

**Saving State-Building:
EU Contributions to Security Sector Reform
in Afghanistan**

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Abstract

State failure represents one of the most pressing concerns for international security in the 21st century, and Afghanistan represents one of the most concerted efforts ever witnessed to address this phenomenon in a lasting and sustainable way. This thesis takes the position that part of the difficulty in finding a remedy for state failure relates to the contradictions and dilemmas inherent within the state-building enterprise itself. The trade-offs required by certain fundamental aspects of state-building must be better understood if they are to be effectively managed, and these trade-offs cannot be understood without critically analysing the basic assumptions of state-building.

To come to grips with these assumptions in concrete terms, this paper examines the European Union's involvement in Afghanistan as a case study to apply and develop the analytical framework of "dilemma analysis."

The first major goal of this research will be to outline the tensions within state-building, and to assess their usefulness for explaining some of the difficulties facing state-builders in general terms. The second goal will be to analyse the significance of the specific combination of dilemmas relevant to the case of Afghanistan, in order to show how those dilemmas interact with each other to constrain the EU's options for effective state-building. The third goal is to identify ways in which the EU and the international community in general can benefit from dilemma analysis when conducting state-building interventions in the future.

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List of Abbreviations

ABP.....	Afghan Border Police
ACP.....	Afghan Customs Police
AHP.....	Afghan Highway Police
ALP.....	Afghan Local Police
ANA.....	Afghan National Army
ANAP.....	Afghan National Auxiliary Police
ANCOP.....	Afghan National Civil Order Police
ANDS.....	Afghan National Development Strategy
ANP.....	Afghan National Police
APPP/AP3.....	Afghan Public Protection Programme
ARTF.....	Afghanistan Reconstruction Trust Fund
AUP.....	Afghan Uniformed Police
CID.....	Criminal Investigation Division
CIDA.....	Canadian International Development Agency
CNPA.....	Counter-Narcotics Police of Afghanistan
CSTC-A.....	Combined Security Transition Command-Afghanistan
CTP.....	Counter-Terrorist Police
DDR.....	Demobilisation, Disarmament and Reintegration
ESDP.....	European Security and Defence Policy
EUSR.....	European Union Special Representative
GPPO.....	German Police Project Office
i-ANDS.....	Interim Afghan National Development Strategy

IDLO..... International Development Law Organisation
IJO..... Italian Justice Office
IPCAG..... Interagency Police Coordinated Action Group
IPCB..... International Police Coordination Board
ISAF..... International Security Assistance Force
ISI..... Inter-Services Intelligence
JCMB..... Joint Coordination and Monitoring Board
LDI/CDI..... Local Defence Initiative / Community Defence Initiative
LOTFA..... Law and Order Trust Fund
NTM-A..... NATO Training Mission-Afghanistan
POC..... Project Oversight Committee
PRT..... Provincial Reconstruction Team
PSC..... Political and Security Committee
SSR..... Security Sector Reform
SWAT..... Special Weapons and Tactics
UNAMA..... United Nations Assistance Mission to Afghanistan

1: Introduction

For the last decade, state failure has been an increasing focus of attention for the international community. Since the terrorist attacks of September 11, 2001, radical shifts have been made in US and NATO security policy, and fragile states have been placed firmly on the agenda of international politics. Calls for intervention in such states may be motivated by economic, humanitarian, or strategic concerns, and the combination of these different motives has led to the development within academic and political circles of an extremely diverse constituency, pushing for external actors to become involved with the business of transforming failing states into societies which will be less threatening to their populations and to the international community. It is still unclear exactly what can be achieved in this regard, but given how much is invested in trying, and given what is at stake, clarifying the logic behind state-building interventions should be an essential part of moving forward. However it is defined, achieving “success” will depend partly on how expectations are managed. Just as local actors have limited capacity to transform their societies from within, there are limits to what international donors are able to do as well. Understanding what these limits are and why they exist should not discourage those who would wish to confront the challenges of state failure; instead, it should be seen as the first step towards establishing an effective division of labour and more realistic strategies for intervention.

1.1 Background

State failure represents one of the most pressing concerns for international security in the 21st century. While the international community has recognised the strategic importance of this issue, there are still significant challenges facing interventions which seek to support the structures and institutions that promote peace and stability in failed states. It has been argued that part of the problem relates to the contradictions and dilemmas inherent within the state-building enterprise itself. The trade-offs required by certain fundamental aspects of state-building must be better understood if they are to be effectively managed, and these trade-offs cannot be understood without critically analysing the basic assumptions of state-building.

To come to grips with these assumptions in concrete terms, this paper examines the European Union's involvement in Afghanistan as a case study to apply and develop the analytical framework of "dilemma analysis," which Paris and Sisk presented in 2009.¹ Not only are the political, economic and social stakes tremendously high in Afghanistan, but there exists a window of opportunity within which the donor community will contribute greatly to the shape of the emerging Afghan state. The case study highlights the five most important conceptual contradictions within state-building, and reveals serious deficiencies in the architecture of the international intervention in that country, but reassessing external involvement in light of these contradictions can also help the international community balance some elements of the state-building process which have so far been working at cross-purposes. Calls for greater coordination within the donor community are all too common, and it is hoped

¹ R. Paris, and T. Sisk, eds. *The Dilemmas of Statebuilding: Confronting the Contradictions of Postwar Peace Operations*. New York: Routledge, 2009.

that dilemma analysis can provide some useful principles to guide coordination and allow state-building to be carried out more effectively.

Despite the fact that some states have made larger military and financial commitments to Afghanistan, the EU is involved in several aspects of the Security Sector Reform (SSR) agenda, without which the state-building project as a whole cannot progress. The pervasive effects which conflict and state failure can have on a society demand holistic strategies for international involvement, and thanks to the engagement of the EU and its Member States at many levels of the reconstruction effort, this case study makes it possible to appreciate the full effect of the tensions which underpin state-building in the modern era.

1.2 The Phenomenon of State Failure

Many definitions and conceptualisations have been put forward to describe state failure, but most focus on the central government's inability to exercise control over its sovereign territory, and on the failure of the state to provide various public goods regarded as essential for a functioning society. As a consequence, the failed state loses legitimacy in the eyes of its population, and may lose its ability to interact with other countries as a full member of the international community, instead becoming increasingly dependent on humanitarian and development aid, or other forms of external support. However, it is state capacity which most definitions emphasise as the critical factor.

A more detailed account of state failure reveals that the resilience or fragility of a state is actually related to three critical factors: the state's capabilities; the political settlement; and popular expectations surrounding the notion of legitimacy.²

The most important aspects of state capacity relate to the provision of security and the rule of law, but the condition of a state can also be judged on the basis of its performance in numerous different areas. These may include: the state's ability to provide health care, transport and education to the population; the performance of the national economy; the degree and nature of regulation over the financial sector; and the extent of infrastructure and communication networks across the country.³ External interventions can help build institutional capacity by providing technical support, equipment, personnel, mentoring, or other resources.

The political settlement refers to implicit or explicit agreements between power elites within the failed state over how power is to be distributed and wielded. In post-conflict environments, especially where there is a written peace agreement, the international community may play a vital role in monitoring, or even enforcing, observance of the settlement. It is the vehicle for mediation between the population and the state, and as such, it is important to ensure that it is equitable and widely respected. State failure is often accompanied by internal warfare, massive deterioration in living standards for the bulk of the population, and increased parochialism on the part of power elites. In addition, mutually reinforcing cycles of violence and underdevelopment may create a "conflict trap," rendering the state

² OECD. "Supporting Statebuilding in Situations of Conflict and Fragility: Policy Guidance," Paris: OECD DAC, 2011.

³ S. Wolff. "The Regional Dimensions of State Failure" (Review of International Studies, British International Studies Association, 2010), http://journals.cambridge.org/article_S0260210510000951.

resistant to stabilisation efforts.⁴ Consequently, conflicting parties may feel tempted to use violent means to try and renegotiate a more favourable political settlement for themselves. It should always be remembered that externally sponsored interventions inevitably create winners and losers by reshaping relations and power structures within the society. An intervention must be sensitive to the political settlement, but may also influence it by introducing new resources into the equation. In short, interventions are necessarily political in nature.

Finally, legitimacy is derived from popular expectations about what the terms of state-society relations should be. Healthy state-society relations depend on the ability of the population to articulate its collective demands on the state, and on the state's ability and willingness to respond. However, social structures in a failed state environment do not always allow groups to aggregate and articulate their interests through peaceful political processes, and legitimacy may be a highly contested notion, deriving from several competing sources. These can include: performance-based legitimacy (depending on the provision of public goods); ideologically-based legitimacy (deriving usually from strong nationalism or religious belief); process-based legitimacy (for example through the establishment of the rule of law, or a system of checks and balances on power); clientelism (where political support is exchanged for concrete benefits bestowed by those in power); and various traditional sources of legitimacy (such as customary communal institutions and broad social norms of trust and reciprocity).⁵ Acknowledging these sources is very important for international interventions, as legitimacy is what provides the basis for a state to govern its territory

⁴ R. Paris, and T. Sisk, eds. *The Dilemmas of Statebuilding: Confronting the Contradictions of Postwar Peace Operations*. New York: Routledge, 2009, p. 3.

⁵ Overseas Development Institute, "State-Building for Peace: Navigating an Arena of Contradictions" (Briefing Paper No. 52, 2009), <http://www.odi.org.uk/resources/download/3673.pdf>.

through primarily non-coercive means.⁶ If international actors wish for a realistic exit strategy that will not result in the achievements of the intervention being undone, local actors must see the political reconstruction process as legitimate.

1.2.1 The Significance of State Failure

Failed states pose dangers both at home and abroad – they can produce complex humanitarian emergencies and wide-scale violations of human rights at the local level, and may also undermine regional stability and threaten international security. At the domestic level, the absence of effective governance structures has been linked to a variety of social problems, including famine,⁷ disease,⁸ extreme poverty,⁹ and severe displacement.¹⁰ At the regional level, chaotic refugee flows and ethnic violence have the potential to cross national borders, destabilising regional politics and straining inter-ethnic relations, especially where failed states have significant diasporas in neighbouring countries.¹¹ And at the international level, failed states are often linked to drug smuggling, human trafficking, money laundering, terrorism, and organised crime.¹² Given the condition of government institutions within failed states, it falls to the international community to address the situation.

⁶ OECD. “Do No Harm: International Support to Statebuilding.” Paris: OECD DAC, 2010.

⁷ A. Sen, *Development as Freedom*. New York: Anchor Books, 1999.

⁸ A. Menon-Johansson, “Good Governance and Good Health: The Role of Societal Structures in the Human Immunodeficiency Virus Pandemic.” *BMC International Health and Human Rights* 5, no. 4 (2005). <http://www.biomedcentral.com/content/pdf/1472-698X-5-4.pdf>.

⁹ P. Keefer and S. Knack. “Why Don’t Poor Countries Catch Up? A Cross-National Test of Institutional Explanation.” *Economic Inquiry* 35, no. 3 (1997): 590-602.

¹⁰ R. Väyrynen, “Complex Humanitarian Emergencies: Concepts and Issues.” in *War, Hunger, and Displacement: The Origins of Complex Humanitarian Emergencies*, edited by E. Nafziger, F. Stewart, and R. Väyrynen, 43-90. New York: Oxford University Press, 2000.

¹¹ L. Goodson, *Afghanistan’s Endless War: State Failure, Regional Politics, and the Rise of the Taliban*. Seattle: University of Washington Press, 2001, p. 148.

¹² R. Rotberg, “The New Nature of Nation-State Failure.” *Washington Quarterly* 25, no. 3 (2002): 85-96.

As a failed state, Afghanistan is of particular importance in international politics, and must not be allowed to descend into lawlessness and anarchy. For three decades, the country has struggled with nearly continuous internal violence, and has been a staging ground for a wide range of external conflicts within the region. Militant separatists from China and former Soviet republics have operated out of Afghan and Pakistani territory, and the Kashmir conflict between India and Pakistan has been partly played out in Afghanistan. Disagreements with Iran over water rights to the Helmand River, and with Pakistan over the Durand Line border have further complicated matters, and of course the US and Coalition forces remaining in Afghanistan continue to suffer casualties from a persistent insurgency. Despite the signing of a Friendly Neighbourhood Agreement, though, there exists no official organisation capable of dealing with such tensions at the regional level. The inability of the Afghan central government to meet successive threats to the country's stability has pushed Afghanistan steadily towards state failure. The security of Afghanistan is thus an issue with implications for the wider international community.

The situation in Afghanistan is extremely serious from a humanitarian perspective as well. The country was ranked number 155 in the world by the 2010 Human Development Index, with a life expectancy at birth of 44 years, an adult literacy rate of 28%, and a per capita GDP of 2008 PPP US\$1,419 (compared with \$46,653 in the United States).¹³ There were 2,777 civilian casualties reported in 2010, up from 1523 in 2007,¹⁴ and the number of internally displaced persons is predicted to grow from

¹³ United Nations. UNDP, "Afghanistan: Country Profile of Human Development Indicators," <http://hdrstats.undp.org/en/countries/profiles/AFG.html>.

¹⁴ Afghanistan Conflict Monitor. Human Security Report Project, "Civilian Deaths in Afghanistan by Year, 2007-2010," <http://www.conflictmonitors.org/countries/afghanistan/facts-and-figures/casualties/civilians>.

320,000 in 2010 to 440,000 by 2011.¹⁵ In an appeal launched on December 5th, 2010, 51 international and local aid agencies requested a total of \$678 million to assist the most vulnerable parts of Afghan society through 134 separate projects.¹⁶ However, much of the population remains extremely poor, and access to medical care, clean water, and electricity is unreliable. The severity and complexity of the humanitarian situation make Afghanistan a pressing concern for the donor community.

1.2.2 State-Building Interventions

To confront the challenges posed by state failure, the international community has been forced to seek out new forms of crisis management which aim to do more than simply end violence. State-building interventions in situations of conflict or fragility attempt to establish the political, economic, and social structures which will regulate violence in the future, hopefully preventing the resumption of violent conflict once international forces withdraw. State-building can be defined as “an endogenous process to enhance capacity, institutions and legitimacy of the state, driven by state-society relations.”¹⁷ As this definition highlights, state-building must address all three of the facets of state failure outlined above. State-building is more than simple capacity-building. The state’s capacity in different areas may depend on its financial resources or its military power, but often changes cannot be made without a fundamental overhaul of the basic understandings within society of how power should be obtained and used. This should be expected to have far-reaching consequences for

¹⁵ United Nations. Integrated Regional Information Network, “Afghanistan: UNHCR Worried about Growing Number of Conflict IDPs,” 03 November 2010, <http://www.irinnews.org/Report.aspx?ReportID=90957>.

¹⁶ United Nations. Office for the Coordination of Humanitarian Affairs, “Consolidated Appeal Process 2011,” <http://ochaonline.un.org/Default.aspx?alias=ochaonline.un.org/afghanistan>.

¹⁷ OECD. “State Building in Situations of Fragility: Initial Findings.” Paris: OECD DAC, 2008.

the country's political settlement, as well as for how legitimacy is conceived in society.

As such, state-builders must be alert to ways of supporting both state and non-state actors in the interests of promoting effective state-society relations. This could involve, for example: identifying the root causes of conflict and supporting local conflict resolution mechanisms to address these; encouraging inclusive political settlements and responsive political processes within the national government; and prioritising support for those state functions required for effective aid distribution (security sector and justice sector reform, revenue and expenditure management, service delivery, job creation, and overall economic development). Ultimately, these steps are intended to strengthen the prospects for long-term peace and stability,¹⁸ but state-building does not always work in the interests of peace.

1.3 Clarification of Terms

Since the 1950s there has been a great deal of research relating either directly or indirectly to the topic of state failure. While much of it has come from academic journals, books, symposia, and research projects, significant contributions have also been made by government bodies and organisations seeking to find ways of addressing the challenges posed by fragile and failing states. This has led to the development of an extremely heterogeneous body of literature, some of which is purely descriptive or theoretical, and some of which is geared very much towards providing specific policy advice. The phenomenon of state failure can also have

¹⁸ OECD. "Principles on Good International Engagement in Fragile States and Situations." Paris: OECD DAC, 2007.

pervasive social effects, and the need for comprehensive and coordinated responses has led the field of study to become truly interdisciplinary.¹⁹ Discussion has drawn on insights from political science, economics, history, international relations, development and security studies, anthropology, and many other fields.

1.3.1 State-Building and Nation-Building

With such a diverse literature, it is worth clarifying what is meant by the term “state-building,” and how it differs from other activities. Firstly, there has been a tendency (mainly in non-academic circles such as popular media, think-tanks, and NGOs) to equate state-building with nation-building. State-building focuses on the construction or reconstruction of a state’s institutional apparatus, typically with the assistance of outside powers. Nation-building, on the other hand, refers to the process of building a unified national identity within a population, and relating that identity to the territory under the state’s control. While a few authors have used the terms interchangeably, most recognise functioning state machinery as a prerequisite for the development of stable national identities linked to territory. In other words, nation-building must include elements of state-building, but it also requires the formation of a sense of identity within the population.

If this process of identity formation is purely endogenous, international actors can do little besides strengthening the institutions which will make the state an acceptable base for a national identity. If an alternative view is adopted, national identities can be thought of, at least in part, as the deliberate products of social engineers wishing to

¹⁹ M. Berger, and H. Weber. “Beyond State-Building: Global Governance and the Crisis of the Nation-State System in the 21st Century.” *Third World Quarterly* 27, no. 1 (2006): 201-8.

build on pre-existing identities to allow different groups to live together in spite of the social cleavages separating them.²⁰ In this case, external efforts at nation-building do seem possible, but they are undoubtedly problematic. For instance, care must be taken to distinguish steps towards unification from steps which simply entrench the dominance of certain pre-existing groups.²¹ Additionally, national unity cannot be cemented without a functioning government the population can identify with, but if the international community depends on the formation of a unified national identity to produce the stability required for such a government to function, a catch-22 situation emerges. Even if a unified sense of identity can be created, it may also be fragile if pre-existing grievances and social cleavages are revived. In any case, functioning state institutions are helpful when it comes to building social solidarity, but it has been argued that nation-building can actually be unhelpful for state-building, since mobilising people's national identities may lead to calls for self-determination, undermining efforts to create a cohesive administrative unit.²² Because of such problems, it seems logical for external actors to address themselves first of all to the task of state-building. This work will confine itself to the terminology of state-building, leaving aside the question of national identities.

1.3.2 State-Building and Peace-Building

Secondly, just as the term “nation-building” is sometimes equated with state-building, so too is “peace-building” often used this way within security studies literature. This

²⁰ A. Smith. “Culture, Community and Territory: The Politics of Ethnicity and Nationalism.” *International Affairs* 72, no. 3 (1996): 445-58, p. 447.

²¹ M. Ignatieff. “State Failure and Nation-Building.” in *Humanitarian Intervention*, edited by J. Holzgrefe and R. Keohane, 299-321. Cambridge: Cambridge University Press, 2003, p. 300.

²² M. Ottaway, and A. Lieven. “Rebuilding Afghanistan: Fantasy versus Reality.” Policy Brief 12. Washington, DC: Carnegie Endowment for International Peace, 2002.

branch of study is permeated by the idea that ending violence is not sufficient to resolve a conflict; instead, peace-building must go further and create the conditions for a sustainable, positive peace which removes the underlying structural tensions that gave rise to conflict in the first place.²³ The emphasis on sustainability has often led peace-building interventions to remain in place well after formal ceasefires have been reached, in order to support state institutions, democratic processes, protection of minority rights, and long-term national reconciliation. Because of its responsibilities to distribute justice, arbitrate disputes, and provide security to the population, the state is a natural custodian for long-term peace-building. It may seem, then, that state-building should be a sub-set of peace-building, but state-building is not necessarily peaceful by nature.

