven security or governance.

However, these assumptions have often not been realized in practice. Limited tactical successes have often been complimented by the creation of deeper security vulnerabilities. Such groups have often not proven to be responsive or accountable to communities; may undermine state-building and the rule of law; and may also engage in abusive behaviour.

The aim of this project is to explore Local or Hybrid Security Forces (LHSF) in Iraq and Afghanistan from a comprehensive security perspective, with a particular emphasis on how these forces are affected by foreign support or assistance, and transnational or regional security threats. Research will be led by the Afghanistan Analysts Network (AAN) in Afghanistan, the Institute for Regional and International Studies (IRIS) at the American University of Iraq, Sulaimani (AUIS) in Iraq, and in cooperation with the Global Public Policy institute (GPPi) in both countries. This Consortium will approach the impact of regional or local defense forces from a comprehensive security perspective, considering not only whether these groups have contributed to security and stabilization goals, but also how they have affected community dynamics, the protection of civilians, human rights, and other political, rule of law and governance dynamics. This research is supported by the Netherlands Organisation for Scientific Research.

This project aims to generate new evidence- and field-based insights that complement and build from existing research and analysis. As such, an important first step in the research process was to survey existing academic, policy and practitioner literature to identify open research questions or gaps in existing literature. This was complemented by preliminary stakeholder interviews and consultations with those with knowledge of current trends and needs observed in Afghanistan, or expertise in the particular subject matter areas.

The following chapters summarize existing literature and evidence according to four key question sets: security effectiveness, the impact on communities, human rights and accountability, and the other competing short term or long term consequences or side effects (notably for state-building, rule of law, and disarmament and demobilization). Most of the literature deals with the Afghan Local Police (ALP) as it is the largest and most sustained of the various iterations of LHSFs in Afghanistan. However, a summary list of all forces and phases of LHSFs considered in this LHSF analysis is included in the accompanying Appendix. This includes a range of non-state or quasi-state, pro-government actors, including ALP, earlier pilot models that preceded the ALP (including the LDI/CDI, APPF, AP3, and others), private security companies (PSCs), and militia forces accompanying international forces and actors.

What to call LHSFs is tricky, not least because they are very diverse, in terms of size, intent, extent of state control, and whether they are members of larger, often older factions. We sometimes use the term 'militia' as shorthand in this paper, despite its connotation (in English, Dari and Pashto) as a force that is inherently abusive and under, at most, weak state control. Other authors in the literature have tried to distinguish between militias and 'home-guards', or 'community defense forces', or to differentiate groups based on their level of connection and control with the state. However, such distinctions can be as misleading as they are helpful, given the fluidity of LHSF organization in Afghanistan. The difficulty in assigning a single term or set of terms to all actors highlights what

Goodhand and Hakimi call "the heterogeneity and complexity of the local security architecture in Afghanistan" and how "the same program looks very different in one context over another."[4]

An additional tension throughout this literature review has been distinguishing between state forces and LHSFs. Many of the different LHSFs have enjoyed significant state association and status – paid by state actors, wearing state-issued uniforms, reporting to Afghan ministries, and delegated state security responsibilities. On the other side, many of the units within the Afghan National Security Forces (ANSF) appear as close to definitions of militias as LHSF forces – they may wear the uniform and bear the authority of the State but in reality they respond to the orders of a particular commander, whose interests often do not correspond with, or directly clash, with the interests of the Afghan state

The following sections briefly summarize key reporting from the literature surveyed about the impact of LHSFs in four key subject areas:

1. Security effectiveness;
2. Long-term impact and concerns for state-building;
3. Human rights and protection concerns;
4. Community dynamics, control, and buy-in.

The Annex to this report provides an overview of the different groups considered under this literature review.

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[4] Jonathan Goodhand and Aziz Hakimi, *Counterinsurgency, Local Militias and Statebuilding in Afghanistan* (Washington: United States Institute for Peace Press, 2014), 38.

1.   Security Effectiveness

Key questions: Is there any evidence that LHSFs improve security – and how has this been measured? Are there differences between short and long-term gains? Have ALP contributed to the counterinsurgency? Where ALP does improve security, what are the key factors behind that?

Although there is ample documentation of the negative impact of earlier LHSFs on security or strategic concerns, particularly the AMF, [5] the main focus of the literature, and of this section, is whether the decision from 2009 on to embrace quasi-state, local, community defense forces on a large scale in the form of ALP has been effective in promoting security. The literature on security effectiveness has not provided a ringing endorsement for ALP, particularly when security is assessed from a long-term perspective. Many of the case studies of ALP – for example from HRW, ICG, AAN, and Goodhand and Hakimi at USIP – have cast doubt on whether ALP have improved security in local areas, while, at the same time, documenting extremely negative security side effects for local conflict, governance, or rule of law (see the following chapters 2 and 4 for more).

Perhaps the strongest evidence of the ALP as a stabilizing or protecting force, comes from the UNAMA human rights monitoring team. Even while regularly noting serious human rights violations by some units, UNAMA has found that, "Most communities continued to welcome the stability and enhanced security provided by the ALP" and that "most communities reported improved security following ALP deployment."[6] This points to an underlying challenge in evaluating security effectiveness: there are competing definitions of what is meant by security.[7] Several LHSFs have

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[5] In addition to predatory and abusive behaviour, which would later be considered a significant factor turning the population against the Afghan government and feeding the Taleban insurgency, AMF were also often unreliable or counter-productive allies. Militia commanders and politicians controlling militias were able to manipulate US military allies to weaken or attack rivals, in many cases pushing rival tribes or clans to join the Taleban. Prominent examples include local Uruzgan strongman Jan Mohammad use of his militia guard forces and relations with US Special Forces to target tribal rivals, particularly from the Ghilzai and Panjpai tribes; or how militias loyal to Gul Agha Shirzoi in Kandahar worked with US force to "systematically target and denounce" entire tribes in areas around Kandahar. Alex Van Linschoten and Felix Kuehn, *An Enemy We Created: The Myth of the Taleban-Al Qaeda Merger in Afghanistan* (Oxford: Oxford University Press, 2014); Martine Van Bijlert, "Unruly Commanders and Violent Power Struggles: Taleban Networks in Uruzgan," in *Decoding the Taleban: Insights from the Afghan Field*, ed. Antonio Giustozzi (New York/Chichester: Columbia University Press/Hurst, 2009), 158; Anand Gopal, *No Good Men Among the Living Men: America, the Taleban and the War through Afghan Eyes* (New York: Metropolitan Books, 2014), 114. For accounts of this pattern of abuse by US-allied LHSFs and Taleban re-emergence across Afghanistan, see Gopal, *No Good Men Among the Living*; Van Bijlert, "Unruly Commanders and Violent Power Struggles"; Anand Gopal, "The Battle for Afghanistan: Militancy and Conflict in Kandahar," *New American Foundation,* November 9, 2010, http://www.newamerica.net/publications/policy/the_battle_for_afghanistan; Antonio Giustozzi and Christoph Reuter, *The Insurgents of the Afghan North: The rise of the Taleban, the self-abandonment of the Afghan government and the effects of ISAF's 'capture-and-kill campaign',* AAN Thematic Report (Afghanistan Analysts Network, 2011), http://www.aan-afghanistan.org/uploads/AAN-2011-Northern-Insurgents.pdf; Stephen Carter and Kate Clark, "No Shortcut to Stability: Justice, Politics and Insurgency in Afghanistan," *Chatham House,* December 2010, https://www.chathamhouse.org/sites/files/chathamhouse/public/Research/Asia/1210pr_afghanjustice.pdf.

[6] UNAMA, *Afghanistan Midyear Report on Protection of Civilians in Armed Conflict: 2014*, July 2014, 39, https://www.ecoi.net/file_upload/1226_1404997194_unama-mid-year.pdf.

[7] As Mark Sedra has aptly framed the issue: "This is perhaps the crux of the dilemma facing the SSR model in the post-September 11 era. Whose security does it seek to advance? The model is built upon the principles of human security, but the Afghan and Iraqi agendas appear to be driven by external security interests rather than by advancing the security of individual Afghans and Iraqis." Mark Sedra, "Security Sector Reform in Afghanistan and Iraq: Exposing a Concept in Crisis," *Journal of Peacebuilding & Development* 3, no. 2 (2007): 7-23.

fought the Taleban well *and* abused the population.[8] Or, a group may protect one section of the community while preying on another, or protect an ISAF base while predating on local civilians.

Another challenge of judging ALP or other LHSFs' security effectiveness is the difficulty of establishing the counterfactual of what districts would look like without an ALP; or trying to isolate the contribution of a force like the ALP from other security elements or from the overall security strategy. Defenders of ALP, rightly note they are a relatively limited, auxiliary force, and should not be expected to surmount security challenges on their own.[9] In many of the districts with ALP, such as in Helmand or Kandahar, worsening security may be attributable to broader failings in ANSF, international troop withdrawals, or pernicious problems in governance, rather than failures of the ALP per se.[10] Goodhand and Hakimi note that interviewees reported ALP being effective in outlying areas and that, "Some evidence, though not very systematic evidence, indicates that the ALP constituted a useful military asset that contributed at least temporarily to the Taliban's having to cede territory."[11]

This section will first give an overview of studies that have tried to make claims about the overall effectiveness of the ALP, or of specific ALP units, and will then discuss factors in success or failure, and the degree to which ALP lived up to their counterinsurgency mandate.

Success Stories of ALP

Despite the many places where ALP have been supported, and that their mandate continues to be renewed, there is a dearth of empirical evidence of the ALP having a positive effect on security. One US expert group with top-level access to the ALP and the US military in 2013 said ALP units ranged from "highly effective" – enhancing local security, undermining insurgent influence, and facilitating governance and development – to those "causing more harm than good to the counterinsurgency" – ineffective, predatory, or engaged in collusion with the enemy.[12] It reported the US SOF's own assessment, as one third of ALP units being effective, one third counter-productive and one third somewhere in between. This statistic has been reproduced frequently in other studies, although without any specifics on which ALP (geographically) were the successful third and which the failures.[13]

The bulk of case studies or documentation of ALP by independent research, journalists, think-tanks, and international organizations tend to cast them in a negative or, at best, ineffectual light.[14]

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[8] UNAMA, *Afghanistan Midyear Report on Protection of Civilians in Armed Conflict: 2016*, July 2016, 87-88, https://unama.unmissions.org/sites/default/files/protection_of_civilians_in_armed_conflict_midyear_report_2016_final.pdf.

[9] See generally, Jones, *Strategic Logic of Militia*.

[10] See e.g. Sam Vincent, Florian Weigand and Hameed Hakimi, "The Afghan Local Police – Closing the Security Gap?," *Stability: International Journal of Security & Development* 4, no. 1 (2015): 14-15 (noting the failure of the ALP project and resistance against the Taleban in Andar, Ghazni, after international troop support was withdrawn)

[11] Goodhand and Hakimi, *Counterinsurgency*, 40

[12] Mark Moyar, Ronald E Neumann, Vanda Felbab-Brown, William Knarr, Jack Guy, Terry Corner and Carter Malkasian, "The Afghan Local Police Community Self-Defense in Transition," *Center for Special Operations Studies and Research*, Joint Special Operations University, August 2013, 4.

[13] Ibid.

[14] Jonathan Goodhand and Aziz Hakimi, Counterinsurgency, Local Militias and Statebuilding in Afghanistan (Washington: United States Institute for Peace Press, 2014); International Crisis Group, *The Future of the Afghan Local Police,* June 4, 2015, Asia Report Nº268, http://www.baag.org.uk/sites/www.baag.org.uk/files/resources/attachments/IntCrisisGp-the-future-of-the-ALP.pdf; Mathieu LeFèvre, *Local Defence in Afghanistan: A Review of Government Backed Initiatives*, AAN Thematic Report

However, this largely critical view of ALP in existing literature may be due to reporting bias, with critics of the program devoting greater attention to documenting flaws. It could be that more positive, empirically based studies conducted by or in cooperation with international military forces are classified. However, at least among public data, no 'best case' models have stood up to challenge. Many examples of provinces where ALP has worked well according to international military representatives and also by some analysts, often appear, on closer scrutiny, to be examples of misreporting. Moyer cites VSO forces' ousting of the Taliban from Gizab district in Daikundi and Rabat district in Paktika province as early successes that they hoped to replicate on a nationwide level with the expanded ALP.[15] The Gizab example involved a shopkeeper, fed up with Taleban 'oppression', deciding to fight back and being selected by US SOF to head up a local defense force.[16] Van Bijlert said locals believed the SOF, which had been scouring the area for VSO/APPF sites, had actually been "dragged... into a personal dispute."[17] The violence continued, she wrote, and, in reality, "[t]he labels 'Taleban' and 'pro-government' turn[ed] out to be transient and fluid, obscuring ongoing conflicts and acts of revenge by violent commanders that are alternately being fought and supported by the international forces."[18] Similarly, Habib, and Vincent, Weingand, and Hakimi present a range of counter-evidence undermining the prototypical success story of the supposedly popular 'Andar Uprising' in Ghazni which led to the creation of an ALP unit there; they concluded it had actually been a contest between local powerbrokers and factions that had its ancestry in 1980s factional rivalries.[19] In both Andar or Gizab, the establishment of the local defense force drove new cycles of violence.

In other cases, ALP behaviour reported as success stories early on did not stand the test of time, with the decision to arm ALP likely a key factor in later cycles of conflict. For example, the 'Shinwari Pact' in Nangarhar where the US armed one sub-tribe to fight the Taleban in 2009 was much hailed at the time; however, that sub-tribe used its clout to grab land, resulting in intra-tribal conflict, the entry of Pakistani militant groups, and eventually, a Daesh takeover.[20]

Statistical Evidence

Apart from identifying best or worst case studies, some analyses have tried to evaluate security effectiveness by looking at numbers of security incidents in a district, or attacks on ALP. These studies tend to be conflicting and inconclusive. An early RAND analysis of the program tracked what

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(Afghanistan Analysts Network, 2010); Deedee Derksen, "Non-State Security Providers and Political Formation in Afghanistan," *CSG Papers, Centre for Security Governance,* 2016.

[15] Moyar et al., "The Afghan Local Police Community Self-Defense in Transition," 11.

[16] Rajiv Chandrasekaran, "U.S. eager to replicate Afghan villagers' successful revolt against Taleban," June 21, 2010, *The Washington Post,* http://www.washingtonpost.com/wp-dyn/content/article/2010/06/20/AR2010062003479.html?sid=ST2010070905635. Moyar was not the only analyst to cite the Gizab example as an example of the positive potential impact of ALP.

[17] Martine van Bijlert, "The revolt of the good guys in Gizab," *Afghanistan Analysts Network,* June 24, 2010, https://www.afghanistan-analysts.org/the-revolt-of-the-good-guys-in-gizab/

[18] Martine van Bijlert, "Trouble in Gizab; The fight everyone chose to ignore," *Afghanistan Analysts Network*, October 31, 2011, https://www.afghanistan-analysts.org/trouble-in-gizab-the-fight-everyone-chose-to-ignore/

[19] Emal Habib, "The Morphing of the Andar Uprising: Transition to Afghan Local Police," *Afghanistan Analysts Network*, 2 April 2013, https://www.afghanistan-analysts.org/the-morphing-of-the-andar-uprising-transition-to-afghan-local-police/; Vincent et al., "The Afghan Local Police," 12-13.