The term “peace-building” was originally coined by Johan Galtung in 1975,²⁴ and existed in academic debate for more than a decade before it came into widespread use following the remarks of UN Secretary General Boutros Boutros-Ghali in his *Agenda for Peace*. That report distinguished peace-building from the related activities of preventive diplomacy, peacekeeping and peacemaking as follows:

“...post-conflict peacebuilding [is] action to identify and support structures which will tend to strengthen and solidify peace in order to avoid a relapse into conflict. Preventive diplomacy seeks to resolve disputes before violence breaks out; peacemaking and peace-keeping are required to halt conflicts and preserve peace once it is attained. If successful, they strengthen

²³ S. Chesterman, M. Ignatieff, and R. Thakur. *Making States Work: From State Failure to State-Building*. New York: International Peace Academy, 2004; M. Barnett, and C. Zürcher. “The Peacebuilder’s Contract: How External Statebuilding Reinforces Weak Statehood.” in *The Dilemmas of Statebuilding: Confronting the Contradictions of Postwar Peace Operations*, edited by R. Paris and T. Sisk, 23-52. London: Routledge, 2009.

²⁴ J. Galtung. “Three Approaches to Peace: Peacekeeping, Peacemaking, and Peacebuilding.” in *Peace, War and Defense: Essays in Peace Research*, edited by J. Galtung, 282-304. Copenhagen: Christian Ejlertsen, 1975.

the opportunity for post-conflict peace-building, which can prevent the recurrence of violence among nations and peoples.”²⁵

Two features of this account deserve special attention, and explain why state-building and peace-building can sometimes work at cross-purposes: firstly, peace-building is envisaged as a “post-conflict” activity; and secondly, it is structural in focus.

Categorising a situation as “post-conflict” can be a somewhat artificial distinction at the best of times. Often, supposedly post-conflict societies continue to experience low-intensity violence on a sporadic basis, and in the case of Afghanistan there is still a very active insurgency in many areas of the country. As of November, 2010, violence had reached an all time high, up almost 300% from 2007.²⁶ With international forces battling an increasingly sophisticated insurgency, the security situation in Afghanistan remains extremely fragile. As mentioned earlier, state-building alters the power balance within society, producing winners and losers. It therefore cannot be a frictionless process.

Furthermore, since peace-building is a structurally focused activity – meaning that it affects the structure of social relationships, and changes the pathways of dependency to which people are subjected for the provision of public goods – care must be taken to ensure that the population actually perceives the state as the real source of public goods. Peace-building has the potential to undermine the credibility of the central state by providing public goods through other channels, as may be the case when

²⁵ B. Boutros-Ghali, “An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peace-keeping.” edited by Department of Information: United Nations, 1992.

²⁶ United States Department of Defence, “Report on Progress Toward Security and Stability in Afghanistan” (Report to Congress, 2010), http://www.defense.gov/pubs/pdfs/November_1230_Report_FINAL.pdf.

humanitarian aid is dispersed primarily by NGOs. Despite the short-term “peace dividends” of NGO-fuelled streams of food, medicine, or other aid, people are ultimately conditioned to expect less of their national government.²⁷ In the longer term, state-building strategies can even perpetuate the grievances which generated conflict in the first place, particularly where former military commanders are accommodated in the interests of security and inclusiveness. Perhaps building peace and building a state are both desirable goals, but they are not necessarily the same goal.

1.3.3 Security Sector Reform

Simply put, SSR is the process of reconstructing a state’s security apparatus. This process has come to be seen as an essential ingredient in state-building because it confers one of the most basic elements of state capacity (the monopoly on legitimate use of physical force). SSR is envisaged as a holistic activity anchored in the concept of individual human security (as opposed to regime security).²⁸ The objective of SSR is “to strengthen the ability of the sector as a whole and each of its individual parts to provide an accountable, equitable, effective, and rights-respecting service” to the population.²⁹

²⁷ OECD. “State Building in Situations of Fragility: Initial Findings.” Paris: OECD DAC, 2008; Overseas Development Institute, “State-Building for Peace: Navigating an Arena of Contradictions” (Briefing Paper No. 52, 2009), <http://www.odi.org.uk/resources/download/3673.pdf>. 2009; R. Batley, and C. McLoughlin. “Engagement with Non-State Service Providers in Fragile States: Reconciling State-Building and Service Delivery.” *Development Policy Review* 28, no. 2 (2010): 131-54.

²⁸ E. Gross. “Security Sector Reform in Afghanistan: The EU’s Contribution.” *Occasional Paper 78*. Paris: European Institute for Security Studies, 2009.

²⁹ United Nations. UNDP, “Security Sector Reform and Transitional Justice: A Crisis Post-Conflict Programmatic Approach.” New York: UNDP, 2003, p. 5.

The process of SSR can be broken down into political, institutional, economic, and societal dimensions.³⁰ Politically, it is important to ensure democratic accountability within security sector institutions, and to guarantee civilian control of the armed forces. Problems of command and control tend to be particularly acute in situations of ongoing conflict where armed groups continue to show loyalty to non-state actors. The institutional dimension focuses on capacity-building to improve the operational effectiveness of the various security actors, and on the development of a professional culture which institutionalises international standards of conduct, including respect for human rights. This dimension involves the rationalisation of bureaucratic structures, implementation of anti-corruption measures, and technical training of employees of the state. The economic dimension requires SSR to be fiscally sustainable, and aims to develop independent, locally supported security sector actors which can function without continual assistance from an international donor community. Finally, the societal dimension focuses on improving popular trust in the state's security institutions. A monitoring role is articulated for NGOs, media, and local community groups, each of which may play an important part in assuring the accountability and transparency of the security sector. While some aspects of SSR can benefit from external assistance (notably in terms of the institutional and economic dimensions), other aspects (especially the development of a democratically accountable political system and a sufficiently robust civil society) obviously require endogenous change. There are limits to how far SSR can be pushed by external action.

1.4 Conceptual Framework

³⁰ M. Sedra. "The Search for Security: Security Sector Reform in Post-Taliban Afghanistan." *The 2005 Cadieux-Léger Lecture*. Ottawa: Foreign Affairs and International Trade Canada, 2005.

Externally sponsored state-building missions have a mixed track record of success. Many explanations have been offered for this state of affairs, sometimes faulting the design or implementation of state-building policies, sometimes attributing problems to cultural incompatibilities between host countries and liberal democratic ideals, and sometimes citing shortfalls of commitment as the decisive factor. There is usually some truth in any of these explanations, but to make genuine progress, it is necessary to critically examine the foundations of state-building. This thesis analyses the theory advanced by Paris and Sisk that the concept of state-building itself is plagued by several inherent tensions and contradictions, which manifest themselves in the form of policy dilemmas for local and international state-builders.³¹

Five contradictions stand out in particular: the use of outside intervention to foster self-government; the necessity of international guidance for establishing local ownership in the political reform process; the promotion of universal values to address problems originating in a culturally specific context; the simultaneous need for social change and social continuity; and conflicts between short-term and long-term imperatives. These are true contradictions, and cannot be removed by policy design. The issues exist in a relatively abstract way but manifest themselves in more concrete terms as policy dilemmas, which will be addressed in detail as the “footprint,” “duration,” “participation,” “dependency,” and “coherence” dilemmas. Again, it is not possible to resolve these dilemmas through the design or implementation of policy. Each of these dilemmas requires decisions to be made that will bring certain advantages while incurring certain costs. Although these trade-offs

³¹ R. Paris, and T. Sisk, eds. *The Dilemmas of Statebuilding: Confronting the Contradictions of Postwar Peace Operations*. New York: Routledge, 2009.

cannot be avoided altogether, they can be better managed if state-builders understand what is at stake.

Paris and Sisk therefore recommend a new analytical tool they call “dilemma analysis,” which state-builders can use alongside more traditional forms of planning.³² This type of analysis consists of asking how state-building’s inherent contradictions actually manifest themselves in a given operation, and whether there are any factors within the local environment which might facilitate the emergence of concrete policy dilemmas. It is also important to ask which underlying tensions act as drivers for which dilemmas, and which of these are likely to take on the most importance as the mission proceeds. Finally, the authors include the question of how each dilemma relates to the others. This question of interrelatedness is especially important when it comes to generalising from one case to the next, and it is here that this paper seeks to build on the concept of dilemma analysis. Lessons learned in the case of Afghanistan, for example, where all five dilemmas appear, should not be transferred to a context like Kosovo, where short-term stability has been more or less achieved already and at least one dilemma does not arise. Because of the security situation in Kosovo, the EU is relatively free to focus on the long-term imperatives of state-building there, rather than being confronted by uncomfortable choices between short-term security and long-term legitimacy, as it has been in Afghanistan. Analysing problems with respect to the complete range of policy dilemmas actually observed in a country provides context, and is therefore preferable to explaining the difficulties which a mission faces by referring to individual dilemmas in isolation.

³² R. Paris, and T. Sisk. “Conclusion: Confronting the Contradictions.” in *The Dilemmas of Statebuilding: Confronting the Contradictions of Postwar Peace Operations*, edited by R. Paris and T. Sisk, 304-15. New York: Routledge, 2009, p. 311.

The first major goal of this thesis will be to outline the tensions within state-building, and to assess their usefulness for explaining some of the difficulties facing state-builders in general terms. The second goal will be to analyse the significance of the specific combination of dilemmas relevant to the case of Afghanistan, in order to show how those dilemmas interact with each other to constrain the EU's options for effective state-building. The third goal is to identify ways in which the EU and the international community in general can benefit from dilemma analysis when conducting state-building interventions in the future.

1.5 Research Question and Sub-Questions

To address these goals, the focus of this thesis will be on the following research question: *How can the European Union navigate the policy dilemmas of state-building to increase the effectiveness of its efforts to support Afghanistan's security sector reform process?*

The following sub-questions will inform discussion on this issue:

- What are the conceptual tensions inherent in the notion of state-building?
- What policy dilemmas do these tensions present for the European Union in its attempts to support the reform of Afghanistan's security sector?
- What are the main challenges facing the European Union in its attempts to build an effective Afghan state?
- How are these challenges related to the contradictions and policy dilemmas of state-building?

- What do these relationships reveal about effective state-building practice in Afghanistan?

The questions proceed from an assumption that there is at least some measure of tension within the notion of state-building, but, as will be shown in the next two chapters, this is more or less definitionally self-proving.

1.6 Research Design

To answer these questions, the first step is to review the conceptual foundations of externally sponsored state-building interventions. State-building is a relatively young field of research, but there already exists a growing body of secondary material on the topic, and this will be used to contextualise the idea of dilemma analysis. The second step is to explore the nature of policy dilemmas in a physical setting, and to clarify how the different tensions interact with each other.

A case study was selected as the most appropriate method for doing this because of the high level of detail which case studies can reveal, and because dilemma analysis is still a new enough idea that detailed observations are required across a wide range of policy areas. The archival method of data collection was also preferred, on account of the great flexibility which it allows in terms of selecting the subject matter to be studied. It has not been possible to choose precisely how the data were gathered because the archival method involves describing data which already existed before the commencement of this research,³³ but by triangulating between a wide range of

³³ S. Jackson. *Research Methods: A Modular Approach*. Belmont: Thomson Wadsworth, 2008.

government reports, policy briefs, international news sources, academic articles, and NGO research, it was hoped that the risk of biased coverage of the facts would be minimised. Since all archival research requires the researcher to base conclusions on the prior work of other persons or organisations, it is never possible to be sure that archived research includes all the data originally collected. This is particularly challenging in the context of Afghanistan, where ongoing developments make for a very fluid political situation. Nevertheless, the lack of control over how previous research was conducted does not detract from the actual quality of that research, and bias is less problematic, so long as the limitations of relying too much on any one source are recognised.

1.6.1 Afghanistan as a Case Study

For the purposes of dilemma analysis, an ideal case study would showcase as many relevant policy dilemmas as possible, and Afghanistan stands out as a useful example. The international community's experience in Afghanistan has forced external actors to recognise the changing nature of armed conflict, state failure, military intervention, and humanitarian aid in the modern era, and should throw each of the policy dilemmas in question into especially stark relief because of the sheer scale and breadth of the international presence. Only Iraq has received a similar level of international commitment and attention, but the intervention in Afghanistan has the advantage of being originally conceived as a state-building mission.

The limitations on generalising from single case studies are recognised, but at such an early point in the development of state-building theory it is preferable to focus on

individual cases rather than attempting cross-case comparisons. Prioritising the ability to support generalisations between cases at such an early juncture would be wrong because dilemma analysis involves policy dilemmas which are interrelated. The appropriate unit of analysis for cross-case comparisons would therefore be the entire constellation of dilemmas actually observed in a given context, so it is preferable to work towards a holistic understanding of the interplay between the five major contradictions producing policy dilemmas in a single environment. However, these contradictions are inherent in state-building, and are universal, so they should provide some grounds for generalisation at the level of strategic planning.

1.6.2 Europe as an Emerging Geo-Strategic Actor

Since the end of the Cold War, peace-building operations have replaced peace-keeping missions as the most commonplace security activity of the international community. These modern peace-building missions must implement multi-faceted peace agreements, which regularly include provisions for overhauling the political and economic institutions of society and the state. Peace-building can become a natural component of the state-building process, and it has been argued that peace-building interventions will inevitably be forced to broaden their mandates and assume the tasks of state-building.³⁴ However, because of the pervasiveness of conflict and state failure, responsibilities for reconstructing various key institutions tend to be shared between many international actors, including regional bodies, national governments, the United Nations, international financial institutions, local and international aid agencies, and various NGOs. Rather than approaching dilemma

³⁴ J. Fearon, and D. Laitin. "Neotrusteeship and the Problem of Weak States." *International Security* 28, no. 4 (2004): 5-43.

analysis from the point of view of the entire international community, this thesis prefers to focus on the involvement of a single actor in particular: the European Union. The primary reason for this decision is that the EU has become heavily involved in the area of Security Sector Reform. The role of SSR is critical to ensuring long-term stability,³⁵ and state-building cannot progress without it.

There is no question that the EU possesses valuable expertise in the areas of police, intelligence, and judicial reform, all of which are vital aspects of the SSR process, but there has been considerable debate over the organisation's capacity to engage in politics at the international level. The purpose of this work is not to enter into a discussion on EU "actorness," but the thesis does take the position that the organisation has become an undeniable presence in international relations. Despite early claims that "'Europe' is not an actor in international affairs, and does not seem likely to become one,"³⁶ the signing of the Lisbon Treaty has resulted specifically in the creation of the position of High Representative of the Union for Foreign Affairs and Security Policy.³⁷ This treaty alone seems to confirm that the question should not be whether the EU can behave as an actor in its own right in international politics, but rather, what sort of actor it will prove to be. EU policy on international security issues such as state failure will have significant consequences in terms of the resources which the international community will have at its disposal, and for how those resources will be deployed in state-building interventions.

³⁵ M. Toft. *Securing the Peace: The Durable Settlement of Civil Wars*. Princeton: Princeton University Press, 2010.

³⁶ H. Bull, "Civilian Power Europe: A Contradiction in Terms?" *Journal of Common Market Studies* 21, no. 2 (1982): 149-64, p. 151.

³⁷ In fact, the position was an expansion of the job of High Representative for Common Foreign and Security Policy, which had been established by the Treaty of Amsterdam and occupied by Javier Solana until the entry into force of the Lisbon Treaty.

In this context, Afghanistan will be an important proving ground for Europe as an emerging geo-strategic actor engaging with the problem of state failure. The credibility of the EU will be affected in no small way by its performance in this country, and due to the weight which Afghanistan carries in domestic politics within the United States, the EU's involvement in this theatre will have great importance for transatlantic relations as well.

1.7 Thesis Outline

Chapter Two reviews the literature on state-building for a contextual back-drop, and explains the theoretical framework of dilemma analysis in greater detail. The chapter elaborates on five contradictions which are contained in the conceptual foundations of state-building, and on how they give rise to concrete policy dilemmas.

Chapter Three draws on various primary source documents, official publications, research reports, and news articles to examine the challenges of rebuilding a functioning security sector in the emerging Afghan state.

Chapter Four then gives an overview of the ways in which the EU has become involved with state-building in Afghanistan, and of the steps taken so far to meet the challenges raised in Chapter Three.

Finally, Chapter Five assesses the usefulness of dilemma analysis for explaining the challenges and responses outlined in the previous two chapters, before suggesting ways to advance research along these lines in the future. The thesis concludes with a

discussion of the theoretical and practical implications of EU state-building in Afghanistan, as understood through the conceptual lens of dilemma analysis.

2: Literature Review

2.1 Introduction

Since the attacks of September 11th, 2001, developed countries have no longer been able to regard state failure as an isolated, distant phenomenon.³⁸ Within academic and policymaking circles there has been a major upsurge of interest in the concept of post-conflict peace-building to combat state failure and the problems associated with it.³⁹

This new interest has increasingly focused on the important role which state institutions must play in securing democracy and development.⁴⁰ Unfortunately, state-building did not initially receive the kind of attention which would have helped democratic governance, market reforms, and durable peace to take root in many host countries. However, peace-building practice and scholarly research on the topic have been developed over the last two decades, and state-building now represents a mainstream element of most strategic discussion about how to respond to state

³⁸ M. Weinstein, J. Porter, and S. Eizenstat. "On the Brink: Weak States and US National Security." Washington, DC: Center for Global Development, 2004.

³⁹ M. Ottaway. "Nation Building." *Foreign Policy* 132 (2002): 16-24; J. Dobbins. *America's Role in Nation-Building from Germany to Iraq*. Santa Monica: RAND, 2003; A. Etzioni. "A Self-Restrained Approach to Nation-Building by Foreign Powers." *International Affairs* 80, no. 1 (2004): 1-17; F. Fukuyama. *State-Building: Governance and World Order in the 21st Century*. Ithaca: Cornell University Press, 2004; U. Hopp, and A. Kloke-Lesche. "External Nation-Building vs. Endogenous Nation-Forming: A Development Policy Perspective." In *Nation-Building: A Key Concept for Peaceful Conflict Transformation?*, edited by J. Hippler. London: Pluto Press, 2005; S. Lister, and A. Wilder. "Strengthening Subnational Administration in Afghanistan: Technical Reform or State-Building?" *Public Administration and Development* 25 (2005): 39-48; D. Rondinelli, and J. Montgomery. "Regime Change and Nation Building: Can Donors Restore Governance in Post-Conflict States?" *Public Administration and Development* 25 (2005): 15-23; M. Berger, and H. Weber. "Beyond State-Building: Global Governance and the Crisis of the Nation-State System in the 21st Century." *Third World Quarterly* 27, no. 1 (2006): 201-8; A. Menocal. "State-Building for Peace: A New Paradigm for International Engagement in Post-Conflict Fragile States?" (EUI Working Papers, RSCAS 2010/34, Robert Schuman Centre for Advanced Studies, 2010), http://cadmus.eui.eu/bitstream/handle/1814/13716/RSCAS_2010_34.pdf.

⁴⁰ S. Wang. "The Problem of State Weakness." *Journal of Democracy* 14, no. 1 (2003): 36-42; D. Brinkerhoff. "Rebuilding Governance in Failed States and Post-Conflict Societies: Core Concepts and Cross-Cutting Themes." *Public Administration and Development* 25 (2005): 3-15.

failure.⁴¹ The international community's track record is still not particularly impressive, and there have been many different approaches to finding out why. By tracing the development of the major debates about state-building, it becomes clear that the current conception of state-building has certain limitations. This chapter explores these limitations, identifying the foundations of dilemma analysis and suggesting ways in which it can be used to rethink the way in which interventions are managed.

2.2 The Rise of State-Building

Early attempts at peace-building in the 1990s usually focused on providing goods and public services through market channels and NGOs. Rushed democratic elections and quick bouts of economic privatisation were intended to set the pattern for host societies to follow once the international community withdrew, but such solutions tended to be very short-lived. Little attention was given to the tasks of strengthening the institutional structures which would allow host societies to cope with the stresses introduced by pluralistic democracy and free market economics, and the turbulent process of reform ultimately tended to inflame conflict rather than reduce it. In many cases, marketisation exacerbated social inequality, driving increased crime rates, which in turn led the population to sacrifice civil liberties in the name of security, and created temptations for direct intervention by the military.⁴²

⁴¹ D. Rondinelli, and J. Montgomery. "Regime Change and Nation Building: Can Donors Restore Governance in Post-Conflict States?" *Public Administration and Development* 25 (2005): 15-23; M. Berger, and H. Weber. "Beyond State-Building: Global Governance and the Crisis of the Nation-State System in the 21st Century." *Third World Quarterly* 27, no. 1 (2006): 201-8; A. Menocal. "State-Building for Peace: A New Paradigm for International Engagement in Post-Conflict Fragile States?" (EUI Working Papers, RSCAS 2010/34, Robert Schuman Centre for Advanced Studies, 2010), http://cadmus.eui.eu/bitstream/handle/1814/13716/RSCAS_2010_34.pdf.