[20] Vanda Felbab-Brown, "Afghanistan Trip Report V: The Afghan Local Police: "It's Local, So It Must Be Good" – Or Is It?," *Brookings Institution,* May 9, 2012, https://www.brookings.edu/opinions/afghanistan-trip-report-v-the-afghan-local-police-its-local-so-it-must-be-good-or-is-it/#_ftn1; Borhan Osman, "Descent into chaos: Why did Nangarhar turn into an IS hub?", *Afghanistan Analysts Network*, September 27, 2016, https://www.afghanistan-analysts.org/descent-into-chaos-why-did-nangarhar-turn-into-an-is-hub/.

ISAF defined as 'significant enemy attacks', ('SIGACTS') and found they initially increased and then began to decline once the VSO/ALP was established, to levels of violence that were below the initial levels, despite US Special Operation Forces (SOF) continuing to engage with the enemy. This suggested that the ALP was stabilizing the situation even given the pressure of greater conflict[21] Later studies have tended to discount this Rand statistic as violence levels returned. Any possible initial stabilization effect was a temporary bump, which evaporated as international or Afghan force support was withdrawn.[22] (See this same apparent pattern in Helmand where a US SOF-established chain of ALP commanders stretching north to south, fell to the Taleban in the second half of 2015, following the departure of international forces left.[23])

ICG, looking at whether ALP were successful against the Taleban in Kandahar, found an ALP presence did not correlate "with enhanced security in Kandahar," noting rather that violence doubled in the five districts where ALP were first introduced; there was no significant change in violence levels in the other five where ALP were later expanded and that; it "halved in the seven districts that had no ALP presence" from 2010 to 2014.[24] It did argue that ALP had helped impede the Taleban's passage and limited their influence and in some areas, were alone in patrolling or resisting the Taleban (although this may be more of a sign of the deficits of ANSF than the success of ALP).[25]

Another statistic cited by the military to demonstrate ALP success are casualty figures. Goodhand and Hakimi cite ISAF data that "6.2 per cent of ALP members have been wounded or killed versus fewer than 3 per cent of the Afghan army and police."[26] They note this could be because Taliban see ALP as a greater local threat, so potentially a sign of their success. Or, the ALP could be more exposed, less well equipped, and on the front line.

Factors in Success

Even given that the literature on the ALP and similar groups is mixed, is it possible to draw out the factors that help to make such militias effective in maintaining security? Several pointers did emerge from the literature.

Strength of local ANSF

Several case studies (Helmand, Kandahar, and as a counter-example, Kunduz) suggest a strong ANSF is crucial to the ALP working well. This is the "central paradox of the ALP program," write Goodhand and Hakimi, that it is "least likely to work in the areas where the program is believed to be most needed."[27]

Deficits within the ANSF can also do as much harm as good. Linking the ALP to ANP and MoI is a "a liability", said the expert group, given that police and MoI officials have misused the force,

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[21] See Jones, *Strategic Logic of Militia*.

[22] See, e.g., International Crisis Group, *The Future of the Afghan Local Police*, June 4, 2015, Asia Report N°268, http://www.baag.org.uk/sites/www.baag.org.uk/files/resources/attachments/IntCrisisGp-the-future-of-the-ALP.pdf, 19 (demonstrating how the RAND statistics regarding security gains in Kandahar were not durable).

[23] See Rahmatullah Amiri, "Helmand (1): A crisis a long time coming," *Afghanistan Analysts Network*, March 10, 2016, https://www.afghanistan-analysts.org/helmand-1-a-crisis-a-long-time-coming/

[24] International Crisis Group, *The Future of the Afghan Local Police*, 19.

[25] Ibid., 20 ("Similarly, district officials in Zhari described the ALP as a shield between Taleban strongholds in Maywand and the western outskirts of the city: 'Afghan soldiers hide inside their bases and collect their salaries. Only the ALP are patrolling'").

[26] Goodhand and Hakimi, *Counterinsurgency*, 39.

[27] Goodhand and Hakimi, *Counterinsurgency*, 44.

"employing it to prey on the population or combat rival ethnic groups, tribes, or personalities or for personal use (such as guarding homes, commercial interests and bases).[28]

Homogeneity of the community

The literature has mixed findings on how far the nature of the community affects the chances of having an effective ALP.[29] The experience of the force in Baghlan, Kunduz, and parts of Uruzgan, where it became enmeshed in local ethnic, tribal or factional conflict, sparking retaliatory raids and reprisals, suggests failure is more likely where the ALP is drawn from one side where there is underlying ethnic or tribal conflict.[30] Felbab-Brown noted that ALP "seemed to have the least proclivity toward abuse of local and rival communities when they have emerged spontaneously from the local community, when they faced a particularly abusive external force (such as an outside Taliban faction), and when major rifts and conflicts were absent from the community of the militia's origin."[31]

ICG found the ALP more effective in Paktia, in part because of the relatively homogenous communities in which they were established,[32] although TLO noted that recruitment and membership in the ALP and wider ANSF in Loya Paktia has fallen starkly along ethnic or tribal dividing lines with abuses committed against members of opposing communities.[33]

Moyar found that in the early ALP units he examined, they were more likely to see security gains where they enjoyed the support of strong, traditional local structures. Where such elders had been driven off or killed, "odds of success... were substantially lower" because they were more likely to fall prey to manipulation by local commanders or strongmen who had no interest in helping the population.[34] He also noted that as the program was pressured to expand nationwide, it was often forced on communities that did not have these strong, intact community structures, suggesting that the program was less successful overall than it might have been had the original model been followed.

Strong ALP leadership

Some case studies suggest the importance of ALP leadership. Amiri's work in the tribally heterogeneous Marja district points to a respected leader holding the ALP together and it subsequently falling apart when he was killed (defects in the ANSF were also at work here and the withdrawal of international forces). Controversially, the 'firm hand' of Kandahar's police chief, Abdul Razeq, was credited by ICG's interlocutors with the success of both ANP and ALP. Units certainly engaged in gross violence and illegal, retaliatory actions against suspected Taleban fighters and supporters but they were not rogue; those that engaged in random abuse or violence were

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[28] Moyar et al., "The Afghan Local Police Community Self-Defense in Transition," 11.

[29] International Crisis Group thought it might: *Afghanistan's Insurgency After the Transition*, May 12, 2014, Asia Report N°256, 38, https://www.crisisgroup.org/asia/south-asia/afghanistan/afghanistan-s-insurgency-after-transition; Moyar et al., said it did not: "The Afghan Local Police Community Self-Defense in Transition," 11.

[30] Moyar et al., "The Afghan Local Police Community Self-Defense in Transition," 14

[31] Vanda Felbab-Brown, "Hurray for militias? Not so fast: Lessons from the Afghan Local Police Experience 2016," *Small Wars and Insurgencies* 27, no. 2 (2015): 269–270

[32] The material on Paktia was not ultimately included in the ICG report. Author interview with Graham Smith.

[33] The Liaison Office, *Missing in Transition? Why a focus on military hand-over alone misses the point in Loya Paktia*, October 10, 2012, TLO-Policy Brief 1, https://www.boell.de/sites/default/files/assets/boell.de/images/download_de/2012_TLO_HBF_Policy_Paper__May_2012.pdf.

[34] Mark Moyar, "Village Stability Operations and the Afghan Local Police," *Center for Special Operations Studies and Research*, Joint Special Operations University, October 2014, 61-62.

disciplined.[35] Razeq, said Human Rights Watch, is an example of a commander who "continue[s] to garner praise for their security successes, even when these have involved grave human rights violations."*[36]*

Counterinsurgency, Local Conflict, and Long-Term Success

As they were conceived in 2009, locally-grounded forces like the ALP were viewed as critical to the counterinsurgency because their legitimacy with communities would make them more successful in a 'hearts and minds' campaign against the Taleban.[37] They were often given some authority or nexus with development funds or governance authorities, in a bid to improve local governance.

The literature suggests the assumptions on governance were overly optimistic, or generally misplaced. Past case studies have documented numerous negative consequences of LHSFs for local governance and rule of law.[38] In Kunduz, militias (both ALP and unaffiliated militias who dub themselves ALP) have proliferated and become so dominant that many commentators argue they led to 'rule by the gun',[39] that partisan, abusive militias directly contributed to the fall of Kunduz city in 2015 to the Taleban[40] and that the ALP in Kunduz is *the* example of the failure of the militia strategy.[41] Felbab-Brown writes that, "Instead of the militias succeeding in expelling the Taliban from Kunduz, it is this insecurity, augmented and perpetuated by the presence of militias that has consistently pulled the Taliban into the province and enabled the insurgency to persist there."[42]

Whether the ALP succeeded in helping tip Afghan populations toward the state and away from the insurgency is generally answered negatively in the literature, although conclusive analysis is hindered by the variance in local political dynamics. Different analyses of even the same ALP location differ. Moyar frames the emergence of ALP in Baghlan as overall positive from a counterinsurgency strategy because it offered a way for Pashtun and Hezb-e Islami supporting communities who had been marginalized by the Jamiat-dominated provincial security apparatus to organize themselves and push back and – at a minimum – not join the Taleban.[43] Goodhand and Hakimi, however, point also to the ALP commanders' engagement in rights abuses and extortion from and harassment of the

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[35] For a description of Razeq's tactics and the ALP's success against the Taleban (in contrast to issues with ALP in the North), see Luke Mogelson, "Bad Guys vs. Worse Guys in Afghanistan," *New York Times,* October 19, 2011, http://www.nytimes.com/2011/10/23/magazine/bad-guys-vs-worse-guys-in-afghanistan.html

[36] See International Crisis Group, *The Future of the Afghan Local Police*, and Human Rights Watch, "'Today, We Shall All Die': Afghanistan's Strongmen and the Legacy of Impunity," March 3, 2015, https://www.hrw.org/report/2015/03/03/today-we-shall-all-die/afghanistans-strongmen-and-legacy-impunity.

[37] Jones, *Strategic Logic of Militia*; Jones and Munoz, *Afghanistan's Local War*

[38] Jan Koehler and Kristóf Gosztonyi found that militia engagement was critical in pushing back the Taleban in the 2007 to 2009 period, in Kunduz in particular, but their longitudinal perception studies of the population in 40 districts found that the ALP presence led to other problems in the security and governance realm. Jan Koehler and Kristóf Gosztonyi, "The International Intervention and its Impact on Security Governance in North-East Afghanistan," *International Peacekeeping* 21, no. 2. (2014): 231-50.

[39] See e.g., Mogelson, "Bad Guys vs. Worse Guys in Afghanistan" Kohler and Gosztonyi argue that some of the security consequences or abuses of militias in the northeast then reduced as they were formalized into the ALP, which offered greater controls.

[40] Borhan Osman, "The Fall of Kunduz: What does it tell us about the strength of the post-Omar Taleban?", *Afghanistan Analysts Network*, September 30, 2015, https://www.afghanistan-analysts.org/the-fall-of-kunduz-what-does-it-tell-us-about-the-strength-of-the-post-omar-taleban/

[41] Goodhand and Hakimi, and International Crisis Group, among others, are fairly critical of the Kunduz militia experience.

[42] Felbab-Brown, "Hurray for militias?" 272.

[43] Moyar, "Village Stability Operations," 22-23.

population they were supposed to be protecting.[44] There is no evidence as to whether those communities ultimately felt more allegiance to the government, or less to the Taleban – either of which might support a conclusion that the counterinsurgency strategy had succeeded. Moreover, ultimately, Baghlan was not stabilised. As Goodhand and Hakimi note, reflecting on the overall impact of ALP for counterinsurgency, ALP was created to hold areas, but when the force is predatory, it can create opposite effect from "extending the state."[45]

Finally, one of the most frequently raised critiques is that the ALP project prioritized short term gains over long-term stabilization, in essence the opposite of what the counterinsurgency strategy called for. The concern appears particularly pertinent in ethnically mixed provinces or districts, such as in Kunduz or Baghlan. Goodhand and Hakimi note that, in Baghlan, while the ALP might have resulted in protection of some Baghlani communities from the Taliban and abuses by Jamiat-affiliated security forces, it did so at the cost of escalating political and ethnic tensions within the province (among others, sometimes leading to direct fighting between the ALP and ANP, because they were affiliated with different factions).[46]

The degree to which ALP exacerbate ethnic and partisan tensions appear to be strongest in the north with its rich and complex history of militias and strong factional politics linking centre and regions and especially in Baghlan and Kunduz. Similar patterns have been documented elsewhere, however. AAN has detailed two competing ALP units established among the respective Pashtun and Hazara communities in Uruzgan engaged in tit-for-tat retaliation and extreme abuses of members of the other community[47] and Goodhand and Hakimi also found similar dynamics in their Wardak case study where ALP forces were used to settle scores between long-standing rival Hezb-e Islami and Taleban groups.[48]

Another common critique has been that LHSFs have had a multiplier effect on local conflict that, when taken as a whole across Afghanistan, can ratchet up violence and increase the overall risk of instability and ethnic conflict. Jentzsch, Kalyvas, and Shubiger have noted that civil defense forces can increase the length of a civil war by creating more spoilers, "veto players," and commitment issues.[49] Similarly, Geraint Hughes and Christian Tripodi have noted that states already "divided by ethnic, racial, tribal or confessional strife, the use of surrogates from on particular social group in a COIN/CT campaign can exacerbate internal tensions and encourage civil war."[50]

Applying these theories to the many ethnically and tribally divided districts in which ALP were stood up in Afghanistan has led many authors to argue that the project presents significant long-term risks of greater violence, notwithstanding any immediate security gains. As noted in the community section, in many areas, the insertion of ALP escalated or prolonged pre-existing local conflict, and

[44] Goodhand and Hakimi, *Counterinsurgency*, 24-25.

[45] Goodhand and Hakimi, *Counterinsurgency*, 41.

[46] Goodhand and Hakimi, *Counterinsurgency*, 28-31.

[47] Martine van Bijlert "Security at the Fringes: The case of Shujai in Khas Uruzgan," *Afghanistan Analysts Network*, April 6, 2013, https://www.afghanistan-analysts.org/security-at-the-fringes-the-case-of-shujai-in-khas-uruzgan; Martine van Bijlert, "Khas Uruzgan violence and ISAF press releases," *Afghanistan Analysts Network*, June 26, 2011, http://www.afghanistan-analysts.org/khas-uruzgan-violence-and-isaf-press-releases/; Human Rights Watch, "'Today, We Shall All Die'," 23-25

[48] Goodhand and Hakimi, *Counterinsurgency*, 42.

[49] Corinna Jentzsch, Stathis N. Kalyvas, and Livia Isabella Shubiger, "Militias in Civil Wars," *Journal of Conflict Resolution* 59, no. 5 (2015): 755-769.