⁴² R. Paris. *At War's End: Building Peace after Civil Conflict*. Cambridge: Cambridge University Press, 2004.

Most of the early scholarship on peace-building focused on providing detailed case studies of single interventions. Systematic cross-case analyses and theoretical discussions were rare.⁴³ The novelty of peace-building in the early to mid-1990s did require scholarly discussion to define and describe such operations in detail, especially in relation to traditional peacekeeping activities with which the world was already familiar, but unfortunately this was achieved only at the cost of neglecting comparative and theoretical analyses. The importance of supporting state institutions to consolidate the gains made by economic and political reforms was thus overlooked for many years.

By the early 2000s, the mandates for multilateral peace-building missions had started to become more expansive, and greater emphasis was placed on the need to stabilise post-conflict societies over the long term. In 2000, the influential Brahimi Report and various UN Security Council discussions⁴⁴ drew attention to the need for exit strategies to be determined with reference to attainable objectives, rather than pre-established timetables, and this position was soon adopted in a report of the Secretary-General in 2001.⁴⁵ In particular, it was realised that consolidating peace required less focus on speedy exit strategies, and more on the functionality of public administration systems which would be capable of producing sustainable social order.

⁴³ W. Durch. *The Evolution of UN Peacekeeping: Case Studies and Comparative Analysis*. New York: St Martin's Press, 1993; F. Diehl. *International Peacekeeping*. Baltimore: Johns Hopkins University Press, 1994; S. Ratner. *The New UN Peacekeeping: Building Peace in Lands of Conflict After the Cold War*. London: St Martin's Press, 1995; W. Durch. *UN Peacekeeping, American Politics, and the Uncivil Wars of the 1990s*. New York: St Martin's Press, 1996; J. Mayall, ed. *The New Interventionism, 1991-1994: United Nations Experience in Cambodia, Former Yugoslavia and Somalia*. Cambridge: Cambridge University Press, 1996.

⁴⁴ United Nations. Security Council document S/PV.4223 (15 November 2000); United Nations. Security Council document S/PV.4223 (Resumption 1) (15 November 2000).

⁴⁵ K. Annan. "No Exit without Strategy: Security Council Decision-Making and the Closure or Transition of United Nations Peacekeeping Operations," Report of the Secretary-General, UN document S/2001/394 (April 20, 2001).

Around the same time, new research which focused more on theoretical and cross-case analysis of peace-building began to give rise to a second generation of scholarship. Some authors elected to examine peace-building interventions through the critical theories of neo-Marxism, cosmopolitanism, post-structuralism, and securitisation theory,⁴⁶ while others compared various countries which had not hosted international interventions with those which had, focusing on the durability of peace in each case.⁴⁷ A number of sub-fields developed in the mid-2000s, including studies on the roles played by spoilers,⁴⁸ conflict economies,⁴⁹ women and gender,⁵⁰ and regional factors.⁵¹ Specific findings produced by these new approaches to peace-building research were extremely diverse, reflecting the large variety of sub-fields

⁴⁶ D. Chandler. *Faking Democracy After Dayton*. London: Pluto Press, 2000; M. Duffield. *Global Governance and the New Wars: The Merging of Development and Security*. London: Zed Books; T. Woodhouse, and O. Ramsbotham. "Cosmopolitan Peacekeeping and the Globalization of Security." *International Peacekeeping* 12, no. 2 (2005): 139-56; L. Zanotti. "Taming Chaos: A Foucauldian View of UN Peacekeeping, Democracy and Normalization," *International Peacekeeping* 13, no. 2 (2006): 150-67; O. Richmond. "The Problem of Peace: Understanding the 'Liberal Peace'." *Conflict, Security and Development* 6, no. 3 (2006): 291-314.

⁴⁷ M. Doyle, and N. Sambannis. "International Peacebuilding: A Theoretical and Quantitative Analysis." *American Political Science Review* 94, no. 4 (2000): 779-801; V. Fortna. "Does Peacekeeping Keep Peace? International Intervention and the Duration of Peace after Civil War." *International Studies Quarterly* 48, no. 2 (2004): 269-92; M. Doyle, and N. Sambannis. *Making War and Building Peace: United Nations Peace Operations*. Princeton: Princeton University Press, 2006.

⁴⁸ M. Zahar. "Reframing the Spoiler Debate in Peace Processes." in *Progressing Towards Settlement*, edited by J. Darby and R. McGinty. London: Palgrave, 2004; E. Newman, and O. Richmond, eds. *Challenges to Peacebuilding: Managing Spoilers During Conflict Resolution*. Tokyo: United Nations University Press, 2006.

⁴⁹ J. Milliken, and K. Krause. "State Failure, State Collapse, and State Reconstruction: Concepts, Lessons and Strategies." *Development and Change* 33, no. 5 (2002): 753-74; M. Ross. "What Do We Know About Natural Resources and Civil War?" *Journal of Peace Research* 41, no. 3 (2004): 337-56; N. Cooper. "Picking Out the Pieces of the Liberal Peaces: Representation of Conflict Economies and the Implications for Policy." *Security Dialogue* 36, no. 4 (2005): 463-78; A. Wennmann. "Resourcing the Recurrence of Intrastate Conflict: Parallel Economies and Their Implications for Peacebuilding." *Security Dialogue* 36, no. 4 (2005): 479-94.

⁵⁰ S. Nakaya. "Women and Gender Equality in Peacebuilding." in *Building Sustainable Peace*, edited by T. Keating and W. Knight, 143-66. Tokyo: United Nations University Press, 2004; C. de la Rey, and S. McKay. "Peacebuilding as a Gendered Process." *Journal of Social Issues* 62, no. 1 (2006): 141-53.

⁵¹ A. Bellamy, and P. Williams. "Who's Keeping the Peace? Regionalization and Contemporary Peace Operations." *International Security* 29, no. 4 (2005): 157-95; O. Bures. "Regional Peacekeeping Operations: Complementing or Undermining the United Nations Security Council?" *Global Change, Peace and Security* 18, no. 2 (2006): 83-99.

which were emerging. Across almost all these sub-fields, however, it was recognised that the role of the state and its institutions had been greatly underestimated.

State-building now occupies an important place in most of the mainstream discourse on peace-building, and 2004 was a landmark year which significantly advanced the way in which peace-building operations were seen. Francis Fukuyama, Simon Chesterman, James Fearon and David Laitin, Stephen Krasner, and Roland Paris all critiqued earlier peace-building operations from different perspectives, but independently reached the same conclusion that state-building had been a vital missing ingredient for securing the transition from violent conflict to stable peace.

Fukuyama discussed state weakness as a threat to the security of surrounding countries, acknowledging that external intervention could be of only limited assistance in building national institutions from scratch, but arguing all the same that a national government could eventually “wean itself from outside assistance” if it first received enough support to perform the most basic functions of public administration.⁵² He criticised the missions in Bosnia, Kosovo, Timor Leste, Haiti, and Cambodia for failing to support state institutions such as the police and the judicial system, which he viewed as essential for the goals of peace-building.

Fukuyama also distinguished between state strength (the ability to plan and execute policies, and to enforce laws) and state scope (referring to the goals and tasks which the state takes on), noting that the efficacy of state action is not necessarily identical across all areas.⁵³ The advantage of Fukuyama’s distinction is that it allows technical questions about enforcement of the state’s policies to be separated from normative

⁵² F. Fukuyama. *State-Building: Governance and World Order in the 21st Century*. Ithaca: Cornell University Press, 2004, pp. 101-2.

⁵³ F. Fukuyama. “The Imperative of State-Building.” *Journal of Democracy* 15, no. 2 (2004): 17-31.

questions about how far the state's role in society extends. Externally sponsored state-building operations must concentrate on how to strengthen the state's ability to act effectively within the scope allowed for it by the political settlement in the host society, and by popular expectations about the conditions of state legitimacy.

Chesterman examined the historical record of transitional administrations to address the question: "Is it possible to establish the conditions for legitimate and sustainable national governance through a period of benevolent foreign autocracy?"⁵⁴ The scope of his work stretched from the days of League of Nations mandates through the post-Cold War era, and into modern-day practice. Chesterman expressed serious concern at the implications of the exercise of international authority over the domestic affairs of the host state, and was the first author to explicitly discuss this underlying contradiction within state-building. Nevertheless, he too argued that peace-building had not given enough attention to the task of supporting economic and political institutions.⁵⁵ Like Fukuyama, he criticised the Kosovo and Bosnia interventions for their failure to quickly establish a "functioning law enforcement and judicial system," which he viewed as necessary for solidifying popular trust in the state and helping to create the conditions for a durable peace.⁵⁶

Fearon and Laitin argued that the international community is simply too disorganised and under-resourced to carry out effective state-building as it is currently envisaged. Instead, the authors suggested re-forming state-building interventions into what they called "neo-trusteeship" arrangements, where certain elements of state sovereignty

⁵⁴ S. Chesterman. *You the People: The United Nations, Transitional Administration, and Statebuilding*. New York: Oxford University Press, 2004, p. 1.

⁵⁵ *Ibid.*, p. 234.

⁵⁶ *Ibid.*, pp. 181-2.

would be shared between the international community and the government of the failed state.⁵⁷ The idea bears some resemblance to imperialism, but the two can easily be distinguished. Fearon and Laitin's neo-trusteeship would be multilateral, and would also involve the non-governmental sector. Importantly, the aim would be to prepare the beneficiary state to resume self-governance as soon as possible. The authors acknowledged that "exit requires a functioning state capable of providing order,"⁵⁸ but pointed out that it is not necessarily in the best interests of the host state to support the withdrawal of international actors, especially in terms of the financial resources which an international presence provides. A functioning tax system is therefore an essential part of any exit strategy. According to Fearon and Laitin, mission creep will inevitably push simple peace-keeping missions into peace-building roles, and there will be "no hope of exit without a return to considerable violence" unless state-building is incorporated into exit strategies.⁵⁹

Krasner's article went even further with its recommendations for shared sovereignty arrangements, advocating official foreign control over some of the domestic authority structures in the host country. The most controversial element of his proposal lay in the suggestion that such arrangements might be needed indefinitely, and that in cases requiring a permanent international presence, the host country should forfeit the right to be recognised as fully sovereign under international law.⁶⁰ Although such an arrangement is probably politically unthinkable, at least in the view of national governments today, Krasner's diagnosis of the problems with state-building shared a

⁵⁷ J. Fearon, and D. Laitin. "Neotrusteeship and the Problem of Weak States." *International Security* 28, no. 4 (2004): 5-43.

⁵⁸ *Ibid.*, p. 36.

⁵⁹ *Ibid.*, p. 21.

⁶⁰ S. Krasner. "Sharing Sovereignty: New Institutions for Collapsed and Failing States." *International Security* 29, no. 2 (2004): 85-120.

great deal with those of the other authors already mentioned. Although he had different ideas about who should oversee the process, he too essentially argued that state-building was a necessary (though not sufficient) condition for durable peace.⁶¹

In one of the most important books on state-building yet written, Roland Paris completely rejected the “Wilsonian” peace-building strategy of the 1990s, in which the turbulent processes of democratisation and economic liberalisation were rushed through without first establishing rules and institutions to moderate the effects of such drastic social transformations.⁶² He argued that although liberal democracies might be more peaceful than other types of regime, the transformation process was potentially very dangerous. Testing his claims against the eleven peace-building operations launched between 1989 and 1998, Paris found that the peace-through-liberalisation strategy employed in those cases had tended either to rekindle violence or to recreate the same conditions which historically had given rise to grievances in the first place. Like the other authors, he acknowledged that market liberalisation and democratisation are ideologies which encourage competition, and that without the institutions, rules and habits to regulate the destructive urges fuelled by competition, long-term prospects for peace were not favourable. Paris therefore urged peace-builders to embrace state-building, and specifically to: wait until conditions are ripe for holding an election; design electoral systems to reward moderation and deter extremism; promote healthy civil society; control hate speech; adopt conflict-reducing economic policies; and invest in state institutions.⁶³

⁶¹ Ibid., p. 90.

⁶² R. Paris. *At War's End: Building Peace after Civil Conflict*. Cambridge: Cambridge University Press, 2004.

⁶³ Ibid., pp. 188-207.

2.3 Debates within the State-Building Literature

There are a few assumptions which shape general thinking on the topic of state-building. One of these is that state-building aims to create a modern, democratic state which is rule-bound and impersonal, and to foster a civil society which allows all citizens to have equal rights, including access to the services provided by the state. This kind of state has been described as an “open access order,” as distinct from a “closed access order” (also called “natural states”) in which the balance of power is decided by members of a small ruling elite, negotiating among themselves to the exclusion of the population at large. The ruling elite in such a society operates based on self-interest and a desire to maintain special rights and privileges not open to the general public.⁶⁴ The dichotomy is obviously simplistic, but it does usefully emphasise that different types of state condition people to make different assumptions and behave in particular ways. “Natural states” place great importance on personal relationships and individualised trust, while procedural legitimacy and consistent application of the state’s rules take on greater importance in an “open access order.”

Despite widespread agreement that state-building should generally favour the creation of an open access political order, the field is sharply divided on many issues. State institutions are definitely important for long-term peace, but there is no universal agreement on how interventions should actually be carried out so as to provide the right kind of support for an emerging state. A number of issues divide opinion on what the international community can and should do, and especially on how. This section presents some of the most important of these debates. It will be argued that

⁶⁴ D. North, J. Wallis, and B. Weingast. *Violence and Social Orders: A Conceptual Framework for Interpreting Recorded Human History*. Cambridge: Cambridge University Press, 2009.

they are symptomatic of deeper conceptual problems within state-building, and that the resolution of such issues is not possible without addressing the terms in which the international community frames its objectives.

2.3.1 Intervention or Reinvention?

At a fundamental level, there is disagreement on whether states are even worth preserving in their current forms at all. Identities are fissile enough that states rarely if ever contain populations which think of themselves as homogeneous groups. Some authors have therefore argued that the dissolution of states should be permitted because it may allow states to re-form in ways which more “naturally” reflect pre-existing identity groups.⁶⁵ Others contend that state sovereignty is the basis for the current international order, and that combating state failure is essential for continued stability.⁶⁶ This paper takes the position that state-building probably will continue to be an international priority, in which case it should be pursued as effectively as possible, so the primary focus here is on identifying and overcoming problems of effectiveness. Nonetheless, the importance of local identities, ethnicity, and culture cannot be ignored. Building state institutions where the inhabitants of a state’s supposed territory do not identify with each other calls into question the usefulness of maintaining that state’s territorial integrity.

2.3.2 Identifying Failed States

⁶⁵ L. Brock. “Nation-Building: Prelude or Belated Solution to the Failing of States?” in *Conference on Failed States IV*, Florence, Italy, 2001.

⁶⁶ I. Zartman. “Posing the Problem of State Collapse” in *Collapsed States: The Disintegration and Restoration of Legitimate Authority*, edited by I. Zartman. Boulder: Lynne Rienner, 1995; S. Chesterman. *You the People: The United Nations, Transitional Administration and Statebuilding*. New York: Oxford University Press, 2004.

The US-based Fund for Peace provides a useful description of failed states, identifying several indicators across social, economic and political lines. These states are characterised by: mounting demographic pressures; large-scale movement of refugees, creating complex humanitarian emergencies; vengeance-seeking group grievances; chronic and sustained human flight; uneven economic development along group lines; severe economic decline; criminalisation or delegitimisation of the state; deterioration of public services; human rights violations and arbitrary application of the law; a security apparatus operating outside the constraints of the legal system; the rise of factional parochialism among political elites; and the intervention of outside actors in internal affairs of the state.⁶⁷ This list gives some idea of how far-reaching the effects of state failure may be in a conflict-ridden society, and why an interdisciplinary approach to studying state failure is advantageous.

A review of the literature from development studies, security studies, and international relations reveals a general consensus that state failure is a gradual process, producing four basic types of state: weak, failing, failed, or collapsed.⁶⁸ These labels are intended to denote stages of decay in the capacity and legitimacy of the central administration. However, while various indicators have been developed for each of these stages, they are most useful for helping to position states along a spectrum, rather than for describing a series of discrete phenomena. Jenne adds the idea of “fragmented states” in which the central authority exercises only partial

⁶⁷ Fund for Peace. Failed States Index, “Indicators,” <http://www.fundforpeace.org/global/?q=indicators>.

⁶⁸ R. Rotberg. “The Failure and Collapse of Nation States: Breakdown, Prevention and Repair.” in *When States Fail: Causes and Consequences*, edited by R. Rotberg, 1-50. Princeton: Princeton University Press, 2004.

control over the territory claimed,⁶⁹ but in truth there is some degree of fragmentation in weak states of any type. Since state failure is a dynamic process, it is also important to assess the direction of change over time, and Schneckener notes that recovering or “consolidating” states can usually be distinguished from those caught in the process of decay based on the condition of the security sector. States that lack a functioning security apparatus tend to slide further toward collapse.⁷⁰ At the time of writing, Afghanistan should be considered a failed state, but it is difficult to tell whether the country is really stabilising or whether it is artificially made to seem more stable by the international presence there. The true test will come as international forces transfer more control to the Afghan leadership.

2.3.3 Rethinking the Normative Basis for Intervention

Unfortunately, there is little debate in the literature over what kind of state is appropriate for a post-conflict society. However, whether the rationale for international involvement is to end violent conflict and alleviate humanitarian crises, or to address security threats and regional political concerns, or to encourage economic development and poverty reduction, few have questioned the basic template for intervention in failed states. This essentially entails socially engineering a liberal democratic polity which will preside over a vibrant civil society and a market-driven economy.⁷¹ The necessity of a foreign presence in the host country, and the

⁶⁹ E. Jenne. “Sri Lanka: A Fragmented State.” in *State Failure and State Weakness in a Time of Terror*, edited by R. Rotberg, 219-44. Washington, DC: Brookings Institution, 2003.

⁷⁰ U. Schneckener. “States at Risk: Zur Analyse Fragiler Staatlichkeit.” in *States at Risk: Fragile Staaten als Sicherheits und Entwicklungsproblem*, edited by U. Schneckener, 5-27. Berlin: Stiftung Wissenschaft und Politik, 2004.

⁷¹ M. Kahler. “Statebuilding after Afghanistan and Iraq.” in *The Dilemmas of Statebuilding: Confronting the Contradictions of Postwar Peace Operations*, edited by R. Paris and T. Sisk, 287-303. New York: Routledge, 2009.

widespread assumption that states should resemble Western liberal market democracies, have exposed state-building to criticisms of cultural imperialism,⁷² but it has been pointed out that the emphasis on early exit strategies, multilateralism, and local ownership of reform processes clearly separate state-building from the exploitative governance structures of the colonial era.⁷³ Nonetheless, it is important to avoid the perception, as well as the reality of imperialism. Tailoring governance models to the local context and encouraging local ownership of state institutions are two of the biggest issues facing academics and development practitioners. If the international community is to gain local support for its activities, it may be necessary to explore alternative models of statehood which can deliver basic services to the population, and can safeguard at least some of the values the donor community is eager to promote.

2.3.3 Local Ownership and the Limits of Foreign Intervention

Arguments that the international community *should* limit its state-building interventions have sometimes been associated with claims that state-building is an endogenous process, and that exogenous action *cannot* accomplish what it sets out to do.⁷⁴ Calls for local ownership are common, but it is problematic to try to stimulate local ownership when a society seems divided and decisions need to be made quickly.⁷⁵ Highly developed informal systems of administration have often emerged

⁷² D. Chandler. *Faking Democracy After Dayton*. London: Pluto Press, 2000; A. Bendaña. "From Peacebuilding to Statebuilding: One Step Forward and Two Steps Back?" *Development* 48, no. 3 (2005): 3-15.