[50] Geraint Hughes and Christian Tripodi, "Anatomy of a surrogate: Historical precedents and implications for contemporary counter-insurgency and counter-terrorism," *Small Wars & Insurgencies* 20, no. 1 (2009): 1-35, 25

frequently created drove tit-for-tat reprisals between competing ALP groups. This, note Goodhand and Hakimi, "may prolong and intensify conflict, undermine state authority, and create competing power structures difficult for the state to control"[51] and play out at higher levels, given that, "Local conflicts frequently transcend the local. Small-scale conflicts usually become enmeshed in and influence wider conflicts at the provincial, interprovincial, or national levels."[52] Conflicts in Baghlan, for example, were intimately connected to tension between Balkh governor, Atta Muhammad Nur and Pashtun power brokers around then President Karzai in Kabul.

Felbab-Brown, with the idea of local conflict spreading in a domino effect, has argued that "cumulatively the ALP phenomenon... [can] generate a widespread and complex security predicament for the whole country" by creating a contagion of tit-for-tat rearmament and militarization of Afghanistan village by village and district by district. This, she argues, can "profoundly alter local and national balances of power" and undermine state authority.[53]

Goodhand and Hakimi note a "negative spiral" of "spontaneous rearmament by communities and militias."[54] A large factor driving this, they argue, has been the "decentralization of violence and remobilization" of communities since 2010: "The underlying structural conditions that explain the continued persistence of illegal militias, far from being transformed, have intensified over time."[55]

From a security sector reform perspective, many of the discussions of the Afghan ALP experience tend to be negative. Giustozzi has used the Afghanistan example and the treatment of pre-ALP militias to argue that presumptions that local is better in security sector reform may be misguided (albeit dealing more with the incorporation of militias into the formal security forces).[56] Responding to the question of whether the international community should "interfere in local security set-ups or even create new systems," Derksen concludes that the Afghanistan experience suggests that "international interference in non-state security provision has done more harm than good... a hands-off approach of the international community regarding non-state security providers would contribute more towards stabilization than its current engagement."[57]

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[51] Goodhand and Hakimi, *Counterinsurgency*, 42.

[52] Ibid., 40.

[53] Felbab-Brown, "Hurray for militias?" 271-274.

[54] Goodhand and Hakimi, *Counterinsurgency*, 7.

[55] Ibid., 6-7.

[56] Antonio Giustozzi, "Shadow Ownership and Security Sector Reform in Afghanistan," in *Local Ownership and Security Sector Reform*, ed. Timothy Donais, (Geneva: Lit Verlag, 2008): 215-232

[57] Deedee Derksen*, Non-State Security Providers and Political Formation in Afghanistan*, March 2016, (Kitchener: Centre for Security Governance), 35-6.

2.   Community Dynamics, Control & Buy-in

Key questions: How does the mobilization of local security forces affect local power dynamics? Are LHSF forces in Afghanistan representative of local communities, and are they perceived as legitimate? Are LHSFs accountable to, or able to be controlled by local communities in any way?

Local or community defense initiatives in Afghanistan have also frequently been promoted as a "bottom-up" approach to security provision, with the potential to enhance community buy-in and control over their own security. This not only jived with academic and policy critiques that argued that the prior approach to statebuilding in Afghanistan had been too state-centric and top-down,[58] but also fit well with NATO's counterinsurgency strategy, which gained steam from 2006 on, and was the predominant military strategy by early 2009. [59] Similar to critiques emerging in peacebuilding and statebuilding discussions at the same time, a 2009 report to the then ISAF commander Stanley McChrystal found that the 'top-down approach' had failed, that weak and abusive Afghan government institutions, and a "widespread sense of political disenfranchisement" had created fallow ground for the Taliban.[60] It recommended greater and attention and support to "traditional community governance structures" of historical importance to Afghan communities, including local defense forces.[61] The argument being made was not purely a security argument, but was deeply connected to the idea that the disenfranchisement of rural communities, and the lack of attention to local community governance structures, was driving instability.[62]

Proponents of local community forces frequently pointed to historic structures of local governance and autonomy in Afghanistan, in particular the south-eastern Pashtun tradition of 'arbakai', in which

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[58] Sam Vincent, Florian Weigand and Hameed Hakimi offer a detailed and well sourced description of these critiques of state-building efforts and the move toward bottom-up approaches both in theoretical literature and in practice in policymaking in Afghanistan. Vincent et al.,"The Afghan Local Police", 6–8. Astri Suhrke offers a concise application of these critiques to the post-2002 situation in Afghanistan and explains how it motivated a 'bottom-up' approach and a search for alternatives beyond the state. Astri Suhrke, "The Long Decade of Statebuilding,"in *Managing Conflict in a World Adrift*, eds. Chester Crocker, Fen Osler Hampson, Pamela Aall (Washington, DC: United States Institute of Peace, 2015). See also Roland Paris, Timothy D. Sisk. *The Dilemmas of Statebuilding: Confronting the Contradictions of Postwar Peace Operations* (London: Routledge, 2009); Roger Mac Ginty and Oliver P Richmond, "The Local Turn in Peace Building: a critical agenda for peace," *Third World Quarterly* 34, No. 5 (2013). Mark Sedra, "The hollowing-out of the liberal peace project in Afghanistan: the case of security sector reform," *Central Asian Survey* 32, no.3 (2013): 371-387.

[59] See also Goodhand and Hakimi, *Counterinsurgency,* 5–6 (noting the twin push of 'bottom-up' and counterinsurgency strategies toward local militia development).

[60] Stanley A. McChrystal, General, Army Commander, to Robert M. Gates, Secretary of Defense, "Secretary of Defense Memorandum 26 June 2009, Subject: Initial United States Forces – Afghanistan (USFOR-A) Assessment," August 30, 2009, Kabul, Afghanistan, 2-9, http://static.nzz.ch/files/6/5/4/Afghanistan_Assessment_1.3630654.pdf. Similar to critiques emerging in peacebuilding and statebuilding discussions at the same time, the report also found that the "top-down approach" had failed, that weak and abusive Afghan government institutions, a "widespread sense of political disenfranchisement", and a failure to provide basic services had created fallow ground for the Taleban. Ibid.

[61] Ibid. See also Seth Jones and Christine Fair, "Securing Afghanistan. Getting on Track." In *USIP Working Papers*, ed. B. E. Cole (Washington, DC: United States Institute for Peace Press, 2009), 1, https://www.usip.org/sites/default/files/February2009.pdf (arguing that "[s]ecurity and stability in Afghanistan have historically required a balance between top-down efforts to create a central government, and bottom-up efforts to secure local support and protect the population" and calling for greater support for "locally appropriate" district-level institutions). For a more nuanced discussion of the role of tribes and local control in juxtaposition to state authority and development, see Barnett Rubin, *The Fragmentation of Afghanistan: State Formation and Collapse in the International System,* (New Haven: Yale University, 2002), 45–80.

[62] Robert Hulslander and Jake Spivey, "Village Stability Operations and Afghan Local Police," *Prism: A Journal of the Center for Complex Operations* 3, no. 3 (2012): 125-6, https://www.ciaonet.org/attachments/21273/uploads. See also Jones, *The Strategic Logic of Militia*.

a tribal jirga (a council of elected tribal elders) organizes an unpaid, armed force under its authority to enforce jirga decisions, ensure law and order and defend the tribe's boundaries.[63] Scholars like Peter Marton and Nik Hynek have pointed out that the link with historical arbakai traditions gave legitimacy to local community forces in the eyes of policymakers seeking to be responsive to local norms and patterns, even though *arbakai* were not indigenous in areas of Afghanistan outside the southeastern region of Loya Paktia (Paktia, Khost, Paktika and parts of Logar and Ghazni).[64]

Community Control Mechanisms

Because the degree of community legitimacy and integration were portrayed as integral to the strategy driving these quasi-state militias, specific community oversight mechanisms were established as part of the design of these groups in later years. There were no elements of community controls or checks with the early quasi-state militia forms, including the Afghan Guard Forces (AGF), Afghan Security Guard (ASG), and Afghan Security Forces (ASF), which would at least, retrospectively, be seen as a key flaw in their design. Military analysts later engaged in developing community defense forces cited these groups' abusive behaviour and responsiveness only to their militia commanders (implicitly not to communities) as a key factor that turned communities away from the nascent Afghan government and helped drive a Taliban resurgence.[65]

The AP3 project was the first to explicitly incorporate elements of community engagement and control. Local community councils were supposed to help select the AP3 members and have some oversight role over them.[66] US Special Operations Forces (SOF) piloting the LDI/CDI model took a slightly different approach to community inclusion and linkages. District governors together with Community Development Councils or village *shuras* (where CDCs had not been established) would nominate, vet and oversee the LDI forces.[67] According to LeFevre, SOF initially proposed that LDI forces be paid only a reduced rate – 50 per cent of the ANP rate[68] – but communities that supported

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[63] See, e.g., Seth Jones, "Going Local: The Key to Afghanistan," *The Wall Street Journal*, August 7, 2009, http://www.wsj.com/articles/SB10001424052970204908604574336402390524212. For a deeper discussion of the history and traditions surrounding arbakai see Mohammed Osman Tariq, "Tribal Security System (Arbakai) in Southeast Afghanistan," *Crisis States Research Centre, UK Department for International Development*, Crisis States Occasional Paper no. 7, 2008, http://www.lse.ac.uk/internationalDevelopment/research/crisisStates/download/op/OP7Tariq.pdf. Jim Gant, "One Tribe at a Time: a strategy for success in Afghanistan," United States Army Special Forces, 2009, available at http://www.stevenpressfield.com/wp-content/uploads/2009/10/one_tribe_at_a_time_ed2.pdf (arguing for a tribal engagement strategy premised on Special Forces embedding in local communities and working with arbakais against the Taleban). The tradition of local governance is not limited to the security realm. See, e.g., Thomas Barfield, Neamatollah Nojumi, and Alexander Their, *The Clash of Two Goods: State and Nonstate Dispute Resolution in Afghanistan*, (Washington, DC: United States Institute of Peace, 2011); and Jennifer Murtazashvili, "Informal Federalism: Self-Governance and Power Sharing in Afghanistan," *Publius: The Journal of Federalism* 44, no. 2 (2014): 324–43.

[64] Péter Marton and Nik Hynek, "Liberal Statebuilding in Afghanistan," in *Routledge Handbook of International Statebuilding*, ed. David Chandler and Timothy D. Sisk, (New York: Routledge, 2013), 311–312 ("The stubborn reference to arbaki and Afghan traditions is what would in Western eyes lend local legitimacy to the 'liberal' statebuilding effort."). See also Osman Tariq, "Tribal Security System," 3 (describing the historical remit of arbakai to loya paktia). Scholars like John Goodhand and Hakimi have cynically analogized COIN's "reinvention and reification of local traditions, including older forms of community policing, such as arbakai" with the cooptation and institutionalization of the Jirga system in frontier Baluch society in the British colonial period (Goodhand and Hakimi, *Counterinsurgency*, 8).

[65] See, e.g., Moyar et al., "Village Stability Operations", 5.

[66] Initially it was proposed that councils established under the government-run Afghanistan Social Outreach Program (ASOP) should do the selecting and vetting but after objections from European countries, but it was instead switched to simply community councils. Goodhand and Hakimi, *Counterinsurgency*, 20.

[67] Final draft, Local Defence Initiative Strategy, March 2010, cited by Mathieu LeFèvre, *Local Defence in Afghanistan: A Review of Government Backed Initiatives*, AAN Thematic Report (Afghanistan Analysts Network, 2010), 15.

[68] LeFèvre, *Local Defence in Afghanistan*, 15.

LDIs would receive development assistance and support, such that the incentive for force members would be community benefit or loyalty rather individual benefit. However, LeFevre and Moyar note that this did not prove to be sufficient to attract volunteers, and so was a limited means of community control.[69]

Community engagement elements were reinforced as the LDI model was expanded and adapted into the existing ALP program. Similar to the AP3 and LDI, members are intended to be nominated and selected by members of the community. Initially, Special Operations Forces organized meetings of local elders in the target communities on an ad hoc basis, but this community oversight role was later formalized into village councils. These community oversight mechanisms tended to have a dual purpose – preventing abusive behaviour against the population, as well as reinforcing a sense of community control and representation in these groups. Interestingly, those behind the original design of the ALP were more in favour of community control and oversight as opposed to control and oversight by Afghan government actors, preferring a model in which ALP were locally autonomous and reporting only to local shuras.[70] However, pressure from the Afghan government to accept ALP only if it was vested in Afghan state structures eventually overrode these concerns, and ALP now responds to more robust Afghan government oversight mechanisms (at least on paper) than community controls.[71]

Community Buy-In and Control Lacking in Many Sites

While local community buy-in and responsibility for their own security may have been strong motivations for many of these community defense schemes (at least nominally), past research and case studies in some communities cast doubt on whether the establishment of these forces enhanced community representation or control. Very few of the community control mechanisms appear to have been meaningfully carried out, or to have had their intended effect.

Sites not established based on community desire

Although community defense initiatives were often framed as responding to communities' desire to defend themselves,[72] case studies suggest that in many cases, communities either were not consulted before militia formation took place or openly argued against arming local militias (See LeFevre, Goodhand and Hakimi on Wardak; Goodhand and Hakimi on Baghlan; Vogt on Helmand and Paktika).[73] Further, Moyar notes that as ALP expanded, the sites were increasingly chosen based on strategic location, not based on popular desire or support (a factor he correlated with the ineffectiveness of many of the later ALP sites).[74] An Associated Press journalist, Heidi Vogt, visited

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[69] Moyar et al., "Village Stability Operations", 29; LeFèvre, *Local Defence in Afghanistan*, 15.

[70] See, e.g., Moyar et al., "Village Stability Operations", 10, 13; Goodhand and Hakimi, *Counterinsurgency*, 14.

[71] See subsequent description of accountability mechanisms in the Human Rights section. See also International Crisis Group, *The Future of the Afghan Local Police*.

[72] Final draft, Local Defence Initiative Strategy, cit. LeFèvre, *Local Defence in Afghanistan*.

[73] In particular, Goodhand & Hakimi and LeFèvre argue that the communities in Wardak resisted having a local defense force, and instead asked for more ANA and ANP to be deployed to Wardak. Goodhand and Hakimi, *Counterinsurgency*, 21–23; LeFèvre, *Local Defence in Afghanistan*, 8-13. See also, Aziz Hakimi, "Getting Savages to Fight Barbarians: Counterinsurgency and the Remaking of Afghanistan," *Central Asian Survey* 32, no. 3 (2013): 389–401; Heidi Vogt, "Afghans see Warlord Footprints in New Police Force," *Associated Press*, February 21, 2011, http://www.rawa.org/temp/runews/2011/02/21/afghans-see-warlord-footprints-in-new-police-force.html.

[74] Moyar, "Village Stability Operations", 17, 62–66.