⁷³ R. Paris. "International Peacebuilding and the 'Mission Civilisatrice'." *Review of International Studies* 28, no. 4 (2002): 637-56.

⁷⁴ M. Ottaway. "Nation Building." *Foreign Policy* 132 (2002): 16-24.

⁷⁵ T. Pietz, and L. von Carlowitz. "Local Ownership in Peacebuilding Processes in Failed States: Approaches, Experiences, and Prerequisites for Success." Berlin: Center for International Peace Operations, 2007.

in failed state environments, leaving the population with no real incentives to call for reform, and no real expectations of change.⁷⁶ However, if arguments that state-building must be endogenous are to be elevated above the level of just waiting for something to happen, there must be something the international community can do to encourage the process. Some authors have therefore held that state-building is primarily (but not exclusively) an endogenous process, and that external involvement should be seen as facilitating local efforts, rather than driving or directing them.⁷⁷ There has been a tendency to accept partnerships with local power elites as indicating an acceptable degree of local involvement,⁷⁸ but the aim should be to engage with all sectors of society, not just elites. The development community has valuable experience in facilitating participation, and should take the lead when it comes to best practices in this area.

2.3.4 Coordination and New International Institutions

The international community has received a great deal of criticism for its failure to coordinate state-building activities satisfactorily.⁷⁹ This is probably unavoidable, since there is no underlying harmonisation of ideals and values to condition the objectives of state-building. The UN Peacebuilding Commission, which was

⁷⁶ W. Reno. "Clandestine Economies, Violence and States in Africa." *Journal of International Affairs* 53, no. 2 (2000): 433-60.

⁷⁷ S. Chesterman, M. Ignatieff, and R. Thakur. *Making States Work: From State Failure to State-Building*. New York: International Peace Academy, 2004.

⁷⁸ S. Chesterman. *You the People: The United Nations, Transitional Administration, and Statebuilding*. New York: Oxford University Press, 2004.

⁷⁹ K. Samuels, and S. von Einsiedel. "The Future of UN State-Building: Strategic and Operational Challenges and the Legacy of Iraq." New York: International Peace Academy, 2003; A. Ghani, C. Lockhart, and M. Carnahan. "Closing the Sovereignty Gap: An Approach to State-Building." *Working Paper 253*, Overseas Development Institute, 2005; B. Rubin. "Peace-Building and State-Building in Afghanistan: Constructing Sovereignty for Whose Security?" *Third World Quarterly* 27, no. 1 (2006): 175-85; E. Gross. "Security Sector Reform in Afghanistan: The EU's Contribution." *Occasional Paper 78*. Paris: European Union Institute for Security Studies, 2009.

established to address this issue and bring coherence to the state-building activities of various UN and non-UN organisations, is only an advisory body with no independent decision-making power. Even its recommendations require the consensus of all the members. Despite the Commission's good work articulating integrated peace strategies for Burundi and Sierra Leone, there is reason to suspect that such progress will have its limits. The institution does not change the fundamentally decentralised nature of the international state-building community, and clarification and information-sharing can go only so far until objective differences of strategy between state-building actors will prevent agreement from being reached.

In a few cases, authors have called for the establishment of new international institutions designed to produce such a consensus through more directive measures. In an article describing state-building as “an off-shoot of the development business,”⁸⁰ Sebastien Mallaby casts the United States as history's only non-imperial superpower, and identifies state-building and the disbursement of foreign development aid as the two main strategies the US has used to project its values and protect its interests without having to impose American institutions on other countries. According to Mallaby, the anti-imperialist sentiment of the US government is inappropriate in light of the challenges posed by failed states. He points out that previous state-building efforts have not produced reliable results, and concludes that the world's current institutions are not up to the tasks set for them because of resource shortfalls, lack of political commitment, and coordination problems. Mallaby therefore calls for a new international organisation modelled on the World Bank and the International Monetary Fund, but dedicated to the task of developing national institutions in the

⁸⁰ S. Mallaby. “The Reluctant Imperialist: Terrorism, Failed States and the Case for American Empire.” *Foreign Affairs* 81, no. 2 (2002): 2-7, p. 4.

world's poorest countries. By supplying money, troops, and political commitment to such an organisation, he says, the US could take a leading role in arranging a suitable international response to state failure. In theory, a similar role should also be possible for the European Union, or any international actor with similar values and the willingness and ability to commit sufficient resources to the prevention of state failure. The key to the success of such an institution would be its ability to make binding decisions to coordinate between state-building actors.

2.4 Interdisciplinary Perspectives on State-Building

Collaboration by researchers from different disciplinary backgrounds has made it very difficult to identify particular ideas about state-building and attribute them to particular disciplines. There is especially great diversity in the writings of international relations scholars. In spite of this, however, it is possible to identify some primary concerns and preoccupations in the literature which loosely align with certain fields.

2.4.1 Development Studies

Much of the literature on state-building has been driven by political science and international relations, while the development community has written comparatively little on the subject. Of this, the majority is fairly technical, focusing on such issues as the best sequencing and prioritisation of reforms, and usually avoiding the terminology of state-building. However, the emphasis on “good governance” within development circles has produced some areas of overlap. Civil service reform,

effective aid delivery, conflict management, democratisation, and infrastructure development all require robust institutions to see them through properly, so in truth, the tasks of mainstream development share a great deal with those of state-building.⁸¹ Because of the key role which state institutions must play in actually implementing development policy, state-building should be thought of as a sub-set of a wider development agenda. However, most authors prefer to focus on building state capacity in specific areas, without claiming expertise in how to coordinate as part of an overarching plan for national development. The development community has, however, been extremely vocal in its constant calls for greater strategic coordination.

2.4.2 Peace and Security Studies

Within security studies literature, one of the most dominant themes relates to the question of exit strategies. Barnett Rubin argues that peace-building is just a politically sensitive way of referring to the controversial topic of externally sponsored state-building missions. It is the pursuit of effective exit strategies, as well as sustainable peace, which turns peace-building into state-building.⁸² Normally the international community calls for both sustainable solutions to state failure and early withdrawal. However, since bringing about a lasting peace is nearly always a lengthy process, these two aims would seem to be in contradiction.

⁸¹ U. Hopp, and A. Kloke-Lesche. "External Nation-Building vs. Endogenous Nation-Forming: A Development Policy Perspective." in *Nation-Building: A Key Concept for Peaceful Conflict Transformation?* edited by J. Hippler, 137-51. London: Pluto Press, 2005.

⁸² B. Rubin. "Peace-Building and State-Building in Afghanistan: Constructing Sovereignty for Whose Security?" *Third World Quarterly* 27, no. 1 (2006): 175-85.

David Edelstein separates the problem more specifically into a “footprint dilemma” and a “duration dilemma.”⁸³ The footprint dilemma consists of a choice between sending a large enough contingent to push through wide-scale social changes, or maintaining a smaller presence with a smaller chance of alienating the local population or being perceived as a foreign occupation force. The duration dilemma revolves around how quickly an international military force “wears out its welcome,” in relation to the speed with which indigenous security institutions can be prepared for the task of assuming control of the country. Edelstein finds that unilateral military occupations tend to face this dilemma more quickly than complex multilateral peacekeeping missions do, and that wherever local populations feel more strongly threatened by internal and external sources of insecurity, they tend to be more willing to accept state-building missions with broader mandates and more personnel. Eventually, though, even missions with a small footprint find themselves perceived as obstacles to self-determination.

Two important lessons can be drawn from this. The first is that foreign military resources can help state-building efforts, but cannot provide a lasting substitute for endogenous political solutions. The second is that the international community’s preferences for sustainable solutions to state failure as well as interventions with narrow mandates, fewer personnel, shorter time-frames, and smaller resource commitments, should be understood in terms of trade-offs.

2.4.3 International Relations

⁸³ D. Edelstein. “Foreign Militaries, Sustainable Institutions, and Postwar Statebuilding.” in *The Dilemmas of Statebuilding: Confronting the Contradictions of Postwar Peace Operations*, edited by R. Paris and T. Sisk, 81-103. London: Routledge, 2009.

Where security studies work emphasises the need for exit strategies which will allow international actors to disengage so states can become their own masters again, the field of international relations has approached the question of exit from a very different perspective, asking how entry can be justified in the first place. Perhaps more clearly than any other body of research, international relations literature highlights the fact that state-building truly does require external interference in what has traditionally been the sovereign domain of national governments. The doctrine of state sovereignty which has traditionally underpinned international relations would seem to forbid external interventions in the domestic affairs of a state, but this doctrine has been noticeably eroded over the years. The Outcome Document from the 2005 World Summit famously articulated in paragraphs 138 and 139 that state sovereignty should be considered a responsibility, rather than a right, and that the task of assisting national governments in protecting their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity should fall to the international community, acting through the United Nations. The UN formally supported the idea in resolution S/RES/1647, and later through the General Assembly's resolution A/RES/63/308. The doctrine of the "Responsibility to Protect," as it has come to be known, has prompted critics to argue that it is unclear who decides when states can no longer be considered sovereign because of "manifest failure" to protect their populations.

There has been a variety of responses, ranging from requests for developing the tools and practices surrounding the doctrine so that its proper use can be clarified,⁸⁴ to

⁸⁴ United Nations. "Implementing the Responsibility to Protect" (Report of the Secretary-General, A/63/677, 2009), <http://www.unhcr.org/refworld/docid/4989924d2.html>.

appeals for strong states to take an even greater hand in state-building interventions,⁸⁵ to calls for the international community to abstain from interventions altogether.⁸⁶ The international relations literature has spawned massive debates on when, whether, and for how long breaches of state sovereignty are justified. A review of the debate itself is beyond the scope of the current work, but it is significant to note the frequency and popularity of challenges to the doctrine of absolute state sovereignty. David Chandler suggests this trend reflects a new balance of power in the international sphere, and that the interventionist norms driving liberal state-building are just as dependent on power politics as the state sovereignty paradigm was.⁸⁷ The “war on terror” has greatly strengthened the conceptual links between security and development, and state-building literature has embraced the argument that global and regional geopolitics require stable states. International relations frames the issue of intervention in failed states not as a humanitarian question, but as one of preserving the world order and the interests of powerful donor countries. The importance of balancing local interests with the needs of interested outside parties lies at the heart of several of the contradictions which plague state-building operations.

2.5 Contradictions in State-Building

Paris and Sisk offer a convincing theory which synthesises these observations to account for some of the most serious recurring problems that face state-builders. The authors’ central argument is that the concept of state-building itself contains deep-

⁸⁵ S. Mallaby. “The Reluctant Imperialist: Terrorism, Failed States and the Case for American Empire.” *Foreign Affairs* 81, no. 2 (2002): 2-7.

⁸⁶ A. Etzioni. “A Self-Restrained Approach to Nation-Building by Foreign Powers,” *International Affairs* 80, no. 1 (2004): 1-17.

⁸⁷ D. Chandler. “The Responsibility to Protect? Imposing the ‘Liberal Peace’.” *International Peacekeeping* 11, no. 1 (2004): 59-81.

seated contradictions, which inevitably give rise to more concrete policy dilemmas. These contradictions are embedded in the assumptions which define externally assisted state-building. They cannot be removed or resolved, but by understanding them, it is possible to manage their consequences and to cultivate appropriate expectations about state-building.⁸⁸ State-building needs rethinking at a fundamental level, and this paper will offer the case study of the EU's involvement in Afghanistan to confirm how all five of the following contradictions present serious obstacles to future interventions of this kind.

2.5.1 Outside Intervention to Promote Self-Government

The first contradiction is that state-building missions are intended to create the conditions for self-government by providing foreign assistance to national authorities, but that external interventions inevitably intrude into domestic politics when they give such assistance.⁸⁹ This gives rise to problems of legitimacy, and may undermine the credibility of state institutions if foreign control is not seen to be gradually replaced by local ownership. State-building is a long-term process, though. At the outset, foreign support seems indispensable for allowing the institutions of the state to carry out their functions, but eventually local enthusiasm for any foreign intervention will decline, and it becomes necessary to transfer more and more responsibility to local authorities, or risk antagonising the population and compromising the state's legitimacy. Practical issues which flow from this contradiction tend to relate to exit strategies, and to the size, form and duration of an intervention. If the international

⁸⁸ R. Paris, and T. Sisk, eds. *The Dilemmas of Statebuilding: Confronting the Contradictions of Postwar Peace Operations*. New York: Routledge, 2009.

⁸⁹ R. Paris, and T. Sisk. "Conclusion: Confronting the Contradictions." in *The Dilemmas of Statebuilding: Confronting the Contradictions of Postwar Peace Operations*, edited by R. Paris and T. Sisk, 304-15. New York: Routledge, 2009, pp. 305-6.

community wishes to avoid being indefinitely bogged down in a failed state, it is absolutely vital to have strategies in place for managing the country's transition to self-government. Outside intervention is antithetical to self-government, so the limits of foreign intervention must be clear to both the host country and the international community.

2.5.2 International Control to Establish Local Ownership

A second and related contradiction is that state-building calls for “local ownership” of reform processes, but that the process of actually allocating ownership rights occurs under foreign oversight.⁹⁰ Deciding who local owners will be necessarily creates winners and losers, and is a politically charged process, especially in places where the central state has always been used and perceived as a coercive instrument for parochial interests. This can have significant implications for the legitimacy and durability of the political settlement, which will condition future state-society relations. Groups or individuals not included in negotiations may find ways to undermine any agreement that might have been reached, and wherever such groups or individuals have military capabilities, they may act as spoilers.

2.5.3 Universal Values as Solutions for Local Problems

Thirdly, although civil wars may have international implications, they are primarily local conflicts, experienced within a particular socio-cultural setting. Much of the international assistance to societies emerging from civil conflict is conditioned by a

⁹⁰ Ibid.

normative tradition which values respect for human rights, market-oriented economics, and liberal democratic institutions, but this normative basis may be at odds with local expectations.⁹¹ Tradition and culture can be important sources of legitimacy, and this paradox contributes to problems in designing interventions which are mutually acceptable to the donor community and the host country.

2.5.4 Acknowledging History but Breaking with the Past

The fourth contradiction stems from the need to remake a war-torn society to secure its transition to peace, without sacrificing traditions or ignoring past injustices.⁹² This requires new approaches to justice and conflict management, because the society clearly contained the root causes of conflict even before the outbreak of war. Since conflict can alter and distort traditional practices over time, returning a society to its pre-war conditions is not always even possible, so new processes for addressing grievances must be introduced. However, the international community must be careful not to ignore the role of traditional forms of dispute resolution, either. State-building places tremendous strain on society, and some degree of continuity is needed to bolster the legitimacy of the new political order. Continuity can sometimes provide reassuring stability, too, and international actors have regularly underestimated how resilient deeply ingrained patterns of political and economic behaviour can be.

2.5.5 Short-Term Imperatives vs. Long-Term Objectives

⁹¹ Ibid.

⁹² Ibid.

Finally, international actors normally face pressure (including from their own populations) to behave in ways that produce visible short-term results. Demonstrable success is a valuable political currency, and the governments and organisations responsible for carrying out state-building are not immune to the need to justify their actions to early critics. However, some strategic decisions which produce immediately visible benefits may also result in long-term harm, which becomes visible only much later.⁹³ A notorious example of this in the case of Afghanistan involves the international community's use of proxy militias, under the command of local power elites, to stabilise the country immediately after the American-led invasion of 2001. If tacit or explicit bargains had not been made, these same power elites might have become spoilers, but by working with them, the international community sowed the seeds for several long-term problems. Allowing these men to occupy key positions in the central administration gave them time to expand their clientelist networks and consolidate their positions, both politically in Kabul, and militarily in the rural areas where they originally held sway. Popular confidence in the state-building enterprise as a whole was also shaken, because the international community was seen to be conferring official recognition on figures who had played morally questionable roles in the previous conflict. The continued power of these figures has been a significant barrier to constructing a depersonalised state, and broadening political representation beyond the parties which fought in earlier wars.

2.6 Policy Dilemmas

⁹³ Ibid.

The five contradictions outlined above are ultimately responsible for several concrete policy dilemmas, which can be interpreted as “the visible, policy-level manifestations of [state-building’s] underlying contradictions.”⁹⁴ The term “dilemma” is apt because the choices available to policymakers represent truly conflicting imperatives. Like the contradictions which give rise to them, they defy outright resolution, but trade-off can be made in such a way as to balance each other out to a degree.

2.6.1 Footprint Dilemmas

The “footprint” of a state-building intervention represents its level of intrusiveness in the affairs of the host state. This is affected by several factors – most notably the size of the international presence on the ground, the breadth of the mission mandate, and the assertiveness with which external actors pursue their tasks. A heavy footprint is precluded when the international community wishes to allow local political, social, and economic life to achieve a natural state of post-conflict equilibrium on its own, without being subject to the distorting effects of a large (but ultimately temporary) international presence. Yet sometimes a heavier footprint may be needed in the interests of maintaining security or enforcing a peace settlement. In any case, local opposition to the presence of international forces tends to coalesce more quickly, the heavier an intervention’s footprint, and a careful balancing act is necessary if state-building is to achieve both its short-term security-related objectives and its longer-term transformational objectives.⁹⁵

2.6.2 Duration Dilemmas

⁹⁴ Ibid., p. 306.

⁹⁵ Ibid., pp. 306-7.

A related dilemma concerns the length of time for which different components of an intervention are deployed. State-building is a long-term process, but open-ended international deployments are not really feasible. Not only are the resources and political will of the donor community limited, but longer deployments tend to produce growing resentment in the local population, and can lead to international forces being perceived as a barrier to national independence. Over time, passivity within the local population may also become increasingly problematic, and it can become harder and harder for the international community to extricate itself from support roles without compromising the integrity of core state institutions.⁹⁶ At the most basic level, duration dilemmas stem from the fact that state-building is not neutral, but that it takes time. The passage of time inevitably reveals how an intervention influences the target country, and popular reactions are influenced accordingly.

2.6.3 Participation Dilemmas

The third dilemma arises from the political settlement, and relates to the question of participation in the political process. Factional leaders may not always legitimately represent the population of their countries, but they are frequently involved in peace negotiations, and will tend to occupy important positions in the political order immediately following conflict. Such figures often have the power to act as spoilers if they are excluded, but their involvement can alienate other groups and actors whose participation is equally important. There is a great risk that political processes may lose legitimacy if they are seen to be controlled by individuals who are known as

⁹⁶ Ibid, p. 307.

unrepresentative, corrupt, or criminal. Furthermore, popular participation in the political process faces a distorting effect from the presence of international forces, since the attention of communities can be diverted towards externally defined objectives, and away from those goals which might have developed organically.⁹⁷

2.6.4 Dependency Dilemmas

The fourth dilemma revolves around the danger that a prolonged international presence will foster dependency among local elites and the general population.⁹⁸ Post-conflict state-building aims to help institutions become effective, legitimate, and self-reliant, and a hands-off approach may allow institutions to develop without certain key ethics or competencies. However, a more hands-on approach runs the risk of conditioning people to depend on external support in order to sustain those ethics and competencies. As mentioned earlier, the longer an external intervention remains in a controlling position within local institutions and politics, the more resistance tends to coalesce, so if outside parties wish to avoid the scenario of indefinite trusteeship of an increasingly hostile population, they must be able to impart knowledge and training before time runs out. That knowledge and training must also be self-perpetuating.

2.6.5 Coherence Dilemmas

Finally, there are two sorts of coherence dilemma which state-builders must face: organisational and normative.⁹⁹ Organisational coherence refers to the need for coordination within the donor community, and is one of the most frequently cited

⁹⁷ Ibid., pp. 307-8.

⁹⁸ Ibid., p. 308.

⁹⁹ Ibid., pp. 308-9.

areas where interventions could improve. It is often difficult to navigate through competing lines of authority between numerous financially independent actors with subtle differences in their agendas, and sometimes these differences are not even explicitly recognised. Organisational coherence is also needed within the host country, so that the international community can effectively engage with legitimate, representative leaders. As mentioned before, identifying such leaders can be problematic, and may present participation dilemmas.

Normative coherence, on the other hand, refers to the need for action to match rhetoric. Such principles as the rule of law, democratic accountability, and national self-determination may not always be reflected in the implementation of an intervention, as pragmatism demands that international actors work with powerful local figures and tailor institutional designs to the needs of existing economic and political behaviour. Roland Paris warns of an additional danger of subsuming real disagreements about policy, decision-making hierarchy, or normative goals under the less contentious rubric of organisational coherence.¹⁰⁰ It is completely unobjectionable to advocate for increased information-sharing and greater clarity of objectives, and this is certainly important, but no amount of organisational coordination can remove the need to tackle hard questions of resource allocation and value prioritisation. The international community should beware of spending too much time on the procedural aspects of organisational coherence at the expense of real debate about the normative coherence of an intervention. Both facets are important.

¹⁰⁰ R. Paris. "Understanding the Coordination Problem in Postwar Statebuilding." in *The Dilemmas of Statebuilding: Confronting the Contradictions of Postwar Peace Operations*, edited by R. Paris and T. Sisk, 53-78. New York: Routledge, 2009.

2.7 Key Points

As highlighted above, the international community's efforts to engineer liberal peace in post-conflict states suffered initially from a lack of attention to the state institutions that could consolidate reforms after the departure of international forces. The field of state-building which developed in response to this concern has been divided over several issues, including whether, when, and for what ends external interventions are justified and feasible. The purpose of this paper is not to engage in such debates, but to advocate a rethinking of the premises of externally assisted state-building. Paris and Sisk have already synthesised much of the earlier discussion within the field of state-building into five concrete policy dilemmas:

- 1) Footprint dilemmas;
- 2) Duration dilemmas;
- 3) Participation dilemmas;
- 4) Dependency dilemmas; and
- 5) Coherence dilemmas.

The authors argue that these policy dilemmas can be seen as stemming from five conceptual contradictions:

- 1) The use of outside intervention to promote self-governance;
- 2) External control of political processes for establishing local ownership;
- 3) Incompatibilities between "universal" values and local traditions;
- 4) The simultaneous need for social continuity and social change; and
- 5) The conflicting imperatives of short-term and long-term goals.

At this stage in its development, the field of state-building needs more theory-driven case studies to provide details on how these contradictions relate to each other and

impact upon operations. If the dilemma analysis proposed by Paris and Sisk is to help the international community, there must be a way to:

- 1) Identify when such dilemmas apply;
- 2) Identify the costs and benefits which the trade-offs entail; and
- 3) Coordinate decision-making in such a way as to use the benefits gained from some trade-offs to offset the costs of others.

This chapter has traced the development of state-building as a missing element of early peace-building operations, and highlighted some of the major debates within the field. While it is not possible to attribute specific theories or critiques of state-building to particular disciplines, there are important ideas which have found expression in the fields of development studies, peace and security studies, and international relations. These overarching concerns, including the need for greater coordination, locally owned reform processes, and justified entry and exit strategies, reflect the deeply contradicted nature of state-building itself. Making progress on these issues requires an appreciation of how those contradictions interact with each other in a physical setting.

3: Manifestations of Contradiction: The Afghan Context

3.1 Overview

This chapter outlines the major threats to stability facing Afghanistan today, each of which showcases one or more of the conceptual contradictions outlined in the previous chapter. As mentioned earlier, the consequences of state failure often spill over across national boundaries, and the following sections will cover the main internal factors within Afghanistan as well as the most important regional and external pressures. The challenges described in this chapter show how important it is to incorporate SSR, and police reform in particular, into international responses to state failure.

Internal factors include the warlord problem, the Taliban insurgency, and the continued threat posed by terrorist organisations and other armed groups capable of playing spoiler roles. The illegal economy and the prevalence of corruption are also major causes for concern, and while an analysis of conflict economies is beyond the scope of this research, it is crucial to note that counter-narcotics efforts are an indispensable part of the state-building project. External factors include the tremendous influence wielded by Iran and Pakistan over the political reconstruction process in Afghanistan, and any attempt to address the failure of the Afghan state should integrate a strategy for dealing with these important regional actors as well.

3.2 Warlordism

Throughout its history, Afghan society has always been characterised by strongly localised governance structures and sharp social cleavages, reinforced by the country's rugged geography. In the modern era, these factors, combined with internal conflict and external interference, have prevented the emergence of a strong centralised state, and allowed local strongmen to establish themselves in positions of power across large areas of territory. The failure of government institutions to provide basic services to the population has undermined trust in the state, and created the political space for various warlords to fill the power vacuum left after the fall of the Taliban in 2001. Some of Afghanistan's most powerful warlords control greater military and economic resources than those available to the central government, and have sought to maintain or expand their power relative to the state. Such figures pose a significant challenge to the political reconstruction process, but even more importantly, there exists a dangerous culture of impunity surrounding illegitimate use of military and paramilitary force in Afghanistan. If the central state is ever to become a credible purveyor of security and other public goods, this must be addressed.

3.2.1 Defining Warlords

Antonio Giustozzi defines warlords as “military leaders who emerge to play a *de facto* political role, despite their lack of full legitimacy.”¹⁰¹ However, labelling figures as “warlords” is often a controversial task because they may enjoy varying degrees of legitimacy with different segments of the population. Certain basic characteristics can still be agreed upon, though. Warlords are individuals who exert control over a territory where the central government's authority is absent or contested. They depend

¹⁰¹ A. Giustozzi. “‘Good State’ vs. ‘Bad Warlords’? A Critique of State-Building Strategies in Afghanistan.” *Working Paper 51*. London: LSE Crisis States Programme, 2004, p. 5.

for their political power on clientelist networks and the force of arms, and often have a military background. Warlords are often able to access and deploy superior weaponry to that which is available to the bulk of the population, and they benefit financially from profits made through the conflict economy. Finally, warlords tend to apply “legitimizing discourses such as religion or nationalism,” in an effort to validate their actions by referring to ideologies which resonate with the local population.¹⁰² They are motivated and enabled by: a desire to capture land and resources without external interference; the ease of exploiting local populations; the lucrative rewards of the illegal economy; the prospect of exploiting international aid; and the desire to transform traditional economic structures into more lucrative, often illegal ones.¹⁰³

Warlords emerge from the power vacuum created by state failure, when the absence of internal security and state institutions causes local populations to fear for their safety. Groups initially focus on protecting themselves and their resources, but once they have achieved dominance over other nearby groups, strong commanders may begin to behave in a predatory way towards weaker groups.¹⁰⁴ Through charismatic leadership and the promise of personal enrichment for their followers, such figures are able to entrench themselves in positions of power and control the distribution of resources and public services.¹⁰⁵ However, the populations they control are unable to hold them accountable for their actions, and typically entertain no serious expectations of a change in leadership. The control which warlords exert over

¹⁰² D. van Grieken. “Collaborating Warlords in Afghanistan’s Political Reconstruction Process” (PhD thesis, University of Utrecht, 2005), p. 34.

¹⁰³ J. MacKinlay. “Defining Warlords.” in *Building Stability in Africa: Challenges for the New Millennium*, Monograph 46. London: Centre for Defence Studies, 2000.

¹⁰⁴ G. Peake. “From Warlords to Peacelords?” *Journal of International Affairs* 56, no. 2 (2003): 181-91.

¹⁰⁵ A. Jalali. “The Legacy of War and the Challenge of Peace Building.” in *Building a New Afghanistan*, edited by R. Rotberg, 22-55. Washington, DC: Brookings Institution Press and the World Peace Foundation, 2007.

political and economic life must therefore be considered illegitimate. By providing security and limited forms of other public goods through their own personal networks, these ultimately predatory figures attempt to attract the loyalty of their populations to themselves, rather than to the abstract state,¹⁰⁶ but this gives rise to deep traditions of dependency on patron-client relationships and does nothing to strengthen public institutions in which the population can place its trust. Politics are effectively personalised, and even where a climate of relative peace and prosperity can be achieved, as seems to be the case in Ismail Khan's Herat, for instance, there is no guarantee that the standard of living will last beyond the lifetime of the leader supposedly protecting it. Warlords are also prone to actively resisting the encroachment of central government institutions into their areas of influence, especially in cases involving the promotion of universal human rights, which demand equal treatment of all ethnic minorities and clash completely with the parochial value system on which the warlords' own power is founded.

3.2.2 The Afghan Warlords and the Culture of Impunity

Most of Afghanistan's contemporary warlords gained their military experience during the 1980s fighting either for or against the Soviet Union, and attracting followers by distinguishing themselves in battle. They emerged on the political scene by usurping traditional governance structures such as the village *shura* or *jirga*, and providing protection to specific populations with their bands of armed followers. They consolidated their positions by building for themselves a sort of pseudo-legitimacy with the populations under their control, often basing this on ethnic or tribal

¹⁰⁶ G. Peake. "From Warlords to Peacelords?" *Journal of International Affairs* 56, no. 2 (2003): 181-91.

solidarity, and in some cases on the rudimentary level of public goods which they took charge of dispensing. With the prolonged absence of the Afghan state in many areas of the countryside, the state was simply not seen to be a credible alternative source of security, education, health care, or other public goods. Prior to 2001, much of the Taliban's popularity has actually been attributed to their success in providing security whilst marginalising many of the country's warlords,¹⁰⁷ but various NGO reports and academic writings make it clear that the international community's attempts to disarm these figures and to extend the state's authority into territories which are controlled by the warlords have not met with success. On the contrary, the Karzai government and its international supporters failed to learn from the Taliban in this respect, and opted instead to accommodate several prominent warlords in the political settlement at the Bonn Conference of 2001, inviting them to become part of the new government in Afghanistan.

Aside from undermining the legitimacy of the state,¹⁰⁸ one of the unfortunate consequences of this strategy was the re-emergence of violent competition over land and resources. Notably, the clashes in October, 2006 between two Pashtun clans in Herat left 32 dead and several more injured.¹⁰⁹ Atta Mohammed Nur, a major leader in the Tajik-dominated organisation *Jamaat-e-Islami* and a powerful commander with significant military forces in the province of Kunduz, also has a long-standing rivalry with General Rashid Dostum, the leader of the Uzbek-dominated group *Junbish-e Milli-ye Islami* and a commander with similar military resources in the province of Balkh. Both men are officially allies of the government, but have periodically clashed

¹⁰⁷ C. Hodes, and M. Sedra. "The Search for Security in Post-Taliban Afghanistan." *Adelphi Paper 391*. New York: International Institute for Strategic Studies, 2007, p. 12.

¹⁰⁸ This concern will be addressed in more detail in the fifth chapter.

¹⁰⁹ A. Wafa. "32 Killed in Factional Fighting in Western Afghanistan," *New York Times*, 23 October 2006.

with each other, resulting in 70 deaths in 2003.¹¹⁰ In February, 2008, several dozen of Dostum's fighters also broke into the home of his former ally Akbar Bai, shot a bodyguard, and physically beat Bai, his son, and another bodyguard. Despite recognising the attack as a criminal act, Attorney-General Abdul Sabit declined to prosecute the General because bringing him to court would have provoked his followers across northern Afghanistan to violence.¹¹¹ After a temporary dismissal from his role in the army, Dostum was reinstated in 2009.

In 2004, several international donors including Japan, Britain, and the European Commission began to pressure Karzai to deal more strictly with regional commanders who used their military forces for purposes not authorised by the central government. However, because of Karzai's own leadership style, and because of the entrenched power of many of the country's warlords, the culture of impunity surrounding these figures has not been addressed. During the transitional administration, Vice President Mohammed Qasim Fahim was one of the most powerful warlords in the country. He was also the effective leader of the "Northern Alliance" coalition of military commanders and was in charge of the Ministry of Defence, one of the most corrupt ministries in the government. Fahim continued to maintain ties with militia groups as Vice President, but under strong international pressure, he was removed from office in the lead-up to the presidential elections of October, 2004. Nonetheless, Karzai later selected him as his running mate in the elections of August, 2009. The absence of any coup attempt once Fahim had been dismissed convinced many observers that the scope for action against Afghanistan's warlords was much greater than previously

¹¹⁰ C. Gall. "For an Ancient Afghan Town, No End to War, With Rival Generals Now Clashing," *New York Times*, 15 November 2003.

¹¹¹ H. Osman. "Afghanistan: Prosecutor Suggests 'Some People' Cannot Be Tried," *Radio Free Afghanistan*, 07 February 2008.

imagined, but President Karzai preferred an accommodationist approach, which was more compatible with his own leadership skill set, and he continued to treat warlords like Fahim leniently. Fahim is an ethnic Tajik who gained great prestige while fighting the Soviet Union in the 1980s, and later the Taliban and al-Qaeda. His inclusion in a Pashtun-dominated government was intended to allay some concerns of the large Tajik minority over ethnic favouritism, but during the run-up to the 2009 presidential elections, there were allegations that he was involved in criminal activities including kidnapping and ransom.¹¹² In another controversial case, when fighting broke out in Herat with the forces of Ismail Khan, the self-proclaimed “Emir of Herat,” Karzai’s response was to offer Khan the position of Minister for Energy and Water in the national government in 2005. Although this move did draw him away from his regional power base for a time, Ismail Khan has subsequently become the governor of Herat and re-established himself there. Furthermore, he has established an Islamic police force, which is separate from the Afghan National Police (ANP) and is alleged to have perpetrated numerous human rights abuses.¹¹³

Such examples of men who operate with impunity outside the rule of law serve to confirm in the minds of many Afghans that politics will continue to be dominated by the same faces, and that the central government’s talk of change is empty rhetoric. Afghanistan’s electoral law act (Art. 15, No. 3) “prohibits anyone who commands or belongs to an unofficial military force or armed group from becoming a candidate,” and vetting procedures have been developed to perform background checks on those who wish to run for office. The Demobilisation and Reintegration Commission

¹¹² K. Nouri. “Danger Looms if Afghan Vice President and Warlord Becomes Country’s President” (*Veterans Today Military and Foreign Affairs Journal*, 23 June 2010), <http://www.veteranstoday.com/2010/06/13>.

¹¹³ J. Sifton. “Afghanistan: Torture and Political Repression in Herat” (Human Rights Watch Report, 05 November 2002), <http://www.hrw.org/press/2002/11/herat1105.htm>.

maintains a national database of illegal armed groups, yet when the Commission named 1,024 candidates for the 2005 parliamentary election as having ties to such organisations, only 34 were actually disqualified from the ballot.¹¹⁴ Four years later, the ballot for the 2009 presidential election featured at least 70 candidates with ties to known illegal armed groups.¹¹⁵ In addition, both of Karzai's vice presidential running mates were accused of massive abuses of human rights and war crimes.¹¹⁶ A number of agreements have been made to shield commanders from prosecution for their role in wartime atrocities, including a motion carried in the Afghan Parliament on February 1st, 2007 to grant blanket immunity to all Afghans who had fought in the civil war, including senior Taliban representatives. Opinion polls have consistently shown that the culture of impunity which surrounds the country's most powerful warlords has had disastrous effects on the morale of the Afghan people, leaving many feeling disenfranchised and cynical about the chances of real political reform being carried out. Allowing the warlords to extend their reach into the state has also provided them with yet another means of protecting their parochial interests. In short, the strategy of transforming warlords into politicians, businessmen, or "peacelords" has failed. While some commanders should be seen as having more legitimacy than others, the Afghan government and the international community must take a strong stand against predatory figures if there is to be any chance of success for the political reconstruction process.

¹¹⁴ International Crisis Group. "Afghanistan's New Legislature: Making Democracy Work," *Asia Report 116*. Brussels: International Crisis Group, 2006.

¹¹⁵ C. Levine. "Free and Fair Elections in Afghanistan? Don't Hold Your Breath," *The Globe and Mail*, 17 August 2009, <http://www.theglobeandmail.com/news/opinions/free-and-fair-elections-in-afghanistan-dont-hold-your-breath/article1255051>.

¹¹⁶ Human Rights Watch. *Letter to President Barack Obama on Afghanistan*, 26 March 2009, <http://www.hrw.org/en/news/2009/03/26/human-rights-watch-letter-president-barack-obama-afghanistan>.

3.3 The Taliban and Armed Spoiler Groups

The word “Taliban” is the plural of the Arabic word *taleb*, meaning “seeker” (of truth). The term generally refers to students of Islam, giving rise to the name which the organisation that ruled Afghanistan from 1996 to 2001 adopted for itself. The leaders of the Taliban movement were heavily influenced by a fundamentalist line of Deobandi Islam, which they were exposed to at madrassas along the Afghan-Pakistani border, especially in the Northwest Frontier Province. While it is generally believed that the proportion of madrassas preaching messages of violence is extremely small,¹¹⁷ the Taliban in Afghanistan has certainly proven to be open to the use of violence to oppose the international community’s state-building efforts there. The Taliban’s rapid rise to power from 1994 to 1996 was due in large part to its ability to provide security and recruit effectively at the grass-roots level, but the leaders’ strict interpretation of Islamic law and Pashtunwali norms of social conduct soon cost the Taliban much of the popularity it had gained. Since the US-led invasion ousted the Taliban regime from power in 2001, the movement has survived as an insurgency.

3.3.1 Asymmetric Warfare and the Taliban’s Tactics

Ethnically, the Taliban is an essentially Pashtun movement, but it is an amalgam of various groups ranging from religiously indoctrinated young people to disenfranchised peasants fighting for a better wage, to villagers following the directions of tribal or clan elders, or acting under duress. Locally hired fighters are often recruited as ground troops for the Taliban’s offensives, and are classified by

¹¹⁷ C. Hodes, and M. Sedra. “The Search for Security in Post-Taliban Afghanistan.” *Adelphi Paper* 391. New York: International Institute for Strategic Studies, 2007, p. 18.

NATO forces as “Tier Two Taliban.” They are believed in general to be less tactically sophisticated than the “Tier One Taliban” veterans who fought against the Soviets and the Northern Alliance, but second-tier fighters are able to be employed on a part-time basis, returning to their villages after the conclusion of an operation. This makes it extremely difficult for NATO’s combat troops to identify the enemy, and has sometimes led to a blurring of the distinction between civil and military targets. With NATO forces repeatedly causing civilian casualties, it is little wonder that the international presence has become less welcome in many parts of Afghanistan.

As a result of the Taliban’s recruitment strategy and its ability to blend into the local population before, after, and during engagements, the international forces in Afghanistan face a very agile enemy capable of both attrition tactics and full-scale frontal offensives such as that seen in the battle of Panjwai in 2006. Although the Taliban’s focus before 2006 was primarily on “soft targets” such as aid workers and government employees, the movement has become much bolder in more recent years and now attacks military targets and training facilities for the police and army as well. Anti-tank and anti-personnel landmines have been laid overnight around NATO positions, and long-distance rocket attacks have been used to hit moving convoys. The Taliban has also carried out increasingly sophisticated ambushes, sometimes using secondary remote-detonated explosive devices to target rescuers as well.

Because of the resilience of the Taliban insurgency, state-building efforts were largely neglected at first, in favour of reforming the Afghan National Army (ANA) and providing security through NATO and its local allies.

3.3.2 Other Spoiler Groups Supporting the Taliban

A number of other groups have declared their support for the Taliban, and have played a part in undermining the Kabul government. Notably, the Hizb-i Islami party leader Gulbuddin Hekmatyar declared in a video broadcast sent to Al-Jazeera in 2006 that he is willing to “fight under the banner of al-Qaeda.” Hekmatyar holds strongly anti-Western views, and has maintained close links with the Taliban since 2001, directing much of the insurgent activity around the provinces of Laghman, Logar, Paktiya, and Nangarhar.

Al-Qaeda itself remains an active force for instability, even if the threat it poses to the entire Western way of life has been somewhat exaggerated. At the time of writing, it remains unclear what effect the assassination of the organisation’s leader, Osama bin Laden, will have on the operational capacity of al-Qaeda, but there are certainly those such as bin Laden’s former deputy, Ayman al-Zawahiri, who have the potential to take command of the terrorist network. British intelligence has found over a hundred al-Qaeda operatives directing Taliban activities within Afghanistan,¹¹⁸ and the links between the two organisations have been well documented.