12 of the first 25 districts where ALP had been created in 2011 and found that many community officials or elders said the program was forced on them by Afghan or international officials.[75]

Even in Kandahar, where most analysts suggest the program went better,[76] and in which there are fewer documented community complaints, recruitment was challenging, which might provide one indicator of community (un)willingness to host such forces. Moyar notes that at the early VSO sites (most of which were in southern Afghanistan), 60 per cent of SOF teams encountered difficulties recruiting ALP members.[77]

Finally, although some of the rhetoric supporting ALP suggested that the program was often recognizing or partially formalizing forces that already existed,[78] implicitly empowering structures that already expressed community will and interests, in reality, Moyar points out, that most of the VSO/ALP units were built from scratch rather than recognizing pre-existing community defense forces.[79]

Communities not in control of vetting and selection

There is also significant evidence that communities (as represented by elders or local councils) played little meaningful role in selecting and vetting the members of these forces, as was initially intended. The case studies and documentation by LeFevre, Goodhand and Hakimi, and Vogt also suggest that community elders or represented were either not consulted or were pressured to nominate pre-selected forces in Wardak, Baghlan, and Helmand. There are repeated examples of ALP incorporating a local strongman's militia (Wardak, Kunduz, Baghlan, most notably)[80] without consulting surrounding communities or forcing them to rubber stamp the pre-selected forces (most prominently, with Nur al Haq in Baghlan).[81] In the Associated Press's exploration of ALP recruitment in Shindand, the local district police chief said, "The Interior Ministry just told me to sign them up, so I signed it. This has all been imposed."[82] Human Rights Watch has argued that given their domination of the local security space, and foreign backing, local community members were powerless to make complaints when AP3 forces engaged in abuse and intimidation of the population.[83]

There have been few case studies documenting positive community effects on community dynamics or governance. Moyar and Vanda Felbab-Brown have pointed out that ALP can sometimes have

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[75] Heidi Vogt, "Afghans see Warlord Footprints in New Police Force," *Associated Press*, February 21, 2011, http://www.rawa.org/temp/runews/2011/02/21/afghans-see-warlord-footprints-in-new-police-force.html.

[76] See, generally, LeFèvre, *Local Defence in Afghanistan*; International Crisis Group, *The Future of the Afghan Local Police*, 19 (acknowledging that Kandahar is treated as the "gold standard" of ALP but questioning some of the security gains).

[77] Moyar, "Village Stability Operations", 23.

[78] See, e.g., B. Catanzaro and Kirk Windmueller, "Taking a Stand: Village Stability Operations and the Afghan Local Police," *Special Warfare* 24, no. 3 (2011): 32–34.

[79] Moyar, "Village Stability Operations", 22, 27 (noting that the local community was not consulted in the decision to incorporate Baghlan commander Nur al Haq and his militia into the ALP).

[80] International Crisis Group, *The Future of the Afghan Local Police*, 14–17; "'Just Don't Call It a Militia': Impunity, Militias, and the 'Afghan Local Police'," *Human Rights Watch*, September 12, 2011, https://www.hrw.org/report/2011/09/12/just-dont-call-it-militia/impunity-militias-and-afghan-local-police, 29–41; Goodhand and Hakimi, *Counterinsurgency*, 32–37.

[81] Moyar, "Village Stability Operations", 22. LeFèvre, *Local Defence in Afghanistan*, 9-11; Human Rights Watch, "Just Don't Call It a Militia," 46–47 (describing elders' testimony that Ghulam Mohammad gave them a list of his men as candidates for AP3 and forced them to sign).

[82] Heidi Vogt, "Afghans see warlord footprints in new police force," *Associated Press*, February 21, 2011, https://www.yahoo.com/news/afghans-see-warlord-footprints-police-force-20110221-110949-564.html

[83] Human Rights Watch, "Just Don't Call it a Militia", 47–48; Goodhand and Hakimi, *Counterinsurgency,* 22, 25.

positive effect if established in a community that has been politically disenfranchised, considering Pashtun ethnic groups or tribes (Ghilzais) disenfranchised in Baghlan and Uruzgan respectively. [84] Fazal Muzhary (AAN) has also documented how an ALP was imposed on Shajoy, Uruzgan, in 2011 and command given to a man who had good relations with US Special Forces and Afghan politicians but was renowned locally for abuses and extortion. It took four years of community pressure to get the commander dismissed and this only happened after US forces left in 2013 and Afghan political dynamics also changed; the new commander, a well-respected elder, reported Muzhary, did manage to transform the same ALP policemen into a positive local defense force.[85]

Tendency to ignite conflict or weaken community structures

Whether due to the lack of meaningful community checks, or simply by nature of the forces involved, several of the case studies and other discussions of ALP or other militia groups suggest additional side effects for community dynamics. As noted in the prior section, there are substantial examples of ALP furthering or igniting ethnic conflict. In addition, research by USIP suggests that in provinces like Kunduz, the dominance of militia groups at a local level often had the effect of crowding out other, legitimate community governance and dispute resolution structures.[86] Elders who had long led local dispute or conflict resolution activities, or played a community decision-making role found themselves overshadowed by rising young militia leaders, either directly funded by ALP or in parallel militia programs.[87] Gaston and Jensen suggest that rather than strengthening local community structures, the additional foreign funding and attention to local actors made it more vulnerable to capture and control by predatory actors (governmental or non-).[88]

Reasons for Failed Community Integration, Buy-In or Control

The literature suggests several possible reasons for the general failure of ALP or other local defense forces to improve community control or positively shape the local dynamics. One critique is that the homage to community buy-in or local control was always rhetorical, that the international rhetoric on liberal state-building and community empowerment belied greater prioritization of counterterrorism objectives.[89] Writing more from the military perspective, Moyar grants greater legitimacy to the theory and intention of supporting bottom-up, indigenous structures, but argued it did not work in practice because the pressures of short-term security interests forced the program to be implemented against the advice of those who designed the programs. Moyar notes that those who

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[84] Felbab-Brown, "Hurray for militias?" 269–270. However, she notes that any positive examples tended to be overshadowed by the many more problematic examples of ALP dominated by local strongmen or inciting local conflict and community strife.

[85] Fazl Muzhary, "How to Replace a Bad ALP Commander: in Shajoy, Success and Now Calamity," *Afghanistan Analysts Network*, September 21, 2016, https://www.afghanistan-analysts.org/how-to-replace-a-bad-alp-commander-in-shajoy-success-and-now-calamity/.

[86] Erica Gaston, Akbar Sarwari, and Arne Strand, *Lessons Learned in Traditional Dispute Resolution in Afghanistan*, (Washington, DC: United States Institute of Peace, 2013), http://www.usip.org/sites/default/files/Traditional_Dispute_Resolution_April2013.pdf. See also Noah Coburn, "The Shura Strategy," in *Perspectives on Involving Non-State and Customary Actors in Justice and Security Reform*, ed. Peter Albrecht, Helene Maria Kyed, Deborah Isser, and Erica Harper (Rome: International Development Law Organization, 2011), http://www.diis.dk/files/media/publications/import/extra/idlo_book.pdf.

[87] See also Erica Gaston and Erik Jensen, "Rule of Law and Statebuilding in Afghanistan: Testing Theory with Practice," in *State Strengthening in Afghanistan: Lessons Learned 2001-14*, eds. Scott Smith and Colin Cookman (Washington, DC: United States Institute for Peace, 2016)

[88] Ibid., 74.

[89] See, e.g., Paul Fishstein and Andrew Wilder, *Winning hearts and minds? Examining the relationship between Aid and Security in Afghanistan*, (Medford: Feinstein International Center, 2012); Iavor Rangelov and Marika Theros, "Abuse of power and conflict persistence in Afghanistan," *Conflict, Security & Development* 12, no. 3 (2012): 227–248.

designed the program cautioned against establishing ALP in areas where the community conditions were not right, most significantly where there were not intact tribal structures, or a desire to fight back against the Taliban, or where other tribal or ethnic tensions could be inflamed by the introduction of such forces.[90] However, sticking to these restrictions and only establishing ALP in sites with the right community dynamics would have ruled out many of the areas where, for strategic or tactical reasons, military planners most wanted to have a pushback against the Taliban or an extension of pro-government forces.[91]

A more structural critique has been that even if the desire to support communities from the bottom-up was in earnest, supporting such devolved power by external means was a flawed approach. Derksen has argued that external, foreign-funded support breaks the link between local forces and the communities, tending to increase the likelihood of abuse and decrease the legitimacy of these forces in the eyes of the community.[92]

Finally, others have argued that the theory of supporting local community defense did not play out as intended because it was based on false assumptions about the degree of local community control in most areas of Afghanistan. As Hakimi has argued, "In practice it proved difficult to revive traditions of self-protection that were based upon an idealized and reified vision of the past."[93]

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[90] Moyar, "Village Stability Operations", 16–21.

[91] Moyar, "Village Stability Operations", 17, 62–66 (noting that in addition to the strength of the local tribal structures or local community connections, poor leadership or other "Unfavorable human terrain" factors correlated with ineffective ALP units).

[92] Derksen, *Non-State Security Providers in Afghanistan*.

[93] Hakimi, "Getting Savages to Fight Barbarians," 389. For similar arguments on informal justice community mechanisms, see Gaston and Jensen, "Rule of Law," 74. See also Noah Coburn and John Dempsey, *Informal Dispute Resolution in Afghanistan* (Washington, DC: United States Institute of Peace, 2010), 3; Gaston, Sarwari and Strand, *Lessons Learned on Traditional Dispute Resolution in Afghanistan*.

3. Human Rights and Accountability Mechanisms

Key questions: What are the human rights records of LHSFs? What has been attempted in the way of vetting, training and accountability and has anything worked? How do they compare with other sections of the ANSF?

Allegations that local security forces, or quasi-state hybrid forces are unaccountable and abusive has been one of the most prominent critiques against their use since 2001; this section will briefly outline the record of the different groups, and any efforts to prosecute or hold them accountable. There are equally egregious allegations against regular state forces, mainly ANP and NDS, something which will also be considered.

AMF & Campaign Forces

The initial AMF forces (200,000 strong) were factional forces with a notional, national force structure superimposed on them. Many of these AMF militias already had a reputation for criminal and abusive behaviour, and no attempt was made to filter out those with the worse records.[94] As commanders re-consolidated their hold on areas the Taleban had earlier forced them out of, patterns of abuse against Pashtun civilians in the north and factional and tribal rivals elsewhere were well-documented; they included looting, the use of private prisons and torture, murder, rape and land-grabbing.[95] Abuses by militias actively allied with US counter-terrorism forces, including torture, summary executions and looting were common.[96] In the early years of the intervention, both US forces and Afghan allies used torture against security detainees.

The reputation of AMF who were not disbanded, but remained as 'campaign forces', allied directly with US forces, continued to be dire, with accusations of extrajudicial killings, torture and inhumane treatment of those they (unlawfully) detained, and sexual abuse and brutality against the local population. Such campaign forces include the Afghan Security Guards in Paktika (its commander was later made head of the ALP),[97] the Khost Protection Force,[98] which, until a year ago, was still reported

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[94] For earlier war crimes reporting, see "Casting Shadows: War Crimes and Crimes against Humanity, 1978–2001 – Documentation and Analysis of Major Patterns of Abuse in the War in Afghanistan," *Afghanistan Justice Project,* July 18, 2005, http://afghanistanjusticeproject.org/warcrimesandcrimesagainsthumanity19782001.pdf. After re-forming as an anti-Taleban alliance and fighting a defensive war on their own territory, factions committed far fewer abuses. International Crisis Group, *A Force in Fragments: Reconstituting the Afghan National Army*, May 12, 2010, Asia Report Nº190, 7; Deedee Derksen, *The Politics of Disarmament and Rearmament in Afghanistan*, (Washington, DC: United States Institute of Peace, 2015), http://www.usip.org/sites/default/files/PW110-The-Politics-of-Disarmament-and-Rearmament-in-Afghanistan.pdf, 7; Moyar, "Village Stability Operations"

[95] "Paying for the Taleban's Crimes: Abuses Against Ethnic Pashtuns in Northern Afghanistan," *Human Rights Watch*, April 9, 2002, https://www.hrw.org/report/2002/04/09/paying-Talebans-crimes/abuses-against-ethnic-pashtuns-northern-afghanistan

[96] Carter and Clark, "No Shortcut to Stability"

[97] Julius Cavendish, "Afghanistan's Dirty War: Why the Most Feared Man in Bermal District Is a US Ally," *TIME*, October 4, 2010, http://content.time.com/time/world/article/0,8599,2096079,00.html; Human Rights Watch, "'Today We Shall All Die': Afghanistan's Strongmen and the Legacy of Impunity, at 31-39.

[98] Reports of human rights abuses by the Khost campaign forces includes Julius Cavendish, "CIA trains covert units of Afghans to continue the fight against Taleban," The Independent, July 20, 2011, http://www.independent.co.uk/news/world/asia/cia-trains-covert-units-of-afghans-to-continue-the-fight-against-Taleban-2317182.html; David Jolly, "Civilian Deaths Raise Questions About C.I.A.-Trained Forces in Afghanistan," *New York Times,* December 3, 2015, http://www.nytimes.com/2015/12/04/world/asia/afghanistan-civilian-casualty-khost.html?_r=0; UNAMA, *Protection of Civilians in Armed Conflict: Mid-Year Report 2016,* July 2016, at 90-91, available at http://unama.unmissions.org/sites/default/files/protection_of_civilians_in_armed_conflict_midyear_report_2016_final_rev.1-9sept.pdf.

to be under CIA command, and the Kandahar Strike Force.[99] A more ambiguous example of campaign forces abuses surrounds US SOF use of auxiliary forces in Nerkh, in Wardak province in 2012 and 2013, with accusations of murder and torture.[100]

Proximity to US forces by campaign forces and PSCs, can give a *de facto* impunity; the Afghan chain of command, if there is one, is frequently unclear or informal and the relationship with foreign forces makes the Afghan militias almost untouchable using Afghan legal structures. Abuses have to be particularly egregious or target well-connected Afghans before the state will act, for example, the arrests of members of the Kandahar Strike Force (with CIA and presidential connections) after they stormed Kandahar police station in 2009 and killed the police chief in apparent revenge for the detention of one of their comrades.[101]

Early Iterations of Community defence forces (AP3/ANAP)

More than half of the forces in the early AP3 program in Wardak, which became an ALP unit were controlled by a local strongman with a reputation for abuses and coercion.[102] Provincial council members continuously raised "dozens of cases of murder and extortion" by AP3 (and later ALP members), with no response and no way for families to seek prosecution.[103] There is less specific documentation of abuses by the ANAP, in part because reporting at the time tended to assess the ANAP as part of the ANP.

Afghan Local Police (ALP)

There has been significant documentation of abuses by ALP, including, but by no means limited to:

- **Arghandab, Kandahar**: Forces ambiguously under the command of the dual-hatted police chief and ALP commander Niaz Muhammed accused of extrajudicial killings and summary execution of those detained, severe torture and cruel and inhumane treatment, and forced disappearances.
- **Khas Uruzgan, Uruzgan**: Two ALP units accused of carrying out raids against the other's co-ethnics; an ethnic Hazara ALP under the de facto command of Hakim Shujoyi carried out

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[99] Documentation of abuses by the Kandahar Strike Force include Yaroslav Trofimov, "After Afghan Raid, Focus on Captors," *The Wall Street Journal*, March 11, 2013 http://www.wsj.com/articles/SB10001424127887323826704578354563161104832; "Torture, Transfers, and Denial of Due Process: The Treatment of Conflict-Related Detainees in Afghanistan," *Afghanistan Independent Human Rights Commission* (AIHRC) and *Open Society Foundation* (OSF), March 17, 2012, http://www.opensocietyfoundations.org/sites/default/files/conflict-related-detainees-afghanistan-20120319.pdf, 46-47. Pressure followed one particular incident in which a local student was illegally arrested and beaten by the group in Kandahar. Taimoor Shah and Azam Ahmed, "Afghan says Force Backed by the CIA beat him," *The New York Times*, March 10, 2013, http://www.nytimes.com/2013/03/11/world/asia/afghan-says-he-was-beaten-by-cia-trained-force.html

[100] The in depth Rolling Stone investigation into the disappearances and the potential link with US Special Forces can be found here: http://www.rollingstone.com/feature/a-team-killings-afghanistan-special-forces; Discussion of the reopening of the investigation can be found here: https://www.theguardian.com/world/2015/nov/05/afghanistan-bodies-us-military-base-a-team-investigation. Investigations suggest that 17 men detained over a period of months between 2012 and 2013 were killed, and potentially tortured before their death. An investigation is outstanding, as it was not initially clear if the deaths were attributable to militia actors affiliated with Special Forces, direct auxiliaries to Special Forces (including one translator who was charged and sentenced) or Special Forces themselves.

[101] Jules Cavendish, "After the US pulls out, will CIA rely more on Afghan mercenaries?," *The Independent*, November 16, 2011 (no URL online)

[102] Sahr Muhammedally, "Human rights and the Afghan security transition," *Foreign Policy*, September 26, 2011, http://foreignpolicy.com/2011/09/26/human-rights-and-the-afghan-security-transition/

[103] Goodhand and Hakimi, *Counterinsurgency*, 25.

killings, extrajudicial detention and rape and burned people's homes;[104] a rival Pashtun ALP under the command of Neda Muhammad carried out beatings and murder.[105] Shujoyi had an arrest warrant outstanding but remained at large and de facto in control of the ALP unit.[106]

- **Baghlan**: Documented abuses by ALP forces under the command of Nur al-Haq include extrajudicial killings (including a 9-year-old boy),[107] arbitrary detention, beating, harassment, and theft during ALP raids.[108] Local authorities were reluctant to prosecute given the forces' affiliation with US Special Forces, reported HRW[109] and the international military were aware of crimes, according to *The Washington Post*.[110] ALP forces under the command of Abdur Rehman have been accused of rape (including of children),[111] forced disappearance and[112] forced dispossession of land.[113]

- **Wardak**: HRW documented allegations of threats, beatings, theft, and intimidation by Ghulam Muhammad's AP3 forces, and reported that the MoI was aware of numerous allegations of abuse by AP3, including land grabbing, corruption and extortion.[114] ALP have undertaken reprisals against those making complaints, including one man who tried to report the ALP abusing boys, being tied by his beard to a pickup and dragged through the streets until he was dead.[115]

Whether such studies are a fair portrayal of the force as a whole has been questioned. The US expert group which assessed the force in 2013 felt that, although the military painted too rosy a picture of the ALP, the media and rights groups had castigated it unfairly and that many allegations turned out, after investigation, to have been unfounded or committed by non-ALP armed groups. "[M]ost ALP units have refrained from gross physical abuses of the population," it said, "in no small part because

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[104] A June 2011 report by AAN noted a retaliatory raid against Pashtun villages Kondolan and Hosseini, which reportedly resulted in 11 to 16 deaths, the rape of several women (requiring hospitalization), several men taken hostage and later killed, and severe property destruction including burned houses. Van Bijlert, "Security at the Fringes" (describing the gunning down of two civilians, apparently in response to ethnic rivalry/retaliation); see also van Bijlert, "Khas Uruzgan violence and ISAF press releases" (describing a raid in 2011 that resulted in at least one death, extrajudicial detentions, severe beating and property destruction in a local village); Human Rights Watch, "'Today, We Shall All Die,'" 23-25 (describing the killing of seven farmers, including one underage, beating them to death with rocks)

[105] Martine van Bijlert, "Khas Uruzgan and ISAF Press Releases" (describing raid by June 13, 2011 raid by men affiliated with Neda Muhammed in retaliation for the killing of his nephew, resulting in the killing of 4 men affiliated with the Taleban suspected of his nephew's murder). Human Rights Watch, "Just Don't Call it a Militia," 82 (describing incident in which elders who refused to supply men to join arbakai were detained from 2 days to up to 1 month) and FN 353 (noting testimony of elders describing detention of the following people on December 4, 2010 "Obaidullah, son of Mohammad Sarwar, Abdul Hamid, son of Mohammad Hanif, Abdul Jabbar, son of Haji Hussian, Tur Jan, son of Mohammad Hashim, Abdurraziq, son of Amir Mohammad and Abdul Hadi, son of Mohammad Naem. On December 9, Khudai Rahim was arrested").

[106] Human Rights Watch notes that the Ministry of Interior denies that he is an ALP commander, but that local authorities and those in the area of operations refer to him as an ALP commander. He is reported to travel in ANP and ALP markings and commands forces who wear ALP uniforms and receive ALP salaries. Human Rights Watch, "'Today We Shall All Die': Afghanistan's Strongmen and the Legacy of Impunity, at 23, https://www.hrw.org/sites/default/files/report_pdf/afghanistan0315_4up.pdf.

[107] Human Rights Watch, "Just Don't Call it a Militia," 62.

[108] Ibid., 69.

[109] Ibid., 6.

[110] Josh Partlow, "US initiative to arm Afghan villagers carries some risks," *The Washington Post*, June 2, 2011, http://www.washingtonpost.com/wp-dyn/content/article/2011/02/06/AR2011020603565.html

[111] Human Rights Watch, "Just Don't Call it a Militia," 60-61.

[112] Ibid., 65-66.

[113] Ibid., 67-68

[114] Ibid., 47-48.

[115] International Crisis Group, *The Future of the Afghan Local Police*, 10 . LeFèvre, *Local Defence in Afghanistan*, 9-11; Human Rights Watch, "Just Don't Call it a Militia," 46-47 (describing elders' testimony that Ghulam Mohammad gave them a list of his men as candidates for AP3 and forced them to sign).

they belong to the communities where they serve and could face communal punishments that would not be meted out to ANSF [sic] personnel." On the other hand, a US SOF survey of ALP mentors in 2011 found that 20 per cent of ALP mentees had committed "physical abuse/violence", with additional, lessor reports of bribe-taking, fraud, rape, and drug trafficking.[116] Human rights abuses have been more frequently associated with ALP groups in the north, although not exclusively so. (There might be some reporting bias due to greater accessibility for researchers and journalists.)

While these abuses are egregious, equal or greater levels of abusive behaviour have been reported among regular ANSF, including systematic and widespread torture and inhumane treatment in detention facilities, extrajudicial killings, sexual assault and predatory behaviour against the population, beating, harassment and other abuses of power.[117]

There have been no studies that have been able to disaggregate whether the difference in support modalities or structures – support to regular ANSF versus support to non-state or quasi-state militia – make a meaningful difference in forces' human rights and rule of law compliance. In its mid-year 2016 report, UNAMA only noted three incidents in which ALP had engaged in threats or harassment of the civilian population.[118] (While monitoring the ANP for civilian casualties, UNAMA does not monitor its harassment of civilians because it regards it as a civilian force.)

Mechanisms for Prevention of Violations and Accountability

Foreign and domestic backers of these different local or hybrid security forces have not been unaware or completely indifferent to abuses. Apart from the US, other countries (which did fund some earlier LHSFs) have declined to fund the ALP, on the grounds that it is a 'militia'. The Afghan government has also failed to get international funding for 'Popular Uprising Groups', on the same grounds. Where there is funding, mechanisms or safeguards to try to reduce the risk of human rights violations have been implemented, at least for those programs that reached some level of official recognition or organization (ANAP, AP3 and ALP).

Vetting, Training, and Oversight

There is no evidence of human rights vetting or training for the Afghan Guard Forces (AGF), Afghan Security Guard (ASG), and Afghan Security Forces (ASF). By 2006, concern over pervasive human rights abuses, and the strategic repercussions on the insurgency persuaded those designing the 2006 Afghan National Auxiliary Police (ANAP) program to include some nominal accountability. However, vetting did not include basic checks on candidates' criminal records or affiliation, and reports suggested the resulting force was replete with criminals and others who would not have passed the more rigorous ANP vetting process.[119] ANAP received only 10 days training (although it is not apparent that the longer, 8-week training given to regular police hindered them from abusing people).

The mechanisms developed considerably with the two pilot projects, AP3 and LDI/CDI and again, with the ALP. Training for AP3, LDI/CDI and ALP was 21 days. ALP members received explicit

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[116] Radha Iyengar, Daniel Egel, Walt Perry, Todd Helmus, "Assessment of Opinion Poll and Team Reporting for Village Stability Operations in Afghanistan: Wave 5," briefing slides, February 2012 (cited in ICG 2015 at 8)

[117] Rebecca Barber, *No Time to Lose: Promoting the Accountability of the Afghan National Security Forces*, (Oxford: Oxfam International, 2011); Antonio Giustozzi and Mohammed Isaqzadeh, *Policing Afghanistan: The Politics of the Lame Leviathan* (London: Hurst Publishers, 2013), Chapter 1, 9. See, generally, UNAMA annual protection of civilians reporting.

[118] UNAMA and UNHCHR, "Afghanistan Midyear Report 2016," 73, 90.

[119] See LeFèvre, *Local Defence in Afghanistan*, 6-7; Human Rights Watch, "Just Don't Call it a Militia"

training in human rights, laws of war, and rule of law. All three programs, but particularly the LDI/CDI and ALP, placed a greater emphasis on mentorship through co-embedded SOF advisors, with the aim of improving fighting abilities and providing some oversight on behaviour and community relations.

Members of AP3, LDI/CDI and the ALP were all supposed to be chosen by local community councils, providing some level of community vetting, and also vetted by the MoI.[120] This 'double vetting' was supposed to eliminate those with criminal backgrounds or Taliban sympathies and facilitate the creation of a force less likely to intimidate or abuse the local population. Many of these mechanisms, were not rigorously implemented or had only limited effects. The MoI lacked manpower and coherent criminal records to provide actual background checks.[121] Community vetting has frequently been reported as superficial, with community members only able to rubber stamp pre-chosen militia groups or not consulted at all.[122] Training, particularly on human rights subjects, has been too slim – at three weeks total – to have any impact, critics have argued.[123] In addition, many recruits did not actually complete the training before being allowed to participate. One year on, only 100 to 200 of the 1100 men making up the AP3 had gone through training.[124] Goodhand and Hakimi suggest many ALP were militias integrated directly into the ALP forces with neither training nor vetting.

The limited influence of community actors over the decision to have an ALP at all or select members, as discussed in the Community Control section, has negated their ability to curb the conduct of ALP. At a village or district level, ALP are nominally overseen by the ANP or NDS. However, the level of actual command and control varies significantly. ICG's case study of ALP in Kunduz found MoI and NDS local officials were "powerless to modify the behaviour" of ALP because they had too few men and firepower. Efforts to check the ALP were sometimes overruled by officials in Kabul.[125] Anecdotally, the embedding of SOF mentors within ALP did provide a check on behaviour, but as the program expanded, there were fewer mentors and eventually, after the 2014 withdrawal, none. The mentoring may never have been intensive; Felbab-Brown pointed out that in parts of Kunduz, SOF may only have visited the ALP once a week.[126]

Formal Accountability and Prosecutions

ALP fall under the oversight of the MoI[127] and within that, the ALP Monitoring and Investigations Section is responsible for following up allegations of human rights abuse or civilian casualties and forwarding them for possible prosecution.

Because of their quasi-state functions and incorporation into the Afghan state apparatus, ALP are subject to the full range of legal protections and responsibilities incumbent on state forces, including under the Geneva Conventions and Additional Protocols, Convention against Torture and

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[120] Final draft, Local Defence Initiative Strategy, cit. LeFèvre, *Local Defence in Afghanistan*, 15.

[121] LeFèvre, *Local Defence in Afghanistan*, 9

[122] There were less reported issues in selection and fewer reports of rights abuses or criminal behavior in most of the five LDI sites compared with AP3. However, existing studies suggest this had more to do with the local context and political dynamics in each of these five districts than any structural feature. The areas in which LDI were created is also so remote and difficult to access that it would have impeded credible human rights reporting. See community empowerment section. See generally, LeFèvre, *Local Defence in Afghanistan*, 14-19.

[123] See Human Rights Watch, "Just Don't Call it a Militia."

[124] LeFèvre, *Local Defence in Afghanistan*, 11.

[125] International Crisis Group, *The Future of the Afghan Local Police*, 16.

[126] Felbab-Brown, "Hurray for militias?"

[127] UNAMA and UNHCHR, "Afghanistan Midyear Report 2014," 41

membership of the International Criminal Court;[128] it may also be subject to provisions of international law that have risen to the status of customary international law. Under domestic law, notably the Afghan penal code, which criminalizes murder, assault, and other acts that would pertain to reported abuses, jurisdiction for enforcement is split, depending on which force within the ANSF is involved. ANA soldiers are tried in a separate system of military justice, considered 'special courts',[129] while other sections of the ANSF are covered by the regular civilian justice system. Despite their status and accountability to the MoI, numerous UNAMA reports have referred to the "military prosecution" of ALP members[130] Irregular militias are subject to Afghan criminal law for any use of violence, whether or not they are 'pro-government' or not.

UNAMA has noted consistent improvements in the formal accountability mechanisms for the ALP and some signs of real commitment to accountability. Its mid-term and annual reports have successively reported on the number of investigations, arrests and prosecutions of ALP members accused of abuse, which tended to hover around 100 cases annually in the early years of the program.[131] According to an ICG interview with the department overseeing ALP, 65 ALP officers had been imprisoned or convicted based on allegations of abuse, as of January 2015.[132] UNAMA's mid-year 2016 report noted that nearly 2000 ALP members affiliated with local strongmen, and implicitly accused of problematic behaviour, had been dismissed in the first half of 2016 due to serious reform efforts in 2015.[133] UNAMA credited these reform measures with helping reduce the number of civilian casualties by ALP in the first half of 2016.[134]

The ALP Monitoring and Investigations Section is severely hindered, reported UNAMA, by its lack of a provincial-level presence and reliance on MoI for field missions and the cooperation of local ANP to investigate allegations.[135] UNAMA has documented repeated examples of impunity for serious human rights violations by ALP and noted that the Ministry of Interior "appears to show a tolerance... for human rights violations alleged to have been perpetrated or carried out by ALP."[136] In its investigation of ALP, ICG found "an absence of effective mechanisms for registering and responding

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[128] Article 7 of the Afghan Constitution provides that the state, and all its representatives, "shall abide by the UN charter, international treaties, international conventions that Afghanistan has signed." Afghanistan's Constitution considers adoption of these treaties to be self-enforcing – they are considered part of the body of Afghan law without separate enactment. As a result reference to these treaty obligations or provisions paralleling them are scant within Afghan law. The ICRC has confirmed that this is the case with regard to Afghanistan's IHL obligations.

[129] Article 122 of Constitution. The Oxfam report noted that "military courts have concurrent jurisdiction with civilian criminal courts over offences that violate both military and civilian criminal law," but found no evidence that this concurrent jurisdiction was recognized in practice. The triumvirate of military laws, and the distinction given to military cases in the Constitutions, does not suggest this interpretation, but merely that military law can borrow from civilian law for matters or procedures not specifically enumerated in the MCC or MCPC.