The Taliban is also supported by Jalaluddin and Sirajuddin Haqqani, the leaders of the so-called “Haqqani network” which is thought to have been responsible for numerous attacks, including the Kabul bombing in May, 2010 and an attempt on Karzai’s life in April, 2008. Jalaluddin originally rose to prominence during the Soviet occupation of Afghanistan, and had significant success in attracting foreign backers who were eager

¹¹⁸A. Rashid. “Don’t Think Al-Qaeda is on the Back Foot, It Will Be on the March in 2007,” *Sunday Telegraph*, 31 December 2006.

to sponsor anti-Soviet resistance. Although not initially affiliated with the Taliban, he aligned himself with the movement once it had taken control of the country, and accepted a government post as governor of Paktiya province and Taliban Minister of Borders and Tribal Affairs.¹¹⁹ While in power, he was accused of ethnic cleansing against the local Tajik minority.¹²⁰ Both Jalaluddin and his son Sirajuddin, who has taken over more operational control as his father has aged,¹²¹ have eluded capture and are thought to be operating out of North Waziristan on the Afghan-Pakistani border. Today, the Haqqani network is considered by NATO military officials to be the most resilient enemy network operating in Afghanistan.¹²² Believing that Sirajuddin could be enticed to withdraw his support for the Taliban, Karzai has offered him the position of Prime Minister in the Kabul government.

The existence of groups like the Haqqani network, al-Qaeda and the Hizb-i Islami party has troubling implications for state-building. Not only does the continued presence of armed spoiler groups in support of the insurgency force institutional reforms and personnel training to be carried out in a conflict environment, but it complicates the task of coordinating international assistance to the state-building project. The goal of combating an insurgency requires different priorities from those which would be necessary to provide the rule of law and strengthen the government's legitimacy. In addition, the leverage which these groups have with the Kabul government increases as deadlines for the withdrawal of foreign troops approach.

¹¹⁹ G. Khan. "Through the Eyes of the Taliban." *Asia Times*, 05 May 2004.

¹²⁰ M. Herold. "The Failing Campaign: A Relentless American Campaign Seeking to Kill Maulvi Jalaluddin Haqqani Rains Bombs on Civilians as the Most Powerful Mujahideen Remains Elusive." *Frontline* 19, no. 3 (2002): <http://www.hinduonnet.com/fline/fl1903/19030560.htm>.

¹²¹ C. Gall. "Old-Line Taliban Commander is Face of Rising Afghan Threat." *New York Times*, 17 June, 2008.

¹²² J. Partlow. "Haqqani Insurgent Group Proves Resilient Foe in Afghan War." *Washington Post*, 30 May 2011.

3.3.3 Peace Talks

At the 2010 International Afghanistan Conference in London, President Karzai announced his intention to hold a Peace Jirga to end the Taliban insurgency by reaching a compromise with more moderate members of the Taliban who might be willing to lay down their arms. The event was held in June, 2010, and it was hoped that it would allow the formation of a national consensus on how to approach peace talks with the hard-line Islamic extremists, isolating the extremists from those genuinely wanting an end to violence. The Peace Jirga was intended to be a major public forum for consultation, similar to the two Loya Jirgas held in 2001 (to confirm Karzai as the head of Afghanistan's transitional administration) and 2003-4 (to approve the Afghan constitution), but the Taliban and Hizb-i Islami did not send representatives. Taliban leaders announced the launch of a new offensive against foreign troops and diplomats, and publicly condemned the Peace Jirga, reiterating their stance that they would not hold peace talks until all international troops had left Afghanistan. Meanwhile, Hekmatyar offered his own terms for peace in a fifteen-point plan which included several controversial demands, including immediate elections and the departure of foreign troops as early as July, 2010. The insurgency and the spoiler groups perpetuating it remain as important challenges to the country's security and the viability of the Afghan state.

3.4 Opium and the Illegal Economy

Afghan society is permeated by the opium trade. The export of illegal drugs fuels corruption, warlordism, and the Taliban-led insurgency, generating a wide range of governance and security issues. Since 1991, Afghanistan has consistently been the largest opium producer in the world.¹²³ From 2009-2010, the production of opiates was halved,¹²⁴ but the rise in prices which has accompanied this downturn may increase the risk that more farmers will turn back towards poppy cultivation in the years to come. Interestingly, 98% of opium production and 96% of poppy cultivation was concentrated in the southern and western parts of the country, where the insurgency is the most active and the security situation most fragile. This seems to support the connection between opium production and insecurity which was observed in 2007.¹²⁵ In any case it is still too early to celebrate a definite change in momentum, and the opium trade remains an enormous challenge for Afghanistan and the international community.

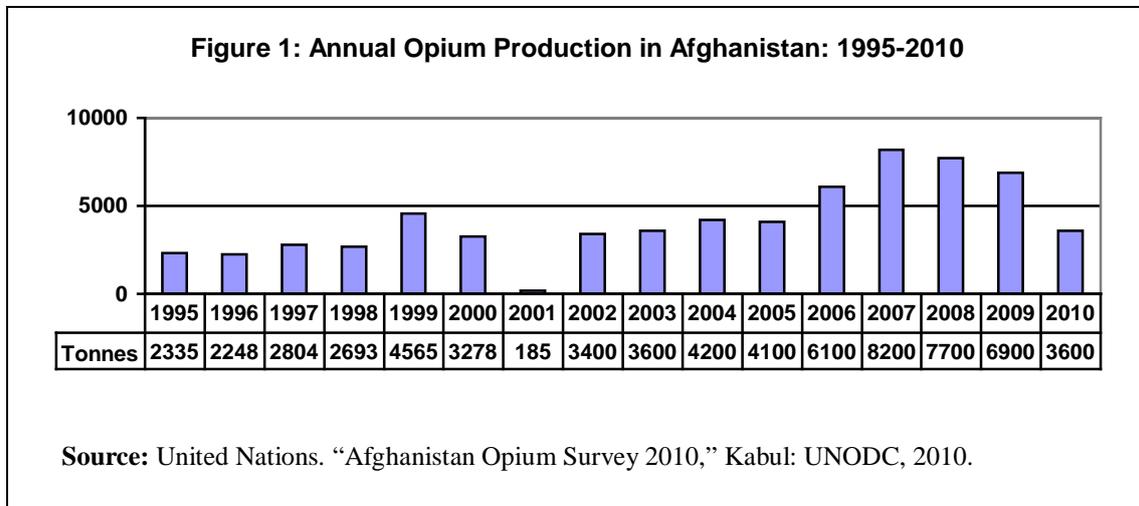
Billions of dollars have been spent on counter-narcotics programmes, including aerial spraying, public education campaigns, and alternative lifestyle programmes. There is now a general consensus that any effective response to the poppy boom will require an integrated, nation-wide strategy with support from local communities. Trained security forces and specialist counter-narcotics police will be required to contain production, rather than simply displacing it from one region to the next, but security forces on their own will never be sufficient to resolve the problem at its root. In this context, it is worth noticing that the most effective counter-narcotics measure ever taken in Afghanistan was grounded in an appeal to Islamic culture. In July, 2000,

¹²³ S. Chan. "Breaking the Impasse in Afghanistan: Problems with Neighbors, Brothers and Guests." *China and Eurasia Quarterly: Narcotics* 6, no. 4 (2008): 103-28.

¹²⁴ United Nations. "Afghanistan Opium Survey 2010," Kabul: UNODC, 2010, p. 2.

¹²⁵ *Ibid.*, p. 3.

Mullah Omar issued an edict declaring opium to be *haram* (un-Islamic), and over the following year production fell to just 185 tonnes. This underscores the need for a solution to enlist the support of local communities.



It has been estimated that after unofficial taxes from warlords, local authorities and Taliban commanders, less than 2% of the profits from the \$30 billion global heroin trade actually benefits the 3,300,000 farmers involved in cultivation and production.¹²⁶ Survival, debt-relief and the desire for profits used to be the main reasons why farmers planted poppy crops,¹²⁷ but traditional practices of money-lending in Afghanistan’s agricultural sector have gradually placed debt-laden farmers into positions of permanent dependence. These lending practices, or *salaam*, involve a monetary advance on anticipated future crop production, and interest rates tend to be

¹²⁶ D. Buddenberg, and W. Byrd. “Afghanistan’s Drug Industry: Structure, Functioning, Dynamics, and Implications for Counter-Narcotics Policy.” Kabul: UNODC and the World Bank, 2006.

¹²⁷ P. Chouvy. “Afghanistan’s Opium Production in Perspective.” *China and Eurasia Forum Quarterly: Narcotics* 4, no. 1 (2006): 21-4.

punitively high. The Taliban has also been known to send “night letters” threatening farmers if they attempt to discontinue poppy planting.¹²⁸

3.4.1 Spoilers Involved in the Drug Trade

The Taliban’s involvement in the drug trade in Afghanistan has steadily increased, especially in the southern half of the country. Before Mullah Omar’s ban on poppy cultivation, the Taliban levied “Islamic taxes” on opium of up to 20%.¹²⁹ Today’s drugs are taxed similarly, with a levy of 10% being paid by farmers directly to the Taliban or militia commanders, depending on whoever exercises the most authority in the region. Laboratories are taxed up to 15% of their revenues, and transit fees of 15% are also charged.¹³⁰ These revenues are a major component of the financing of the insurgency.

The drug trade has also been a source of corruption in the Afghanistan’s national security forces. The post of Chief of Police in poppy-growing districts has actually been auctioned off, with prices reaching as high as \$100,000 for a six-month job salaried at \$60 per month.¹³¹ Such positions are sought after because of the lucrative bribes which can be extorted for smugglers in return for protection, and even assistance in transporting narcotics.

3.5 External Spoilers

¹²⁸ G. Packer. “Knowing the Enemy: A Reporter at Large.” *The New Yorker*, 18 December 2006.

¹²⁹ B. Rubin. *The Political Economy of War and Peace in Afghanistan*, 1999, http://eurasianet.org/resource/regional/rubin_on_afghanistan.html.

¹³⁰ J. Wright. “Afghanistan’s Opiate Economy and Terrorist Financing.” *Jane’s Intelligence Review*, 01 March 2006.

¹³¹ B. Rubin. “Saving Afghanistan.” *Foreign Affairs* 86, no. 1 (2007): 57-78.

The process of state-building does not take place in a vacuum, and attention must be given to regional actors that might play a destabilising role from beyond the borders of Afghanistan. Most noteworthy in this regard is Pakistan's Inter-Services Intelligence Directorate (ISI). In addition, Iran seems to be trying to sustain the conflict for as long as possible, without actually pushing Afghanistan all the way towards state collapse, and could therefore be considered a type of spoiler as well.

3.5.1 Pakistan's Intelligence Services

The ISI is the largest of Pakistan's intelligence services, and is responsible for providing national security analysis for the government, and for coordinating intelligence activities for the three branches of the Pakistani military.

When the United States launched Operation Enduring Freedom in , President Musharraf officially decided to end support for the Taliban regime in Afghanistan, but it is not clear how much control he actually exerted over the ISI. Ethnically, the ISI is dominated by Pathuns (Pakistani Pashtuns), and has strong sympathies with the Taliban.

Since its formation in 1947, Pakistan's government has adopted the view that its national security in the event of a conventional war with India depends on "strategic depth," or the idea that Afghanistan on the western border should be cultivated as an allied territory to which Pakistani forces could retreat if necessary. Although Pakistan

developed a nuclear arsenal in 1998, some elements in the ISI remain convinced of the importance of strategic depth as an element of national defence.¹³²

3.5.2 Iran

Iran's role in Afghanistan is somewhat ambiguous. Herat and Kandahar were part of the Persian Empire until 1747, and Iran still shares a common language and culture with a significant portion of Afghanistan. There has also been considerable labour migration from Afghanistan to Iran, due to the latter country's much higher levels of economic development, and Iran currently hosts some 935,600 Afghan refugees.¹³³ Iran is very much in favour of an Afghan regime capable of accepting the repatriation of these refugees, and of containing the tremendous flow of opium and heroin across the border. In some ways, Tehran has been extremely supportive of the Karzai government, and has contributed to a great many infrastructure projects, including hospital renovations, road and railway construction projects, and an initiative to open Afghan access to the port of Chabahar. However, Iran is also concerned over the implications of long-term US military deployments in the region, especially given the proximity of Shindand airbase to the Iranian border.¹³⁴ Shipments of Iranian weapons have been intercepted on their way to the Kandahar region, and there have been allegations that Iran has made significant financial contributions to some Afghan MPs.¹³⁵ Some reports have even claimed that Iran's Islamic Revolutionary Guard

¹³² C. Hodes, and M. Sedra. "The Search for Security in Post-Taliban Afghanistan," *Adelphi Paper 391*. New York: International Institute for Security Studies, 2007, p. 19.

¹³³ United Nations. UNHCR, "2011 UNHCR Country Operations Profile: Islamic Republic of Iran," <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e486f96>.

¹³⁴ C. Hodes, and M. Sedra. "The Search for Security in Post-Taliban Afghanistan." *Adelphi Papers*. New York: International Institute for Security Studies, 2007, p. 33.

¹³⁵ K. Katzman, "Iran: US Concerns and Policy Responses" (CRS Report to Congress, 2006), <http://fpc.state.gov/documents/organization/67845.pdf>.

Corps directly supports groups of Shia insurgents within Afghanistan.¹³⁶ The longer international forces are deployed in Afghanistan, the more the domestic populations of the donor countries will tend to tire of dangerous, expensive foreign adventures. This would obviously benefit Iran, and it is possible the government of that country simply wishes to prolong the international intervention in Afghanistan as much as it can without actually destabilising its neighbour irrevocably. Whatever its ultimate strategy, Iran has at least the potential to play a significant destabilising role, and could dramatically step up its support for the insurgents in a very short time.

¹³⁶ M. Gordon, "US Says Iranian Arms Seized in Afghanistan." *New York Times*, 18 April 2007; National Council of Resistance of Iran, "Iran Arms Afghan Insurgents: Nato" (NCRI News, 1 March 2011), <http://www.ncr-iran.org/en/news/terrorism-a-fundamentalism/9989-iran-arms-afghan-insurgents-nato>.

4: Addressing the Challenges to State-Building

4.1 Introduction

As mentioned previously, a consensus has developed in academic and policy-making circles that durable state-building reforms require a functioning security sector, acting for the benefit of the entire population. The European Union endorsed this view in the 2003 European Security Strategy, which prioritises reform of the security sector and notes that in a failed state environment, many of the security institutions which would normally serve to consolidate state-building efforts may be corrupted, underdeveloped, or absent entirely. The field of SSR concerns itself with reorganising the various security institutions so that they can effectively and efficiently fulfil their roles. Over the long term, the SSR process is essential for inspiring trust in the population towards the institutions of central government. Unreformed security actors can also be decisive obstacles to state-building and to peace and stability in a broader sense. Many communities in Afghanistan view the police in particular as a predatory organisation, and associate the ANP with abuses of human rights and demands for bribes and illegal taxes.¹³⁷ Given the challenges of warlordism, an active insurgency with support from within Afghanistan and from beyond its borders, and an illegal economy sustained in no small part by the threat of violence, SSR must be an integral part of the political reconstruction process in Afghanistan. This chapter describes the involvement of the European Union in SSR initiatives to support the overall state-building project.

¹³⁷ R. Perito. “Afghanistan’s Police: The Weak Link in Security Sector Reform.” Washington, DC: United States Institute of Peace, 2009.

4.2 The Security Sector in Afghanistan

A brief list of key security sector actors in Afghanistan would include the police, border guards, armed forces, security and intelligence services, and non-statutory actors such as political party militias, guerrilla armies, and private security companies. According to OECD guidelines which have been adopted by the EU, customary and traditional justice structures, prison staff, prosecuting attorneys, and criminal investigation units form part of the security sector fabric as well, and must be incorporated into the reform process.¹³⁸ Reforming the security sector is clearly a very broad undertaking, requiring a holistic approach and coordination among a variety of civil, military, and paramilitary organisations. However, the police and the judiciary are by far the most urgent priorities in Afghanistan, and no state which remains incapable of providing its population with basic personal security and justice can possibly sustain the loyalty or support of its inhabitants. The EU has therefore undertaken to build up the civilian policing capacities of the ANP, and to improve linkages between the police and the justice sector.

4.2.1 The Political Framework for International Partnership in Afghanistan

The EU has taken a number of steps to formalise a partnership with Afghanistan within the context of broader international engagement there. Officially, the United Nations has led and coordinated international efforts at political reconstruction and humanitarian assistance. While this has not prevented the development of bilateral

¹³⁸ For a more complete list, see: Council of the European Union, “EU Concept for ESDP Support to Security Sector Reform (SSR)” Council Doc. 12566/4/05, Brussels, 13 October 2005.

relationships between Afghanistan and various international actors, including the EU, for many years the UN-brokered Bonn Agreement of 2001 did provide the primary framework for international engagement in Afghanistan. The Bonn Agreement also provided the foundation for the post-conflict political settlement. This initial agreement was followed in 2002 by the National Development Framework, which laid the foundations for state-building and identified primary focal areas for diminishing the scale of humanitarian disasters.

A number of new commitments followed, often accompanied by reassessments of the situation, redistributions of resources and strategic priorities, and general attempts to adapt to the challenges posed by a dysfunctional Afghan security environment. The European Union's 2003-2006 Country Strategy Paper for Afghanistan set out the key focal areas of EU engagement, notably in health, economic infrastructure, rural development and food safety, and institutional capacity-building. In 2004, the Constitution for the new Afghan regime was enacted, committing Afghanistan to a vision of a liberal, democratic Islamic republic with respect for the norms of human rights and international law. European commitments to support Afghanistan's transition towards such an open access political order were staunchly reaffirmed in the 2005 Joint Declaration, which established regular political dialogue through meetings at the ministerial level, and promised additional support to the Afghan government in the areas of justice sector reform and SSR.¹³⁹ Later, the London Conference of January, 2006 provided a political framework for cooperation between Afghanistan and the EU, and resulted in the signing of the 2006 Afghanistan Compact. The development goals of the Afghanistan Compact were prioritised more specifically in

¹³⁹ Council of the European Union, "EU-Afghanistan Joint Declaration: Committing to a New EU-Afghan Partnership," <http://register.consilium.europa.eu/pdf/en/05/st14/st14519.en05.pdf>.

an interim Afghan National Development Strategy (i-ANDS), a final version of which was adopted at the Paris Conference of June, 2008. This finalised version of the Afghan National Development Strategy (ANDS) included measures designed to coordinate national development through the Afghan government, thereby helping the country to qualify for debt relief. A major focus was on promoting local ownership of the political reconstruction process. The EU's 2007-2013 Country Strategy Paper for Afghanistan was also drafted to respond to changes in the situation in Afghanistan. The focal areas of the current Country Strategy Paper are health, rural development, and governance, all three of which are priority sectors of the ANDS. Social protection, anti-mining action, and regional cooperation are identified as further (non-focal) areas of concern, restating the EU's holistic approach not only to SSR but to state-building in general. Most recently as of the time of writing, the EU endorsed the outcomes of the January, 2010 London Conference and the July, 2010 Kabul Conference, each of which once again reaffirmed international commitments to Afghanistan while reflecting on the need for increasing Afghan ownership of the national security forces.

The security sector itself has been divided into five key areas, each of which is the responsibility of a specific international donor organisation. The five "pillars" of SSR consist of: reform of the ANA; counter-narcotics; Disarmament, Demobilisation and Reintegration (DDR) of former combatants; justice sector reform; and police reform. The United States government manages the reform of the ANA, while Japan has taken on lead nation status in the DDR pillar. European governments have organised reforms in the other areas, with the United Kingdom taking the lead on counter-narcotics and Italy overseeing justice sector reform. Police reform was initially

managed by Germany through the German Police Project Office (GPPO), but was subsequently taken over by the European Commission after it became clear that achieving the objectives of this pillar of the SSR process would require wider participation and larger commitments than the GPPO could provide on its own. EUPOL Afghanistan was therefore launched in 2007 as a non-executive civilian mission committed to developing the capabilities of Afghanistan's police, and to coordinating multilateral support for police reform.