[130] Depending on whether the ALP fall into a military or civilian line of jurisdiction, some or all of the following laws would be applicable: Law on Prisons and Detention Centres, Penal code, Law on Crimes against Internal and External Security Military Crimes Code (2005), Military Courts Law, Military Criminal Procedure Code and ANP Code of Conduct. http://www.laoa.af/laws/law_on_military_courts.pdf

[131] In 2013, the section investigated 100+ cases of ALP abuse, referring 59 cases to military prosecutors. UNAMA and UNHCHR, "Afghanistan Midyear Report 2014," at FN 138.

[132] International Crisis Group, *The Future of the Afghan Local Police*, 11

[133] UNAMA and UNHCHR, "Afghanistan Midyear Report 2016," 90.

[134] Ibid.

[135] "Afghanistan Midyear Report on Protection of Civilians in Armed Conflict: 2013," UNAMA, Kabul, July 2013, http://reliefweb.int/sites/reliefweb.int/files/resources/UNAMA%202013%20Midyear%20Report%20on%20Protection%20of%20Civilians_30%20July%202013.pdf, 51-52.

[136] UNAMA and UNHCHR, "Afghanistan Midyear Report 2016," 42.

to complaints" in part because of intimidation by strongmen connected with ALP.[137] UNAMA and ICG both noted that direct threats to victims and witnesses left them afraid to testify.[138]

Funding and Support Cut-Offs

Another potential mechanism for deterring rights violations is financial conditionality. This includes, in some donors' domestic laws or policies, automatic funding cut-offs where evidence of human rights violations manifests. Most prominently, the US Leahy amendment prohibits assistance by the US State Department to any unit of foreign security forces where there is credible evidence that it has committed gross violations of human rights. This includes "torture or cruel, inhuman or degrading treatment or punishment" and "flagrant denial of the right to life, liberty or the security of the person."[139] There are parallel, but not identical provisions of the Leahy amendment in the annual Foreign Appropriations Act and the Defense Appropriations Act, applicable respectively to funding by the Departments of State and Defence, respectively.[140] In response to extensive documentation of human rights abuses across the ANSF, several prominent unit have been excluded from US support due to the Leahy law, although reporting on which units is not public.[141] DoD continues to apply the Leahy law despite that since 2014 it was granted "notwithstanding authority", which allows it to waive provisions that would be detrimental to the mission, which could include the Leahy law.

There also may be internal mechanisms, not always visible publicly. Following the 2011 HRW report that documented numerous human rights abuses by ALP, Combined Forces Special Operations Component Command (CFSOCC-A) also issued a memorandum clarifying and solidifying requirements for reporting allegations of abuse by ALP and requiring that where "probable cause" existed, CFSOCC-A units should cease contact with the alleged perpetrators.[142] There is no evidence that this has been put into place.

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[137] International Crisis Group, *The Future of the Afghan Local Police*, 10.

[138] UNAMA, "Afghanistan Midyear Report 2013," 51. See also International Crisis Group*, The Future of the Afghan Local Police*, 10 (providing a gruesome account of a man who tried to complain about ALP who were engaged in theft and sexual abuse of young boys being captured by ALP, tied by his beard to a pickup and killed by dragging him through the streets)

[139] The Foreign Assistance Act of 1961, Pub L No 87-195, 75 Stat 424 (1961)

[140] Foreign Operations, Export Financing and Related Programs Appropriations Acts of 2001, Pub L No 106-429, 114 Stat 1900 (2000) s 563; Department of Defense Appropriations Act of 2001, Pub L No 106-259, 114 Stat 656 (2000) s 8092(2). See also, Nina Serafino, June Beittel, Lauren Ploch Blanchard and Liana Rosen, "'Leahy Law' Human Rights Provisions and Security Assistance: Issue Overview," *Congressional Research Service*, January 29, 2014 http://fas.org/sgp/crs/row/R43361.pdf

[141] Author interviews, Washington, DC, August 2016.

[142] Memorandum for all Combined Forces Special Operations Component Command-Afghanistan (CFSOCC-A) Personnel, SUBJECT: CFSOCC-A Policy on reporting allegations of crimes and abuses committed by Afghan partner forces 27 September 2011. Cited in https://www.rand.org/content/dam/rand/pubs/working_papers/2012/RAND_WR936.pdf at FN 52

4.   State-Building, Rule of Law, and Long-Term Side Effects

Key questions: How does the proliferation or reliance on LHSFs impact long-term political and conflict dynamics? How does empowering local security actors affect the development of the rule of law and governance, both locally and nationally? Is there potential for militias, local or regional security forces to rival state-led armed services, undermine state control and overall stability?

One of the foremost concerns with supporting irregular or quasi-state forces is that they have the potential to detract from long-term state-building and state-strengthening objectives. Discussions of these issues in the academic literature have suggested that supporting regional or local powerbrokers risks creating or strengthening competition for state authority and legitimacy in a state already struggling to maintain authority and control.[143] Doing so by supporting local powerbrokers with militias or security forces, in particular, has a strong potential to erode the state monopoly on force.[144]

These state-building critiques have not only featured frequently in the academic literature related to militias, but have arisen extensively in policy and practitioner discussions about the development and performance of LHSFs in Afghanistan (see notably Derksen, Goodhand and Hakimi on these issues).[145] One of the strongest counter-arguments to ALP in ongoing policy debates about their creation or expansion since 2010 has been linkages with warlords and local strongmen, and the impact of this on long-term state development.[146] As Derksen notes, "The proliferation of militias and strongmen type non-state security actors underline the weakness of the current state to assert its power over its territory and control the means of violence."[147] Afghan President Ashraf Ghani's

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[143] See also Vincent et al., "The Afghan Local Police," 45; Kimberly Marten, "Warlordism in Comparative Perspective," *International Security* 31, no. 3, (Winter 2006/07): 41-73; John Mueller, *The Remnants of War*, (New York: Cornell University Press, 2004); Martin Van Creveld, *The Transformation of War: The Most Radical Reinterpretation of Armed Conflict since Clausewitz*, (New York: The Free Press, 1991); Antonio Giustozzi, "'Good' State vs. 'Bad' Warlords? A Critique of State-Building Strategies in Afghanistan," *Development Studies Institute*, Crisis States Programme 1, no. 51 (2004)

[144] For example, Hughes and Tripodi have pointed out that use of militias can weaken chances of attaining the "Weberian monopoly on violence." Hughes and Tripodi, "Anatomy of a surrogate," 25. See also, Max Weber, "Politics as a Vocation," in *From Max Weber: Essays in Sociology*, eds. Gerth and Mills (New York: Oxford University Press, 1958), 78; Roger Mac Ginty, "Warlords and the liberal peace: Statebuilding in Afghanistan," *Conflict, Security & Development* 10, no. 4, (2010); Roland Paris, *At War's End: Building Peace After Civil Conflict*, (Cambridge: Cambridge University Press, 2004). More recent academic literature has pushed against this common wisdom and debated the greater merits of local ownership and bottom-up state-building. For examples of such debates in the security sector reform literature see Laurie Nathan, 'No ownership, no commitment: A guide to local ownership of security sector reform,' University of Birmingham (Technical Report), 2007; Timothy Donais, "Local Ownership and Security Sector Reform," *Geneva Centre for the Democratic Control of Armed Forces* (DCAF), 2008.

[145] Goodhand and Hakimi, *Counterinsurgency*, 42-43. Whitty and Nixon have (among others) have argued that the reliance on warlords in Afghanistan led to a lack of neutral state institutions, thereby contradicting statebuilding efforts, and weakening rule of law and democratization. Brendan Whitty and Hamish Nixon, "The Impact of Counter-Terrorism Objectives on Democratization and Statebuilding in Afghanistan," *Taiwan Journal of Democracy* 5, no. 1 (2009): 187-21.

[146] Examining how warlords and strongmen (from within the government and without it) manipulated disarmament and ANSF development initiatives to their advantage, Antonio Giustozzi argues, is a point against the common wisdom in the literature that local input or local engagement is always a positive force or necessary ingredient in SSR development. Giustozzi, "Shadow Ownership and SSR in Afghanistan." While most authors are extremely negative on the current dominance of warlords for future state-building, an exception is Dipali Mukhopadhyay who argues that the integration of warlords into government may simply be a stage in state development – an imperfect, temporary solution as state institutions develop. Dipali Mukhopadhyay, "Warlords As Bureaucrats: The Afghan Experience," *Carnegie Endowment for International Peace*, Middle East Program (2009)

[147] Derksen, *Non-State Security Providers in Afghanistan*, 32.

100+ page campaign manifesto even included a version of the 'monopoly on force' argument, arguing that the devolution of force to irregular militias presented a threat to the state monopoly both on force and on revenues.[148]

Goodhand and Hakimi argue that there may be instances in which militias can contribute to statebuilding, but that it depends whether the local state plays "the preeminent role in creating, funding, and controlling their militias" or whether the development of militias is driven by external powers, The difference, they say, is not so much that locally backed militias are better, but that they have, "a different opportunity-risk calculus from external players, who need not, in the long term, live with the consequences of their decisions."[149] It also depends significantly on the "level of state leadership, coherence, and capacity based on a sufficiently inclusive political settlement," they argue. Afghanistan falls on the negative side for both of these factors, according to Goodhand and Hakimi – the recent militia build-up was largely externally driven (by foreign actors), and without a level of state coherence and inclusive buy-in to support a stable development of such forces.[150]

The most vociferous quasi-academic defender of ALP, Seth Jones (who also had a key role in designing the program), has argued that many of the critiques about militias undermining the monopoly of force in a state are based on mistaken assumptions or a failure to distinguish different types of militias. He argues that "[f]ew states have ever achieved a complete monopoly over force" and that most weak states are constantly trying to simply maintain a grip on power, which militias might help them to do.[151] Academic authors such as Peic, Staniland and others have taken a more pragmatic approach, noting that whether they are the best long-term state-building strategy or not, militias may be a necessary security strategy for states already in a fight for survival against insurgency or facing other existential threats.[152]

The belief that there was an immediate security imperative was no doubt what motivated the creation ALP, and many other LHSFs. However, many authors have argued that creation of these forces against the backdrop of existing weak state control had the effect of exacerbating political economies of violence. This includes not only support to local ALP forces, but also the earlier period of outsourcing significant security functions to Private Security Companies (PSCs), with contracts controlled by powerbrokers and regional actors.[153] Documenting the effects in Kandahar, Forsberg

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[148] See, e.g., Mujib Mashal, "Afghan Plan to Expand Militia Raises Abuse Concern," *The New York Times*, October 16, 2015, http://www.nytimes.com/2015/10/17/world/asia/afghan-local-police-Taleban.html?_r=0

[149] Goodhand and Hakimi, *Counterinsurgency*.

[150] Ibid. See also Derksen, *Non-State Security Providers in Afghanistan*.

[151] Jones, *Strategic Logic of Militia*, 7.

[152] For example Goran Peic found that "incumbents" (state forces) are significantly more likely to defeat insurgents when they deploy militias. Goran Peic, "Civilian Defense Forces, State Capacity, and Government Victory in Counterinsurgency Wars," *Studies in Conflict & Terrorism* 37, no. 2 (2013): 162-184. Jentzsch, Kalyvas, and Shubiger note that civil defense forces or militias can help make authoritarian regimes "coup proof." Jentzsch et al., "Militias in Civil Wars," 5. See also Kristine Eck, "Repression by Proxy: How Military Purges and Insurgency Impact the Delegation of Coercion," *Journal of Conflict Resolution* 59, no. 5 (2015): 924-946 (noting the value of militias following internal military purges); Paul Staniland, "Militias, Ideology and the State," *Journal of Conflict Resolution* 59, 5 (2015): 770-793 (arguing there may be equally compelling reasons for states to pursue a strategy that does not result in a monopoly on force).

[153] See, e.g., Kate Clark, "For a Handful of Dollars: Taleban allowed to join ALP," *Afghanistan Analysts Network*, January 8, 2011, https://www.afghanistan-analysts.org/for-a-handful-of-dollars-taleban-allowed-to-join-alp/ (noting how local strongmen in Takhar and other Northern areas lobbied to form ALP and took steps to form such groups even before being asked to do so, a demonstration of how "nicely ALP is being adapted by pre-existing armed groups to get legal cover"); Carl Forsberg, "Politics and Power in Kandahar," *Institute for the Study of War*, Afghanistan Report 5 (2010), 27 (arguing that obtaining PSC contracts became "extremely desirable" for militia commanders in Kandahar because they could "secure enormous compensation and in some cases legitimize their militias").

argues that the support to PSCs in the 2005 period onward generated, "armed militias operating outside formal Afghan structures which are committed to protecting their own profits and the political interests of their commander."[154] Similarly, Aikins describes how armed militias controlled through PSC contracts and commander networks, together with military and civilian aid, tribal patronage, and the opium trade, created "peripheral political economies that can only be controlled by Kabul via informal patronage networks, often at the expense of institution-building and formal state legitimacy."[155] As a case in point he documented the dominance of President Karzai's brother, Ahmad Wali Karzai in Kandahar. Such dynamics created a political economy with incentives against developing full state control of security, and sometimes potentially even profit motives for violence.

Finally, within the basket of state-building concerns, there has been some discussion of how support to LHSFs affects the balance between the core (often characterized as the Kabul-based Afghan state and elites) and the periphery (the rural hinterlands that dominate much of the country). Rubin and Barfield characterize these core-periphery tensions as the most significant and persistent political dynamics within Afghan politics.[156] Proponents of ALP tended to argue that the 2002-2007 period of state-building in Afghanistan had created an over-centralized state that ignored this basic core-periphery balance and put the Afghan state at risk of being overthrown, as previous rulers who disregarded rural autonomy had been.[157] However, other authors have taken a more negative view of the way programs like ALP have shaped core-periphery relations, reinforcing some of the negative political economy dynamics without correcting the flaws of an overly centralized and corrupt state. For example, Goodhand and Hakimi have argued that ALP shapes and shifts core-periphery relations by "empowering and disempowering particular groups."[158] Similar to the political economy arguments, they argue that, "State and nonstate actors competed with one another to gain access to what might be called violence rights and economic assets, and this competition in turn recalibrates core-periphery relations."[159] In essence, rather than righting a too core-focused state-building endeavour, support to LHSFs gave power to peripheral actors in a way that increased risks of violence and limited the ability of the Afghan state to control it.

Rule of Law and Governance

Western efforts to stand up militias have also sometimes come under criticism for their effects on both short-term and long-term governance and rule of law dynamics. Within the academic literature, Jentzsch, Kalyvas, and Shubiger have noted that creation of militias can transform social patterns, can increase polarization or militarization of local governance (citing Wood, Schubiger), and have

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[154] Ibid. See also, Derksen, *The Politics of Disarmament and Rearmament in Afghanistan*, 13.

[155] Matthieu Aikins, *Contracting the Commanders: Transition and the Political Economy of Afghanistan's Private Security Industry*, (New York: Center on International Cooperation, 2012), https://www.ciaonet.org/attachments/21916/uploads, 6.

[156] For an overview of core-periphery relations in Afghanistan, and the intersection with tribal affairs, see Rubin, *The Fragmentation of Afghanistan*, Chapter 1. See also Thomas Barfield, "Problems in Establishing Legitimacy in Afghanistan," *Iranian Studies* 37, no. 2 (2004): 263-293 (suggesting that the current political situation is the culmination of a political process that has been going on at least since initial British Empire intervention in Afghanistan, with an elite to population dynamics that is more complex, and not captured by the prescriptive that tribes in the periphery will rise up when the centre overreaches).

[157] For an example of those promoting both arguments, see Jones and Fair, "Securing Afghanistan," 24-26. See also Moyar, "Village Stability Operations," 2–3; Jones, *Strategic Logic of Militia*, 21-26. For a more nuanced discussion of the role of tribes and local control in juxtaposition to state authority and development, see Rubin, *The Fragmentation of Afghanistan*, 45-80.

[158] Goodhand and Hakimi, *Counterinsurgency*, 41

[159] Ibid.

destabilizing effects on post war societies, including creating illegal networks and disrupting electoral politics.[160] Many of these critiques have manifested in practice in Afghanistan, particularly the concerns about creating illegal networks, militarizing local governance, and undermining the overall perception and reinforcement of rule of law.

The international community's public goal of strengthening rule of law was frequently undermined by international support to militias or warlords with links to drug smuggling, land grabbing and criminality.[161] (This not just a problem with militias of course; ANP, district governors and ministers may also be protected by the same mechanisms.) Many of the militias initially supported under the AMF were not disbanded but were converted into PSCs, many still strongly supported under lucrative international contracts. There were deep and widespread connections between many PSCs and drug smuggling, land grabbing, criminal networks.[162]

Across the different LHSF manifestations, there have been persistent allegations of abuse, and criminal or illicit behaviour. Where LHSFs were supported by international actors – for example CIA backed campaign forces', direct SF support to ALP units and other irregular forces – it was even harder to bring these individuals to account because they were seen as protected. The misconduct by these international and state-supported armed groups was itself damaging to over-arching objectives of improving rule of law compliance because it demonstrated that Afghan law was subordinate to military and power dynamics. In addition, the linkages with international actors had an even more significant signalling effect, that the intentional messaging of the international community and the Afghan state about the importance of rule of law was false.[163]

At a community level, many ALP (or those calling themselves ALP) quickly used their official deputation (and link to international forces) and monopoly on force at a local level to dominate local communities, often demanding illegal taxation, seizing land, or engaging in other abuses. As noted in the community section, the dominance of militia groups at a local level often had the effect of

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[160] Jentzsch et al., "Militias in Civil Wars," 10

[161] A broader critique running through the literature is the contradiction in running a counter-terrorism mission while engaged in liberal state-building, of which international support to militias is a prominent, though not the only example. See, e.g. United States Institute of Peace conference, March 17, 2015, "Dr. Barnett Rubin on State-Strengthening in Afghanistan 2001-2014, https://www.youtube.com/watch?v=htbuEvPi5GY. See also, Barnett Rubin, "What I saw in Afghanistan," July 1, 2015, http://www.newyorker.com/news/news-desk/what-have-we-been-doing-in-afghanistan. Reflecting on his and other experts' experience, Rubin says "We tried very hard to get state-building on the agenda, and we never succeeded very much... It was a counterterrorism operation." Ibid. There are also similar arguments in security sector reform literature, arguing that what happened in Afghanistan was not true security sector reform, but the prioritization of counter-terrorism. See, e.g. Sedra, Mark. "Towards Second Generation Security Sector Reform." In The Future of Security Sector Reform, edited by Mark Sedra, 102–116. Waterloo, Ontario: The Centre for International Governance Innovation: 2010; Fishtein and Wilder 2012; Rangelove and Theros 2012.
 Derksen, Non-State Security Providers in Afghanistan, CSG Papers, March 2016, at p. 45

[162] For example, a 2011 US House of Representatives investigation into base guards-- whom it described as "warlords, strongmen, commanders, and militia leaders" masquerading as PSCs—found that they paid "tens of millions of dollars annually to local warlords across Afghanistan in exchange for 'protection'," bribed provincial governors, police chiefs, and local military units and, evidence suggested, also the Taleban to get safe passage. Subcommittee on National Security and Foreign Affairs Committee on Oversight and Government Reform US House of Representatives, "Warlord, Inc.: Extortion and Corruption Along the U.S. Supply Chain in Afghanistan (Report of the Majority Staff)," June 2010, http://media.washingtonpost.com/wp-srv/world/documents/warlords.pdf, 2-3.

[163] For more on how this affected Afghan perceptions, at least in the 2009-2010 period, see Erica Gaston and Jonathan Horowitz, "The Trust Deficit: The Impact of Local Perceptions on Policy in Afghanistan," *Open Society Foundations*, October 7, 2010, https://www.opensocietyfoundations.org/sites/default/files/perceptions-20101007_0.pdf, 12-15. The decision by the United States to cooperate with almost every faction in Afghanistan opposed to the Taleban regardless of their human rights records had similarly negative outcomes and damaged the image of the intervention forces, see Sedra, "The hollowing-out of the liberal peace project in Afghanistan," 2013.

crowding out other community governance and dispute resolution structures – whether local elders or community leaders ('informal leaders') or state officials trying to implement state-backed rule of law.[164] In many districts, 'rule by the gun' rather than 'rule of law' became the prevailing organizing principle. As a result, from the perspective of an international funder, a negative side effect of supporting LHSF project like ALP is that they may neutralize and undercut investment made in other rule of law and governance sectors.

Disarmament and Demobilization

Academics and policy analysts have frequently linked the failure of disarmament and demobilization initiatives with continued support or tacit acceptance of militias and LHSFs. Although there were numerous efforts from 2002 to 2008 to disband and demobilize illegal armed groups , these groups could easily avoid being broken up by registering as PSCs, or in later years, being re-hatted as community defense forces – ANAP, AP3, CDI/LDI and later ALP.[165] Some disarmament initiatives have been critiqued for intentionally allowing such loopholes for important figures' forces,[166] or in areas where anti-Taleban forces were in short supply. Giustozzi has argued that neither Afghan elites nor the US prioritized DDR, and always ensured there were loopholes for commanders and militias they wanted to work with.[167] Derksen's work on disarmament and demobilisation provides further support for this argument. The Disarmament of Illegal Armed Groups (DIAG) was launched in 2005 just before the insurgency took off, when ISAF was expanding into the south and the ANSF was still small and weak. For illegal militias working with the international military or operating in areas where they were deployed, wrote Derksen, the result of DIAG was "not their disbandment, but... a push for their legalization." Internal documents on DIAG reveal, she reported, how desperate ISAF and coalition forces were for additional troops, and tried to create temporary registration for militias to avoid disarming them so that they could fill perceived security gaps. "'To come up with security gaps," one document read, 'could some of those local militias be temporarily registered and assist ANP? They would promise to follow a code of conduct and obey the governor.'"[168]

Given the way that militias or LHSFs have consistently been provided loopholes to disarmament and demobilization initiatives, it is perhaps not surprising that the long-term demobilization of forces stood up under the ALP or other recent programs has been given less attention than the plans to mobilize them. ICG's 2015 report on ALP emphasized the importance of developing a long-term strategy for the ALP, recommending integrating some of the stronger, and more accountable units (with better records) into the ANSF, and disbanding and demobilizing others. ICG noted that the current state of affairs, with the long-term future of these groups completely under-discussed creates

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[164] Gaston, Sarwari, and Strand, *Lessons Learned in Traditional Dispute Resolution in Afghanistan*. See also Coburn, "The Shura Strategy."

[165] Derksen, *The Politics of Disarmament and Rearmament in Afghanistan*, 13.

[166] Many of the private security companies were ultimately owned by relatives or close allies of the most powerful figures in government – the president, vice president, former defence minister, speaker of the Senate. Malyar Sadeq Azad, "Top Leaders Tied to Security Companies," *The Killid Group*, August 21, 2010, http://www.tkg.af/english/reports/political/234-top-leaders-tied-to-security-companies.
Subcommittee on National Security and Foreign Affairs Committee on Oversight and Government Reform US House of Representatives, "Warlord, Inc," 2-3.

[167] Antonio Giustozzi, "Bureaucratic façade and political realities of disarmament and demobilisation in Afghanistan," *Conflict, Security & Development* 8, 2 (2008): 169-192. See also MacGinty, "Warlords and the liberal peace" and Derksen, *The Politics of Disarmament and Rearmament in Afghanistan*.

[168] Derksen, *The Politics Of Disarmament and Rearmament in Afghanistan*, 13.

negative incentives among these forces: "Many ALP members know their pay cheques are not guaranteed in the coming years and are considering options for survival as bandits or insurgents."[169]

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[169] International Crisis Group, *The Future of the Afghan Local Police*, 3. See also Felbab-Brown, "Hurray for militias?"

Annex: Overview of Local, Hybrid and non-state Security Forces since 2001

This Annex is intended as a complement to the literature review on active local, hybrid and non-state security forces (LHSFs). It provides a summary of the most significant in Afghanistan to have emerged since 2001, according to three key periods in this development:

1. 2001–2005: LHSFs and militias supported as auxiliaries to international forces
2. 2005–2009: incorporation into Private Security Companies (PSCs) or quasi-state paramilitary forces as the predominant mode of LHSFs
3. 2009 onward: local defense forces propelled by the "surge" starting in 2009

2001-2005: Militias Stand-in as Auxiliary or State Forces

After the US-led intervention forced the Taleban from power in 2001, there was no standing national force. Northern Alliance commanders and their accompanying militia forces were incorporated into what were called the 'Afghan Military Forces' (AMF). The newly re-established and re-shuffled Ministry of Defence (now under the control of the Shura-ye Nizar network of the Northern Alliance[i]) imposed a notional, formal structure of eight corps with divisions, garrisons, and other divisions on the AMF. However, in practice they were little more than re-named militias still loyal to their pre-2001 commanders and with little central command and control. From 2003, a nationwide programme of Disarmament, Demobilisation and Reintegration (DDR) thinned out some of the AMF ranks while a new military force, the Afghan National Army (ANA), was created from scratch with a deliberate mixing of ethnic groups. However, DDR largely failed to demobilise the militias of the AMF and many elements from the AMF were incorporated into the Afghan National Police (ANP).

Some forces were never integrated into the AMF or other state forces, but continued fighting alongside US SOF and CIA and were often referred to collectively as 'campaign forces'. For example, the Kandahar Strike Force,[ii] the Afghan Security Guards in Paktika and the Khost Protection Force still operate under CIA control. Made up of former PDPA communists, mainly from the Zazi district, the Khost Protection Force had notionally been the 25th Division in the AMF, but was spared DDR because of its good links to the international military. In addition, as NATO's 'stabilisation' mission, the International Security Assistance Force (ISAF), expanded from 2003 onwards, ISAF forces tended to hire Afghan guards belonging to a local strongman to protect their bases. In 2003, the ad hoc practice of using these local security forces by ISAF and the US counter-terrorism mission, Enduring Freedom, was formalized and they became known as the Afghan Security Force (ASF). The ASF was largely demobilised in 2006 when reporting suggests there were about 2,500 fighters, 90 per cent of whom joined the ANA or ANP.[iii]

Basic Information	Foreign Support	Afghan Govt Approval	Strength and Coverage	Description

Afghan Military Forces (AMF) **Formed:** 2001, but most dated to jihad (1980s) **Active:** Not under this name; mostly but not entirely absorbed into ANSF and ALP **Subgroups:** Nominally placed in the traditional military groups of corps, divisions, garrisons, etc.	US supported: arms, funding, advice	Ministry of Defence (itself under factional control)	**Strength:** 200,000, but many ghost soldiers **Coverage:** preponderance in north, especially north-east	• Term used to describe all militia and factional forces from Northern Alliance and pro-US Pashtun commanders allied to US in 2001 which then came under Ministry of Defence control, itself under the control of Shura-ye Nizar. • Subject to patchy DDR; some militias transferred to ANP; those remaining termed 'illegal militias' (many later re-emerged as Private Security Companies, ALP); others joined Taleban
Afghan Security Force (ASF) Term came into use in 2003 to formalise the ad hoc militias fighting with or guarding international forces. Demobilised in 2006.	Yes, primarily associated with US Special Forces and CIA, but also ISAF.	No	**Strength:** Unknown, varied over time. +/- 2500 **Area of Operation:** National but more in east and south	• Local auxiliary forces needed as Afghan security forces not yet fully stood up or dispersed throughout the country. • Answered to foreign command • In 2006, most transferred to regular ANSF forces.
Campaign Forces, or Counterterrorism Protection Teams (CPT). Includes the following groups:	Associated with US Special Forces and CIA	In 2011, Karzai issued a decree banning them	See specific subgroups below	• Groups with direct CIA or US SOF command, rather than Afghan state. Used for intelligence and fighting.
Khost Protection Force Active: Yes	Paid for and liaises with CIA, including joint operations	Nominal NDS control, operates outside provincial control	**Strength:** 300 (2012) **Area of Operation:** Khost, especially border	• Mainly former communists from the Khalqi wing of the PDPA from Zazi Maidan district who formed the '25th division' of the AMF and escaped DDR through good connections with the US military. • Multiple allegations of abuses over the years, especially of torture, illegal detention, summary executions.[iv]
Kandahar Strike Force Active: Likely not	Under CIA control	Effectively run by the president's brother, Ahmad Wali Karzai, until his 2011 assassination; then by close Karzai ally, Assadullah Khaled	**Strength:** 400 **Area of operation:** Kandahar, Zabul, Uruzgan	• Based in Mullah Omar's old house, known as Camp Gecko • Recruits cherry-picked from regular army units and trained by US SOF units • Numerous allegations of abuses, including torture, killings, rape • Not known if currently operating or not
Afghan Security Guards (ASG) Active: Integrated into ALP	Originally associated with US Special Forces	Later integrated into ALP apparatus	**Area of operation:** Barmal district of Paktika	• Commanded by Azizullah, a Tajik from Urgun • Tajik force in a Pashtun majority province exacerbates tensions between Tajiks and Pashtuns

				• Allegations of murders, targeting of Pashtuns, sexually abusing boys, etc
Counterterrorism Pursuit Teams (CPT) Active: Likely not	CIA proxies, authorised by President Bush	Nominally under NDS control	**Strength:** 3000 (2009) 1200 (2013) **Area of Operation:** national	• A "paid, trained and functioning part of the CIA" (Woodward)

2005 – 2009: PSCs, State-Owned Enterprises and Paramilitary Forces

The outbreak of major insurgency in 2005/2006 in Afghanistan coincided with the expansion of NATO's International Security Assistance Force (ISAF) into the south. NATO's need for local forces to guard bases and transport goods to bases, as well as for dependable Afghan fighting forces, in the absence of strong Afghan National Security Forces (ANSF).[v] This introduced two concurrent and interlinked forms of LHSF development in this interim period: 1) the emergence and growth of Private Security Companies (PSCs); and 2) increasing experimentation with hybrid or quasi-state militia forces.