4.2.2 European Engagement in Afghanistan

The European presence in Afghanistan is visible in several ways, especially within the security sector. Notably, the EU and its Member States have pledged some 8 billion euros to Afghanistan over the period of 2002-2010,¹⁴⁰ and with contributions of 270.5 million euros, the EU Delegation continues to be the single largest donor to the Law and Order Trust Fund (LOTFA), which pays the running costs of the ANP. The expenditures of the LOTFA are prioritised as follows:

- 1) Support for police forces to perform their duties effectively and efficiently
- 2) Building financial and project management capacity within the Ministry of the Interior
- 3) Providing police forces with equipment necessary for improving their mobility and responsiveness (radios equipment, vehicles, etc.)
- 4) Improving the working and living conditions of police, with a view to raising efficiency and morale
- 5) Improving gender balance within the police forces

¹⁴⁰ European Union. Council Secretariat, "EU Engagement in Afghanistan," http://www.consilium.europa.eu/uedocs/cmsUpload/100218%20EU%20engagement%20Afghanistan-version5_EN.pdf.

6) Supporting uniformed personnel of the Central Prisons Department

The EU has also provided an additional 15 million euros to the Counter-Narcotics Trust Fund, and 20 million euros for the German-run Project for Alternative Livelihoods, which is needed for providing farmers involved in the cultivation of opium poppies with alternative sources of sustainable income. The multilateral Afghanistan Reconstruction Trust Fund (ARTF), which provides a reliable source of revenue for recurring government expenses such as salaries, maintenance, and annual development budgets, has received over 200 million euros from the Commission. Together, twenty-five EU Member States have contributed approximately 35,000 troops to the NATO-led International Security Assistance Force (ISAF), and several states have made separate contributions of troops to the US-led Operation Enduring Freedom for counter-terrorism and counter-insurgency operations in Afghanistan.¹⁴¹ A further 141 million euros have been channelled into the health sector, along with 35 million for electoral support and observation during the 2009/2010 electoral cycle.

In addition to its financial contributions and the financial and troop contributions of its Member States, the EU is currently represented in Afghanistan by the European Commission Delegation and the office of the EU Special Representative (EUSR). The EUSR was initially created in 2001 to give the EU more of a voice in a US-dominated political environment, and to coordinate Member State contributions to Afghanistan. Since that time, the position has developed into something of an information-sharing role that fulfils the additional functions of improving coherence between different EU instruments and actors, and updating the Political and Security Committee (PSC) in

¹⁴¹ Ibid.

Brussels with recent developments. Since April, 2010, the post has been occupied by Vygaudas Usackas of Lithuania.

However, by far the most visible aspect of the European presence in the country is the EUPOL Afghanistan mission. This police assistance mission was launched in 2007 as a non-executive civilian operation conceived within the framework of the European Security and Defence Policy (ESDP). EUPOL Afghanistan was established with the following mandate:

“[to] significantly contribute to the establishment under Afghan ownership of sustainable and effective civilian policing arrangements, which will ensure appropriate interaction with the wider criminal justice system, in keeping with the policy advice and institution building work of the Community, Member States, and other international actors. Further, the mission will support the reform process towards a trusted and efficient police force, which works in accordance with international standards, within the framework of the rule of law, and respects human rights.”¹⁴²

To achieve these goals, the mission staff was instructed to develop an operational plan grounded in the principles agreed to in the Afghanistan Compact and the i-ANDS, and to work with the Afghan government and other international actors to implement that plan. EUPOL Afghanistan has subsequently taken on a major role coordinating the actions of US-led police reform efforts with those of other contributors to police reform, such as national contingents embedded in the Provincial Reconstruction Team (PRT) structure. The International Police Coordination Board (IPCB) serves as an important forum for this coordination, but lacks the ability to make binding decisions of its own.

¹⁴² Council Joint Action 2007/369/CFSP, 30 May 2007, *Official Journal* L 139, 31 May 2007.

While the mission's original mandated strength was 200 international staff, the EU agreed in May, 2008 to increase that figure to 400 staff. Unfortunately, there is a significant shortfall in personnel, with only 306 international seconded and contracted staff as of November, 2010.¹⁴³ The mission consists of 168 police officers, 49 rule of law experts, and 89 civilian experts. The EUPOL Afghanistan headquarters in Kabul accommodates 217 of these staff members, including the 5 assigned to the IPCB Secretariat. A further 85 operate across 13 provinces outside the capital, and 4 provide support and evaluation from Brussels through the Mission Support Element.

Given how vocally the international community has continued to affirm its commitment to state-building in Afghanistan, it is striking that there is a lack of formalised arrangements between EUPOL Afghanistan and its US-led counterpart, the NATO Training Mission-Afghanistan (NTM-A), which has been operating since 2009. Nevertheless, for the most part, the basic division of labour appears to be clear. As part of ISAF, the NTM-A leads efforts on developing the ANA, and on large-scale recruitment, equipping, and training for ANP officers throughout Afghanistan. Meanwhile, the EU mission provides strategic and civilian policing expertise to the ANP and the Afghan Ministry of the Interior.¹⁴⁴ This work includes building up the ANP's ability to carry out criminal investigations, deliver intelligence-led policing, raise awareness of gender issues, and combat official corruption. Although addressing other challenges such as the exceptionally high attrition rate and widespread illiteracy could well be considered requirements for the development of civilian policing capabilities, the British government has indicated that it considers such measures to

¹⁴³ House of Lords, "The EU's Afghan Police Mission: Report with Evidence," HL Paper no. 87, 16 February 2011, <http://www.publications.parliament.uk/pa/ld201011/ldselect/ldcom/87/87.pdf>.

¹⁴⁴ Baroness C. Ashton. *Letter from Baroness Ashton and Commission Response to "The EU's Afghan Police Mission" Report*, 11 April 2011, <http://www.parliament.uk/documents/lords-committees/eu-sub-com-c/afghanpolice/AfghanComResp.pdf>.

fall within the NTM-A's area of responsibility.¹⁴⁵ Nonetheless, the EU has played an active role in helping the Afghan Ministry of the Interior formulate a national police plan which covers steps for improving the equipment, professional appearance, and living and working conditions of ANP officers – all steps which were designed to help alleviate the rate of attrition of new recruits. The EU may well have more contributions to make in terms of addressing literacy and attrition rates, and it would be advantageous to formally specify the nature of the relationship between EUPOL Afghanistan and the NTM-A.

4.3 The Police Sector in Afghanistan

Afghanistan possessed no unified national police force before the international intervention in the country. The police were organised as a paramilitary force which operated largely outside the rule of law, leading to a situation of widespread popular mistrust which has to some extent continued even after the arrival of international forces.¹⁴⁶ Most of the estimated 50,000 officers in service before 2001 were illiterate, untrained, and poorly equipped. In addition to these obstacles to performance, many officers owed their allegiance to local commanders or warlords, rather than to a central government. Low salaries and the dangerous nature of the job have also contributed to an entrenched culture of corruption within the police, as officers seek to provide for their families and enrich themselves. Addressing the issue remains difficult because the powers of actually changing hiring practices and training

¹⁴⁵ United Kingdom. "Government Response to House of Lords Select Committee on the European Union Report on EU's Police Mission – Afghanistan," 7 April 2011, <http://www.parliament.uk/documents/lords-committees/eu-sub-com-c/afghanpolice/GovRespEUAfghan.pdf>.

¹⁴⁶ International Crisis Group. "Reforming Afghanistan's Police," *Asia Report 138*. Brussels: International Crisis Group, 2007.

techniques rest with the Afghan Ministry of the Interior, and this organisation faces its own problems of corruption.¹⁴⁷ State-building efforts in Afghanistan since 2002 have therefore required not only the rapid build-up of police capabilities, but also the development of structures and training procedures to improve transparency and accountability within the police. Efforts to combat corruption have met with some success, but the problem remains serious, with only 55% of Afghans surveyed in 2010 indicating that they believed the ANP was “capable” of handling issues of corruption, and only 17% believing the police to be “very capable.”¹⁴⁸

4.3.1 Composition of the Police in Afghanistan

The overarching police force of the Afghan government is the ANP, which operates under the authority of the Ministry of the Interior. The ANP is currently comprised of the following organisations: the Afghan Uniformed Police (AUP); the Criminal Investigation Division (CID); the Afghan Border Police (ABP); the Afghan Customs Police (ACP); the Afghan National Civil Order Police (ANCOP); the Counter-Narcotics Police of Afghanistan (CNPA); the Counter-Terrorism Police (CTP); and the Afghanistan National Fire Department. The Standby Police and the Afghan Highway Police (AHP) also operated under the banner of the ANP, but are now no longer in existence. In addition, in 2006 the Afghan National Auxiliary Police force (ANAP) was established outside the ANP to assist in counterinsurgency operations on a temporary basis. It was dismantled, but has arguably been replaced by similar institutions which closely resemble the ANAP in scope and form.

¹⁴⁷ E. Gross. “Security Sector Reform in Afghanistan: The EU’s Contribution.” *Occasional Paper 78*. Paris: European Union Institute for Security Studies, 2009.

¹⁴⁸ United Nations. UNDP, “Police Perception Survey 2010,” <http://www.undp.org.af/publications/KeyDocuments/2011/Police%20Perception%20Survey%20Book%202010%20FINAL%20%286th%20Jan%202011%29.pdf>.

By far the largest of all these forces is the AUP. With an authorised strength (*tashkeel*) of 82,000, it is responsible for routine civilian policing activities such as discovering crime, arresting and charging suspects, maintaining the peace, and protecting public and private property. At the regional command level, regular reports must be made to the Deputy Minister for Security within the Ministry of the Interior. The CID is responsible for investigating criminal offences under Afghan law, and has an authorised strength of 4,148. The ABP concerns itself with airport and border security, and has an authorised strength of 18,000. The ACP enforces customs regulations, and operates under the authority of the Minister of Finance. ANCOP was conceived of as an elite rapid-reaction force which was eventually intended to have Special Weapons and Tactics (SWAT) capabilities. Since its establishment, it has been deployed to bolster ANP operations in Afghanistan's seven largest cities. With a mandatory 16-week training period, this force is better trained and equipped than both the AUP and the ANAP, and is aimed at dealing with "advanced police situations" such as hostage-taking, riots, civil disorder, and large-scale looting. Although its authorised strength is only 5,442, this number is likely to increase. The authorised strength of the CNPA is 2,958. This force specialises in counter-narcotics investigations and reports directly to the Deputy Minister for Counter-Narcotics within the Ministry of the Interior, but is still considered part of the ANP. The CTP is the lead law enforcement agency in counter-terrorism and counter-insurgency operations, and has an authorised strength of 406. Lastly, the National Fire Department is responsible for fire suppression, prevention, and rescue. Its authorised strength is 882, and it operates throughout the entire country.

The Standby Police, predecessors to ANCOP, have now been phased out, along with the notoriously corrupt and inefficient AHP. Officers originally working in the AHP had been responsible for highway security, and were at first slated by the Ministry of the Interior for redeployment to border patrols and dangerous areas of the countryside where shortfalls in the local police numbers were causing problems. However, due to the refusal of many officers to relocate, especially to dangerous areas in southern Afghanistan, talks have been held over the establishment of a new body which could resume the duties of the old AHP.

The ANAP was established in 2006 to allow the central administration a greater measure of control over militias loyal to local governors and warlords. Typically, this was achieved by simply recruiting militiamen as auxiliary police officers, providing them with ten days of training and a one-year contract, and deploying them in high-risk provinces to bolster counter-insurgency efforts. Such steps tend to have little effect on underlying loyalties.¹⁴⁹ Due to the hasty establishment of the ANAP during a time of increased insurgency in the south of the country, there was some controversy over whether the organisation was really created as a predominantly military institution, or whether it was originally intended to function as a civilian police force, as stated in its Terms of Reference. The ANAP was dismantled in 2008, but the Afghan Public Protection Programme (APPP, or AP3) was created in 2009 under similar conditions and closely resembles the ANAP in many respects. The latest iteration of this programme is the Local Defence Initiative or Community Defence Initiative (LDI/CDI). Under this programme, locally recruited personnel are trained by international military forces and shown techniques for how to guard certain areas

¹⁴⁹ C. Hodes and M. Sedra. "The Search for Security in Post-Taliban Afghanistan." *Adelphi Paper 391*. New York: International Institute for Strategic Studies, 2007.

designated as “Key Terrain Districts,” which are considered to provide a tactical advantage to forces controlling them. The paramilitary training which cadets must undergo is significantly different from the training needed to build civilian policing capacity. The Afghan Local Police (ALP) which were established in mid-2010 augment the capabilities of the LDI/CDI forces, and resemble the AP3 in scope and constitution. There is some doubt as to the loyalty of these local auxiliary police to the central government, and a recent report by a sub-committee of the British House of Lords raised concerns over whether this group “could challenge the authority of the state, collude with local warlords, use their firearms improperly, instil fear in the population, and engage in corruption or the drug trade.”¹⁵⁰ Strengthening command and control structures within the police remains a high priority. Exploiting traditional security structures to fill a security vacuum may be tempting, but mobilising local militias contradicts the Afghan government’s Disbandment of Illegal Armed Groups programme (DIAG), and sends a strong message that the government is not committed to the disarmament process. Arming ethnically imbalanced militias may have the additional effect of straining inter-ethnic relations if other groups fear persecution.

The Afghanistan Compact established a target for 2010 of creating a fully constituted, professional, functional, and ethnically balanced ANP force of up to 62,000 members, but in 2007, this number was increased to 82,000 (including 18,500 border police) by the Joint Coordination and Monitoring Board (JCMB) in an effort to combat an increasingly violent insurgency. Later, amid fears that the 2009 presidential elections would spark widespread violence across the country, the ANP’s authorised strength

¹⁵⁰ House of Lords, “The EU’s Afghan Police Mission: Report with Evidence,” HL Paper no. 87, 16 February 2011, <http://www.publications.parliament.uk/pa/ld201011/ldselect/ldcom/87/87.pdf>.

was raised to 96,800. In January, 2010, the JCMB approved further force strength increases of 109,000, to be achieved by October, 2010, and 134,000, to be reached by October, 2011. These increases have raised concerns within the donor community about the fiscal sustainability of the ANP, and whether it is truly possible to provide the level of police coverage needed to provide security in certain areas, especially in the southern and eastern parts of the country.

4.3.2 State of the Police Sector in Afghanistan

When the international community first intervened in Afghanistan, the challenge facing donors in the field of police reform was to build up an Afghan-led force capable of simultaneously performing counter-insurgency tasks and providing civilian policing. This required not only the recruitment of large numbers of officers, but also the provision of specialised training structures designed to improve specific skills, including basic literacy. With heavy ethnic imbalances and most officers showing loyalty to their regional commanders instead of to the Ministry of the Interior, the police had become a highly factionalised institution. The police had neither the training, nor the resources, nor the organisational structure necessary to accommodate the security needs of the population. Organised as a paramilitary institution, the police functioned as “a coercive arm of the state rather than a national civilian police force,”¹⁵¹ and were widely mistrusted in Afghan society. Police involvement in kidnappings, bank robberies, extortion, and drug trafficking contributed to a rising crime rate, and a general perception that the organisation was an active source of

¹⁵¹ E. Gross. “Security Sector Reform in Afghanistan: The EU’s Contribution.” *Occasional Paper 78*. Paris: European Union Institute for Security Studies, 2009, p. 25.

insecurity, rather than a force for safeguarding the public.¹⁵² A spokesperson for the Afghan Independent Human Rights Commission claimed that 15% of all reported human rights violations from May to November of 2004 had been carried out by the police themselves,¹⁵³ and routine failure to prosecute cases involving murder and torture had left Afghanistan without a credible rule of law system.¹⁵⁴

4.3.3 Progress on Police Reform

The police reform process was formally launched in March, 2002 when the German and Afghan Interior Ministries signed an agreement authorising the GPPO to oversee the training of Afghan police. From 2002 to 2006, the GPPO administered \$80 million of bilateral aid from Germany, re-establishing the National Police Academy in Kabul to offer training for commissioned officers (*Saran*) and non-commissioned personnel (*Satanman*). By the beginning of 2006, the Academy had produced 3,302 graduates, including 251 *Saran*, 2,299 *Satanman*, and 752 border police.¹⁵⁵ These numbers were clearly insufficient, even in 2006 in the context of the ANP's relatively small force strength target of 62,000 officers, as set down in the Afghanistan Compact. The German training model effectively reconstituted the higher ranks of the police, reforming pay scales and matching police salaries to those of the ANA. A three-year training course was also provided to the *Saran* and one-year courses were provided for the *Satanman*, but the problem was that this strategy largely overlooked the training of rank-and-file patrolmen (*Satunkai*), who are the main interface between

¹⁵² B. Rubin. "Saving Afghanistan." *Foreign Affairs* 86, no. 1 (2007): 57-78.

¹⁵³ C. Hodes, and M. Sedra. "The Search for Security in Post-Taliban Afghanistan." *Adelphi Paper* 391. New York: International Institute for Strategic Studies, 2007.

¹⁵⁴ Institute for War and Peace Reporting. *Afghan Press Monitor*, no. 51, 25 November 2004.

¹⁵⁵ German Federal Foreign Office and Federal Ministry of Interior. "Assistance for Rebuilding the Police Force in Afghanistan." Berlin: Federal Foreign Ministry and Federal Ministry of Interior, 2005.

the police and the population. The majority of *Satunkai* have a militia background and no formal police training, making them very poorly suited to community policing.¹⁵⁶ Consequently, the GPPO's police reform strategy was slow to produce results, and the United States entered the process in 2003 to create a large-scale training system for Afghanistan's rank-and-file police.

US support was channelled through the private security corporation DynCorp International, which was contracted to construct a Central Training Centre in Kabul and seven Regional Training Centres around the country. The curriculum used at these training centres emphasised large-scale recruitment and a speedy period of formation, focusing on the paramilitary aspects of policing in an active conflict zone. By mid-2007, over 71,000 police officers had been trained through the US system. The training featured a five-week course for illiterate officers, a nine-week course for literate officers, and a fifteen-day Transition Integration Programme designed to re-orient "veteran police."¹⁵⁷

Early attempts at SSR revealed major differences between the US conception of the Afghan security sector actors and the German (and later, the European) vision for the Afghanistan's security. Whereas the US-led development of the ANA involved creating a new institution from scratch, the German government was unprepared to allocate the resources which would have been necessary to create a corresponding civilian police force from scratch. Instead, disbanding the police was not entertained as a serious option due to the security vacuum which would be created, and Germany

¹⁵⁶ Sedra, M. "Challenging the Warlord Culture: Security Sector Reform in Afghanistan." *Paper 25*. Bonn: Bonn International Centre for Conversion, 2002.

¹⁵⁷ United States Government Accountability Office. "Afghanistan Security: Efforts to Establish Army and Police Have Made Progress, but Future Plans Need to Be Better Defined." Washington, DC: GAO, 2005, p. 20.

was left with only one option: seeking to transform existing structures and personnel. The Afghan government endorsed the initial recruitment target of 62,000 for the ANP, based on calculations derived from the police-to-citizen ratio seen in Germany.¹⁵⁸ However, this figure proved to be unreasonably low for a country with low population density, a rugged geography, and an ongoing insurgency, and the rate at which the GPPO produced new recruits was far from meeting the requirements of the Afghan government. Subsequent increases in the target numbers have favoured the US approach of quickly training large classes of recruits, and on paper, the ANP consisted of 96,000 officers as of February, 2011. The actual number of officers active across the country is difficult to estimate, thanks to a significant attrition rate.

Unfortunately, the quality of this training has often been questioned. Only about 10% of the recruits have met the literacy requirements for the nine-week course, which comes the closest to meeting the basic standards of police education that would be expected in a developed country.¹⁵⁹ As of June, 2006, only 30,395 officers were judged to have met basic readiness criteria in terms of their training, unit staffing levels and equipment status.¹⁶⁰ There have also been claims that the attrition rate among police may be as high as 75%.¹⁶¹ This is undoubtedly a high estimate, but 2006 estimates of 15-30% suggest that whatever the true figures, the problem is

¹⁵⁸ Inspectors General of the US Department of State and the US Department of Defense, "Interagency Assessment of Afghanistan Police Training and Readiness." Washington, DC: Department of State and Department of Defense, 2006.