Since 2001, the international military had always paid local commanders on an informal basis to guard their bases,[vi] but the ISAF expansion and later 'the surge' (the increase in US troops to almost one hundred thousand in 2009-2012) meant hundreds of millions of dollars in contracts for guarding bases and convoys.[vii] Many of the old militias were 're-hatted' as guards in Private Security Companies (PSCs) which were licensed from 2006 onwards by the notoriously corrupt Ministry of Interior,[viii] and owned by relatives or close allies of the most powerful figures in government.[ix] Increasingly unhappy with the power and money being channelled into non-state militias, President Karzai demanded the guard forces be regularised and brought under state control.[x] From 2009, onwards, PSCs began to be replaced by guards from a state-owned enterprise within the Ministry of Interior, the Afghan Public Protection Force (APPF).

During this period, there was also a series of initiatives to establish irregular fighting forces. In response to Karzai's request to create 'tribal militias', the NATO-funded and US-trained Afghanistan National Auxiliary Police (ANAP) was established in 2006 as a temporary counter-Taliban force in southern Afghanistan. Like the PSCs, it also ended up legalising illegal militias, bringing groups loyal to local governors into the official sphere and providing.[xi] Following extensive international criticism and reports of Taleban infiltration, it was quietly shut down in 2008.[xii]

Basic Information	Foreign Support	Afghan Govt Approval	Strength and Coverage	Description
Afghan National Auxiliary Police (ANAP) Formed: 2006 Active: No, disbanded May 2008	NATO funding and support. Included issuance of AK-47 assault rifle, ANP uniform, and $70/month salary (the same as a regular policeman)	Karzai initiative, project of Ministries of Interior and Finance	**Strength:** approved to be as large as 11,271, but most estimates suggest 9000 members at its peak **Area of Operation:** 124 districts, mostly south and southeast	• Established as insurgency took hold. • Paramilitary force; although set up as a 'community policing unit' so that funding was not jeopardised, most were not from the districts (or even provinces) where they were assigned[xiii] • Recruited heavily from existing (illegal) militia groups linked to local political and tribal strongmen, and often to provincial governors. Often referred to as 'tribal militias'. • Poor vetting led to failure to break pre-existing ties between men and militia commanders, also to heavy infiltration by Taliban • Rather than securing communities, became used as a way for strongmen to regularize their militias, undermining DIAG • Poor training and equipment, weak command and control and results • Received 10 days of training, 5 of classroom instruction and 5 of range firing[xiv]
Private Security Companies (PSCs) Formed: ad hoc from 2001 onwards; registered by MoI from 2006 onwards Active: No, attempts by Karzai to ban them 2008-2012, lead to regularisation and PSCs largely being replaced by the APPF	Employed by international military to guard bases and convoys	Individual PSCs were linked to high-ranking Afghans. Licensed by MoI	**Strength:** Varied **Coverage:** country-wide, but more work in insurgency-threatened areas	• Extremely powerful, well-connected, described as running a "protection racket" by House of Representatives report. • Known for infighting, corruption, paying off Taleban. Fought well or were fights staged to increase payments?
Afghan Public Protection Force (APPF) Formed: 2009	Through private contracts	APPF is a state-owned enterprise within the MOI.	Nationwide	• Strong pressure by strongmen to get their men into the APPF

2009 Onward: Local Community Defense Models and the ALP

From 2009 on, the stronger Taliban insurgency, a trend toward "bottom-up" and locally tailored state-building, and the military focus on addressing security gaps in rural Taliban heartlands, created significant pressure for local defense forces. The first such project was the Afghan Public Protection Program (AP3) in 2009, initially funded and implemented by US SOF in coordination with the Ministry of Interior (MOI) under Hanif Atmar (now National Security Advisor) in four districts of Wardak province.[xv] Overlapping with AP3, US SoF were experimenting with different community defense forces in southern Afghanistan, which were originally called the Local Defense Initiative (LDI), aka Community Defense Initiative (LDI/CDI). These Village Stability Operations (VSOs) would eventually morph into the Afghan Local Police (ALP), which was officially authorized in August 2010 under the MOI.[xvi] The ALP programme spread to almost all provinces of Afghanistan and now numbers 28,000.

Concurrent with the development of the VSOs and ALP, other international forces also supported local defense organizations or militias in their areas of operation. The Critical Infrastructure Protection Program (CIPP) which operated in four, possibly five Northern provinces, was set up in August 2011 as a joint German-US military initiative, using money from an American discretionary fund.[xvii] There was also the Intermediate Security for Critical Infrastructure (ISCI) in Marja, Helmand (set up by US marines), and Community-Based Security Solutions (CBSS) set up in three eastern provinces. All were disbanded or absorbed into the ALP in 2012 after Karzai heard about their existence and banned them.[xviii]

There have also been initiatives to establish militias by the government which did not get international funding, such as the Community Defense Force (CDF) established by President Karzai and funded by the Ministry of Interior ahead of the 2009 presidential elections, on paper to provide security to polling stations, but actually to help get the Karzai vote out.

In addition to the ALP program, which has become increasingly formalized, there are a greater number of 'pro-government militias', as they are termed by UNAMA.[xix] These are militias which are mobilised and on occasion fight for the government, and often refer to themselves as 'ALP' but have no formal position or links. In addition, from 2015 onwards, albeit with some precursors, the government has been establishing what it calls National Uprising Groups *(patsunan)*, to fill the security gap (supposedly temporarily) in places too remote for the ANSF or even the ALP to operate. They fall under no Afghan legal framework, but various parts of the government hire and arm them: the Afghan intelligence agency, the National Directorate of Security (NDS) hires elders to propose recruits, NDS vets them, the Independent Directorate of Local Government provides the funding and the Ministry of Interior the weapons and the groups then fall under the operational command of the NDS and ANP.[xx]

Basic Information	Foreign Support	Afghan Govt Approval	Strength and Coverage	Description
Afghan Public Protection Program (AP3) Formed: March 2009 Active: No, disbanded and integrated into ALP Subgroups: no	Funded and implemented by US SOF	Joint initiative with MOI	**Strength:** 1100 Area of Operation: Wardak province	• Pilot project in one province, Wardak, one of the pre-cursors to ALP • Intent was to improve local security by organizing local community members into a pro-government defensive force • Half of forces co-opted by local strongmen, with reports of harassment and abuses against villagers • Significant reports that local communities resisted, and that it sparked inter-communal conflict
Community Defense Initiative, Local Defense Initiative (LDI) Formed: mid-2009 through 2010 Active: No, absorbed into ALP Subgroups: n/a	US Special Forces provided funds, weapons, and mentoring US Embassy against it	Hostility from the president. Never got his approval, except by default when groups were re-hatted as ALP	**Strength:** Approximately 30 men per village; total force numbers unknown **Area of Operation:** Arghandab (Kandahar), Nili (Daykundi), Achin (Nangahar), Gereshk (Helmand) and parts of Paktia[xxi]	• Designed to improve on failure in AP3, and pre-cursor to ALP • Piloted by US Special Forces to be more responsive and integrated in village-level communities • Reportedly enjoyed greater success than AP3, possibly because of the local dynamics in the districts chosen, or because of the more intense, one-on-one mentorship by Special Forces • "Never a full-scale program but more a series of experiments tried in selected districts"[xxii]
Community Defense Force (CDF) Formed: 2009 Active: No, disbanded with members joining other militias or private security companies Subgroups: n/a	No	Proposed by President Karzai, Funded via Ministry of Interior budget, run by close Karzai ally, Aref Nurzai	**Strength:** 10,000 authorized, but actual numbers unclear **Area of Operation:** nationwide, but more intended to be placed in insecure areas (south and southeast)	• Often known as "election militias", CDF were created ostensibly to enhance security at polling stations during the 2009 presidential elections but were "vehicles for strengthening patronage relationships ahead of the polls"[xxiii] • Organization was weak and there were no follow-ups to track how effective they were in terms of security, or other repercussions on voting
Afghan Local Police (ALP) Formed: August 2010 Active: Yes Subgroups: n/a Part of COIN strategy known as Village Stability Operations (VSOs)	US-backed primarily, ~$470 million expended from inception to April 2014; Funding supports salary, weapons, vehicles and	MoI command: ALP answer to ANP at district and provincial level; All funding administered through the MoI	**Strength:** 28,231, as of January 2016[xxiv] **Area of Operation:** Active in 175 districts in 28 provinces (no ALP in Bamyan, Daikundi, Khost,	• Has expanded to be a nationwide, semi-formalized paramilitary defence force • Initially created as a way to fill gaps in Afghan security forces, reach into rural, Taliban strongholds, and support local resistance, it has now morphed into a nationwide, catch-all militia program

			Nimroz, Panshir, Samangan)	• Only US funding. Other donors reluctant to support 'militias' • Units set up by US SOF 'embedding' in the village as part of VSO • Local control via 'shura', as well as government chain of command through ANP
Critical Infrastructure Protection Program (CIPP) Formed: August 2011 Officially ended September 2012	Set up by ISAF Regional Command North (German and US initiative) , paid for by an American discretionary fund	Not central government. 25 December 2011, President Karzai ordered disbandment of all international military- established local defense initiatives[xxv]	**Strength:** 1,800 fighters[xxvi] **Area of Operation:** the north (Kunduz, Balkh, Faryab, Jowzjan, possibly Sar-e Pul)	• Aim was to stop existing militias extorting food, fuel and money from citizens by paying them $150 per officer and $200 per commander • Mainly Tajik and Uzbek linked to Afghan patrons (strongmen) • Untrained, mostly self-armed or armed by their patrons, not uniformed • Disbanded after Karzai discovered, but lingered in Kunduz • Five CIPP groups disbanded with 900 men converted to ALP[xxvii]
Intermediate Security for Critical Infrastructure (ISCI) Formed: 2011 Active: Disbanded (1500 men), or absorbed into ALP (1625 men) by December 2012	Trained by US marines for 18 days in basic policing and ethics	No, not central government (see CIPP)	**Strength:** 3500 **Area of Operation:** Marja, Helmand	• One-province only Marine experiment in standing up local defense forces • Paid US$150 a month • Reported to the district chief of police, and given uniforms
Community-Based Security Solutions (CBSS) Formed: Likely 2011 but exact date unknown Active: Disbanded, or absorbed into ALP by December 2012	Unknown	No, not central government (see CIPP)	**Strength:** 2,200 **Area of Operation:** Kunar, Nangarhar and Nuristan provinces	• Mentioned in UNAMA 2012 report on Protection of Civilians • Eight CBSS groups with 1,300 men disbanded; 900 men converted to ALP
National Uprising Groups Formed: 2015 (although some antecedents) Active: Yes Subgroups: n/a	No, but government trying to get international finance	Yes, Afghan government initiative, operational command NDS and ANP; operates not under any Afghan legal framework	**Strength:** Each group 22-500. **Area of Operation:** By end of 2015, 23 districts in 10 provinces (plans for 25 provinces)	• Created to 'fill the gap' for places that are too remote for ANSF or even ALP[xxviii] • NDS hires elders to propose members, NDS vets, IDLG finances, MoI arms • Drawn from civilians and former insurgents • Supposed to be temporary 3 months, then absorbed into ALP • Originally supposed to be 'spontaneous', although doubtful[xxix]

Table Sources

[i] Shura-ye Nizar was built up by Jamiat-e Islami commander Ahmad Shah Massud in the 1980s and became the most coherent and formidable part of the resistance against the Soviet occupation. Officially dissolved in 1993, it has nonetheless remained as a recognizable and coherent network of commanders and politicians from the environs of Kabul and the north-east. It was the most powerful group within the anti-Taleban Northern Alliance.

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[iii] Joseph Giordono, "300 more Afghan Security Force members demobilized," *Stars and Stripes* 11 January 2006, http://www.stripes.com/news/300-more-afghan-security-force-members-demobilized-1.43441.

[iv] United Nations Assistance Mission in Afghanistan, *Update on the Treatment of Conflict-Related Detainees in Afghan Custody: Accountability and Implementation of Presidential Decree 129* (Kabul: United Nations Office of the High Commissioner for Human Rights, 2015), 72, http://www.ohchr.org/Documents/Countries/AF/UNAMA_OHCHR_Detention_Report_Feb2015.pdf.; Sudarsan Raghavan, "CIA Runs Shadow War with Afghan Militia Implicated in Civilian Killings," *The Washington Post*, 3 December 2015, https://www.washingtonpost.com/world/cia-backed-afghan-militias-fight-a-shadow-war/2015/12/02/fe5a0526-913f-11e5-befa-99ceebcbb272_story.html; David Jolly, "Civilian Deaths Raise Questions About C.I.A.-Trained Forces in Afghanistan," *The New York Times*, 3 December 2015, http://www.nytimes.com/2015/12/04/world/asia/afghanistan-civilian-casualty-khost.html.

[v] Deedee Derksen, *The Politics of Disarmament and Rearmament in Afghanistan* (Washington: United States Institute of Peace, 2015), 13, www.usip.org/sites/default/files/PW110-The-Politics-of-Disarmament-and-Rearmament-in-Afghanistan.pdf.

[vi] Steve Brooking, "Private Security Companies in Afghanistan, 2001–11" in *Snapshots of an Intervention: The Unlearned Lessons of Afghanistan's Decade of Assistance (2001–11)*, ed. Martine van Bijlert and Sari Kouvo (Kabul: Afghanistan Analysts Network, 2012), 1 http://www.afghanistan-analysts.org/wp-content/uploads/downloads/2012/09/13_Brooking_Private_Security_Companies.pdf.

[vii] Aikins gives some figures indicating the growth of PSCs: 3152 PSCs registered as employed by the US Department of Defence; September 2007, 3,689 registered PSCs, December 2008. Employment of PSC guards rose by 400 per cent, December 2008 to December 2010. (US forces increased from 20,300 to almost 100,000, 2006-11). Matthieu Aikins, *Contracting the Commanders: Transition and the Political Economy of Afghanistan's Private Security Industry* (New York: Center on International Cooperation, 2012), 7, https://www.ciaonet.org/attachments/21916/uploads.

[viii] Andrew Wilder, *Cops or Robbers? The Struggle to Reform the Afghan National Police,* Issue Series Paper, (Kabul: Afghanistan Research and Evaluation Unit, 2007).

[ix] Malyar Sadeq Azad, "Top Leaders Tied to Security Companies", *The Killid Group*, 21 August 2010, http://www.tkg.af/english/reports/political/234-top-leaders-tied-to-security-companies. An indication of how big an impact US military funding had on militias came in a 2011 US House of Representatives investigation into the guarding of convoys supplying US bases. It described a massive protection racket: the private security company subcontractors guarding the trucks were "warlords, strongmen, commanders, and militia leaders" who paid "tens of millions of dollars annually to local warlords across Afghanistan in exchange for 'protection'," bribed provincial governors, police chiefs, and local military units and, evidence suggested, also the Taleban to get safe passage. Subcommittee on National Security and Foreign Affairs Committee on Oversight and Government Reform US House of Representatives, *Warlord, Inc.: Extortion and Corruption Along the U.S. Supply Chain in Afghanistan (Report of the Majority Staff)* (Washington, D.C.: U.S. House of Representatives, 2010), http://media.washingtonpost.com/wp-srv/world/documents/warlords.pdf, 2–3.

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xvi See WikiLeaked US Embassy cable from Karl Eikenberry laying much of this out, '09kabul3661, Unconventional Security Forces – What's Out There?', 11 December 2009; also Goodhand and Hakimi, *Counterinsurgency*, 12–13.

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