¹⁵⁹ C. Hodes, and M. Sedra. "The Search for Security in Post-Taliban Afghanistan." *Adelphi Paper 391*. New York: International Institute for Strategic Studies, 2007.

¹⁶⁰ Inspectors General of the US Department of State and the US Department of Defense, "Interagency Assessment of Afghanistan Police Training and Readiness." Washington, DC: Department of State and Department of Defense, 2006.

¹⁶¹ House of Lords, "The EU's Afghan Police Mission: Report with Evidence," HL Paper no. 87, 16 February 2011, <http://www.publications.parliament.uk/pa/ld201011/ldselect/ldcom/87/87.pdf>.

extremely widespread.¹⁶² Attrition may be due to a number of factors, not least of which is the dangerous nature of the job. The Taliban has consistently identified the ANP as a more visible, softer target than the ANA or foreign troops, and the police have borne the brunt of the casualties during the insurgency.¹⁶³ Other relevant factors may include the inadequacy of salaries and working conditions, the unwillingness of most officers to be deployed far from their homes and families, and disillusionment with corrupt processes. Ultimately, the job Afghanistan's police are being asked to do is incredibly challenging, and involves elements of both civilian policing and military functions.

With much of the US training model focused on preparing for the rapid deployment of large numbers of police (often in quasi-military roles such as manning checkpoints, securing objectives, and guarding static installations from the Taliban) the EUPOL Afghanistan mission remains the only multilateral mission providing training and expertise in civilian policing. The mission's objectives have been formulated as:

- 1) Developing police command, control and communications for the Ministry of the Interior and the ANP;
- 2) Developing intelligence-led policing;
- 3) Building the capabilities of the Criminal Investigation Department;
- 4) Developing anti-corruption capacities;
- 5) Improving coordination and cooperation between the police and judiciary, with special emphasis on prosecutors; and

¹⁶² Inspectors General of the US Department of State and the US Department of Defense, "Interagency Assessment of Afghanistan Police Training and Readiness." Washington, DC: Department of State and Department of Defense, 2006.

¹⁶³ International Crisis Group. "Reforming Afghanistan's Police," *Asia Report 138*. Brussels: International Crisis Group, 2007.

- 6) Mainstreaming a culture of respect for human rights and gender equality in the Ministry of the Interior and the ANP.

These priorities are pursued mainly through the activities of training, mentoring, monitoring and advising, and have resulted in a number of programmes planned in conjunction with the Afghan Ministry of the Interior. Among these programmes have been the “Ring of Steel” initiative, setting up roadside vehicle checks outside busy entrances to Kabul, and the “Train the Trainers” programme, which aims to foster local ownership of the training process by educating senior Afghan police officers who may then pass on their training to subordinates in the hopes of creating a trickle-down effect. Despite the achievements of EUPOL Afghanistan, the enormous resource gap which persists between EU and US contributions to police reform undermines the case for the EU to play a coordination role, and results in a continuing imbalance in the focus of police training.

EUPOL Afghanistan was also hampered by several difficulties at its outset.

Administrative and security problems prevented the mission staff from leaving base camp before certain equipment was procured (notably IT equipment and armoured vehicles), and the absence of a formal agreement between the EU and the NATO-led ISAF has caused delays in deploying staff through the PRTs. Technical agreements are required between the EU and each individual state in charge of a PRT, and in the case of Turkey and the US, such agreements have proven difficult to draft.¹⁶⁴

Similarly, trouble in procuring adequate numbers of staff has prevented EUPOL Afghanistan from making as much of an impact as had been hoped. Of the authorised 400 personnel, only some 284 staff (including 90 local and 184 international officers)

¹⁶⁴ E. Gross. “Security Sector Reform in Afghanistan: The EU’s Contribution.” *Occasional Paper 78*. Paris: European Union Institute for Security Studies, 2009.

are currently employed in Afghanistan.¹⁶⁵ As a result, many areas of the country are simply not able to be covered, and efforts have often been confined to the five regional commands of Kabul, Mazar e-Sharif, Kandahar, Herat, and Bagram. Limitations in the geographic coverage of the EUPOL Afghanistan mission have negatively affected its ability to improve civilian policing in more remote rural areas, and have contributed to sharply differing popular perceptions about the police from one region to the next.¹⁶⁶

4.4 The Justice Sector in Afghanistan

Justice sector reform consists of both top-down institutional reforms and bottom-up public access initiatives. Establishing the rule of law in a failed state environment requires there to be “legal norms and institutions necessary for the creation, interpretation, and application of the law,”¹⁶⁷ and these are at the very core of any attempt to promote the rule of law. Police reform without accompanying reform to the justice sector is likely to fail, and in Afghanistan, even where the police have made arrests, the percentage of cases brought to trial and resulting in convictions has been minute. A key part of EUPOL Afghanistan’s mission must be coordinating police and justice sector reforms, in order to support the creation of a police force capable of not only discovering and processing evidence of crime, but of producing proper convictions as a result.

¹⁶⁵ European External Action Service. EUPOL Afghanistan, “State of Deployment,” <http://www.consilium.europa.eu/uedocs/cmsUpload/SPARpresentationwithoutfigures.pdf>.

¹⁶⁶ United Nations. UNDP, “Police Perception Survey 2010,” <http://www.undp.org.af/publications/KeyDocuments/2011/Police%20Perception%20Survey%20Book%202010%20FINAL%20%286th%20Jan%202011%29.pdf>.

¹⁶⁷ D. Tolbert and A. Soloman. “United Nations Reform and Supporting the Rule of Law in Developing Countries.” *Harvard Human Rights Journal* 19 (2006): 29-63, pp. 44-5.

The major donors contributing towards justice sector reform are the United States, the United Kingdom, Italy, Germany, Norway, Canada, and the United Nations.

Following the London Conference of 2006, the European Commission has also taken a greater hand in justice sector reform, improving the coordination between police and justice reform efforts in spite of the fact that they remain separate pillars of the overall SSR agenda. While judicial reforms did initially suffer from neglect and an overall lack of coordination both within the international community and between different Afghan agencies, the European Commission has become increasingly involved in justice sector reform since 2006, taking on a coordination role through its contributions to the LOTFA and to various PRTs administered by EU Member States. EUPOL Afghanistan mentors have also been placed in the judiciary to assist in developing a culture among Afghan police of respect for human rights and the rule of law.

Drafting legislation, increasing the availability of legal aid, organising public awareness campaigns, and coordinating with other government priorities such as land reform, counter-narcotics, and anti-corruption measures are all important elements of justice sector reform. In addition, local justice mechanisms such as village *jirgas* and *shuras* must often be adjusted so that they conform to the national code of laws and to international standards of human rights. These tasks are particularly challenging in Afghanistan because many judges and their staff have very little training, and the infrastructure needed for a functioning judiciary is often missing. Although important progress has been made in the area of justice sector reform, it will remain a key challenge with major implications for the credibility of the Afghan government and the security sector as a whole.

4.4.1 Structure of the Justice Sector in Afghanistan

The main permanent institutions which are engaged with and subject to justice sector reform are: the Ministry of Justice; the court system, headed by the Supreme Court; and the Office of the Attorney General.

The Ministry of Justice often serves as the primary link between the court system and the people of Afghanistan. Within the Ministry of Justice, the *Hoquq* (General Legal Department) provides the public “face” of the Afghan justice system, and may conduct preliminary investigations before a case is brought to court.¹⁶⁸ The *Hoquq* provides alternative dispute resolution services such as mediation, and any member of the public may turn to it for State-run dispute resolution. Although this department has offices in every district, by far the largest department in the Ministry of Justice is the Department of Prisons, which was run by the Ministry of the Interior before 2003. The *Taqnin* (Legal Drafting Department) is tasked with scrutinising all draft laws and ensuring their compatibility with the Constitution, Islamic law, and international legal standards. It provides a conduit between line ministries wishing to pass draft laws and the Council of Ministers, which is tasked with generating such laws. The Ministry of Justice also operates in a number of other areas, including policy formation, regulation, performance monitoring, implementing and coordinating the justice sector reform process laid down in the ANDS, and providing legal services to the population.

¹⁶⁸ Afghanistan. Ministry of Justice, “Overview of the Ministry,” <http://moj.gov.af/en/page/1667>.

The courts are tasked with settling disputes that are not resolved in their preliminary stages by the *Hoquq*. The Constitution of Afghanistan establishes a 9-member *Stera Mahkana* (Supreme Court) with subordinate appeals courts and high courts. The *Stera Mahkana* has jurisdiction over constitutional disputes, and is the court of last resort for all appeals. Judges are appointed by the president with approval from the *Wolesi Jirga* (People's House; the lower house of the Afghan Parliament), and serve 10-year terms. However, due to the country's highly personalised power structures, this system of appointments undermines accountability and lends itself towards the politicisation of the judiciary. Judges are permitted to be trained in either civil or Islamic law, and in cases dealing with personal matters pertaining to those of the Shiite sect of Islam, the judiciary is able to apply the Shia school of law.

Afghanistan's legal system is based on a mixture of civil law and *Sharia* law, and does not recognise compulsory jurisdiction of the International Court of Justice. The Constitution of 2004 is the primary source of law, with statutes providing a secondary source. Islamic law may be applied where it is not in contradiction with statute or the Constitution, and customary law is regarded as a legitimate source of law in cases where a dispute is not covered by any of the other three sources.

Authority over anti-corruption measures and the investigation of crimes rests with the Attorney General's Office. According to Article 134 of the Constitution, the office is required to be completely independent, but in practice, the doctrine of judicial independence is compromised in Afghanistan. In early 2011, the current Attorney General, Mohammed Ishaq Aloko, accused US Ambassador Karl Eikenberry of overstepping his bounds by making the unusual and undiplomatic suggestion that the Attorney General step down from his position if he were not prepared to charge the

Chairman of the Afghan United Bank for fraud.¹⁶⁹ The implication of Aloko's response was that the Office of the Attorney General was under inappropriate pressure from the Americans, rather than from influential figures within Afghanistan, as had been suggested by un-named US officials quoted in the Washington Post prior to Eikenberry's remarks.¹⁷⁰ Nevertheless, Aloko was summoned to appear before Parliament in April, 2011 to answer accusations that his office was deliberately delaying investigations into high-profile political figures who were suspected of corruption. Deputy Attorney General Fazl Ahmed Faqiryar also alleged in 2010 that he was forced into retirement for pursuing such investigations.¹⁷¹ In addition to his suspected interference in anti-corruption proceedings, Aloko has also adopted a highly critical position on the results of the 2010 Parliamentary elections, expressing hope that a special court convened by Karzai to answer allegations of vote-rigging would void the results for roughly one quarter of the seats in the *Wolesi Jirga*.¹⁷² Despite the clear need for scrutiny of the electoral process, there can be no doubt that the Attorney General's Office has a highly politicised role. Aloko's suggestion of bringing criminal charges of electoral fraud against those representatives occupying the disputed Parliamentary seats highlights why justice sector reform itself is an inescapably political process.

4.4.2 State of the Justice Sector in Afghanistan

¹⁶⁹ Islamic Republic of Afghanistan. Government Media and Information Centre, "Office of Attorney General Does Not Receive Order from Anybody," <http://www.gmic.gov.af>.

¹⁷⁰ G. Miller, and E. Londoño. "US Officials Say Karzai Aides are Derailing Corruption Cases Involving Elite," *Washington Post*, 28 June 2010.

¹⁷¹ D. Riechmann, and R. Faiez. "Afghan Deputy Attorney General Forced to Retire." *ABC News International*, 28 August, 2010, <http://abcnews.go.com/International/wireStory?id=11504752>.

¹⁷² R. Nordland, "Afghan Official Expects Court to Void Election," *New York Times*, 18 January 2011.

For several years following the American-led invasion of Afghanistan, little attention was devoted to reforming the judiciary, as compared to the tasks of training and equipping large numbers of security forces to assist in combat and counterinsurgency operations. According to a World Bank report for the fiscal year 2003-4, only 3% of expenditures in the security sector were devoted to justice sector reform.¹⁷³ In 2004, Thier noted that “every aspect of a functioning judiciary is presently absent,”¹⁷⁴ with many judges lacking any formal legal training at all. The judicial sector also lacked the necessary physical infrastructure to carry out its duties, and to some degree continues to suffer from a damaged infrastructure. Those court houses, prison facilities, law libraries, and prosecutors’ offices which do exist are often in poor condition or have been damaged by fighting. Proceedings are frequently conducted outdoors or in tents. Additional problems are posed by shortages of office supplies, computers, telephones, generators, furniture, vehicles, stationary, and other materials. Many judges even lack access to basic legal texts. Unsurprisingly, regional variation in the application of the law is very common, with some judges simply applying their own interpretation of *Sharia* law regardless of whether constitutional or statutory law should properly cover the issue in dispute.¹⁷⁵

Beyond the problems of resource shortages and an insufficient physical infrastructure, staffing problems further limit the effectiveness of the judiciary. Judges and their staff are sometimes forced to work in conditions of great personal danger, and there are far too few qualified candidates to fill the positions needed. A survey conducted by the

¹⁷³ World Bank. Poverty Reduction and Economic Management Sector Unit, “Afghanistan: Managing Public Finances for Development” (Report No. 34582-AF, 2005), http://siteresources.worldbank.org/AFGHANISTANEXTN/Resources/305984-1137783774207/afghanistan_pfm.pdf.

¹⁷⁴ J. Thier. “Re-Establishing the Judicial System in Afghanistan.” *CDDRL Working Paper 19*, Stanford: Stanford Institute for International Studies, 2004, p. 2.

¹⁷⁵ Ibid.

Supreme Court in 2006 revealed that a third of the country's judges held no tertiary education qualifications, and some 400 posts remained vacant during the year, with no candidates qualified to fill them.¹⁷⁶ The Access to Justice at the District Level programme, a 30-month UNDP project funded by the European Commission and launched in late 2005, was designed to refurbish the judicial infrastructure at the district level, which is the main point of contact for the Afghan people. However, with a budget of only 6 million euros, the programme was unable to make a significant impact. An evaluation report conducted in 2008 by the International Development Law Organisation (IDLO) to review two Italian projects found that in spite of the important progress being made in some areas, overall public perceptions of the justice sector remained negative.¹⁷⁷ Restoring popular confidence in the judiciary remains one of the most important challenges for state-building in Afghanistan.

4.4.3 Progress on Justice Sector Reform

The European Commission has contributed to Afghanistan's judicial reform in two main ways: through technical assistance towards the training of judges, lawyers, and other judicial staff; and through various financial contributions. These commitments have been channelled through several different mechanisms, the most important of which are the ARTF, the UNDP Access to Justice at the District Level programme, and the LOTFA, which pays the salaries of Central Prisons Department and Ministry of Justice personnel.¹⁷⁸ Major achievements in justice sector reform have included the

¹⁷⁶ UNAMA. *Afghanistan Justice Sector Overview*, unpublished, 2006, p. 10.

¹⁷⁷ S. Reed. "IDLO Italian-Funded Projects (2005-2008) for Legal and Judicial Reform in Afghanistan" (Evaluation Report: International Development Law Organisation, 2008), <http://www.idlo.int/DOCNews/277DOC1.pdf>.

¹⁷⁸ European Commission. "EU and Afghan Institutions' Joint Efforts on Justice Reform in Afghanistan." Press release, 27 November 2008.

drafting of several key pieces of legislation contributing to a greater harmonisation of Afghan law, and substantial rebuilding of the judicial infrastructure. Progress has also been made in providing training for judges, prosecutors, defence lawyers, and judicial police. Reforms to grading and pay systems have reduced discrepancies between judicial salaries and those of the ANP, but failure to ensure the safety of judges, witnesses, victims, and prosecutors continues to undermine the capacity of the court system to process criminal cases. Corruption also remains as a significant problem.

The judicial reform strategy developed by the Afghan government in October, 2005, and entitled *Justice for All*, called for additional construction or rehabilitation of judicial buildings, including provincial courthouses, district court facilities, and offices for public prosecutors and Ministry of Justice officials. Various international donors have since offered support at each of these levels. USAID has made commitments to assist in the rebuilding of provincial judicial infrastructure, and reconstruction of the district courthouses has been largely managed through bilateral contributions by the PRTs. As the lead-nation on justice sector reform, Italy also funded repairs to prosecutors' offices and the offices used by the Ministry of Justice in Kabul, and to the Faculty of Law and Political Science at Kabul University.¹⁷⁹

Until 2006, when the European Commission began to take a greater hand in justice sector reform, Italy was the lead nation for this pillar of the SSR strategy. Italian efforts were directed through the Italian Justice Office (IJO), which began operating in 2003 with four staff in Kabul. Advisors from various European donor countries were placed in the Ministry of Justice, the Supreme Court, and the Office of the

¹⁷⁹ C. Hodes, and M. Sedra. "The Search for Security in Post-Taliban Afghanistan." *Adelphi Paper* 391. New York: International Institute for Strategic Studies, 2007.

Attorney General, and several multilateral assistance missions were carried out between 2003 and 2006 to cater to a range of needs. These were intended to include the provision of legal training, institutional capacity building, prison system reform, legislative reform, and rebuilding of the judiciary's physical infrastructure. The Access to Justice at the District Level programme also worked with traditional dispute resolution mechanisms, which the majority of Afghans use instead of the formal court system. Unfortunately, these early efforts were seriously under-resourced, and the level of staffing provided by Italy proved to be far too small to make the necessary impact within the justice sector of Afghanistan.

The Interim Training for the Afghan Judiciary programme, launched in July, 2003, was the first major training programme. Funded by Italy and managed by the IDLO, the programme provided some 500 judges, prosecutors, and Ministry of Justice staff with "skills-oriented" training over a period of 18 months. The IDLO has subsequently been responsible for two specialised training projects, funded by Italy and the Canadian International Development Agency (CIDA), but these projects were sharply criticised by the Afghan government for failing to base the training on any kind of empirical needs-assessment of the justice sector's most pressing priorities. The Provincial Justice Initiative, an Italian-led training programme launched in 2004, trained groups of Afghan trainers and deployed them across the country to help build institutional capacity at the sub-national level. This programme supplied training and equipment, including computers, generators, and mobile phones, to groups of fifty jurists per province across eight provinces, but was also criticised for failing to include any monitoring and evaluation component. It is therefore very difficult to identify specific impacts which this programme might have had. While the new

equipment did alleviate some administrative difficulties, many of those receiving training from the programme were not applying what they had learned, and monitoring undertaken by the United Nations Assistance Mission to Afghanistan (UNAMA) found that judges were “not applying fair trial standards or properly implementing the Interim Criminal Procedure Code.”¹⁸⁰ The *Stera Mahkana* has since established a Judicial Training and Education Committee to coordinate the planning, implementation, and evaluation of staff training programmes.

Since the European Commission took over from Italy as the “lead-nation” for justice sector reform, the government of Afghanistan has been taking increasing ownership of the justice sector reform process. To support this process, international commitments to justice sector reform were refocused in 2006 with the creation of the International Coordination Group on Justice Sector Reform. The direction of this new body was discussed at the Rule of Law Conference in Dubai in December, 2006, and at the Rome Conference on Justice and Rule of Law in Afghanistan, in July, 2007. At these conferences, representatives of the government of Afghanistan and of the major donors to justice sector reform agreed on several joint goals, underlying principles, and key actions, including the establishment of a National Justice Programme, a National Justice Sector Strategy, and a mechanism for pooling donor funding. The Rome Conference also resulted in the creation of an Afghan-led organisation which would be responsible for monitoring and evaluating justice reform initiatives under the auspices of the JCMB. With guidance from the UNAMA Rule of Law Office, the Afghan Ministry of Justice, the *Stera Mahkana*, and the Office of the Attorney General each prepared five-year plans for reform strategy as part of the ANDS

¹⁸⁰ UNAMA. *Afghanistan Justice Sector Overview*, unpublished, 2006, p. 11.

process. In November, 2007, these strategies were combined into the what is widely regarded as the best-developed of the ANDS strategies to date.¹⁸¹ The National Justice Programme and the National Justice Sector Strategy were finalised in March, 2008, laying the foundations for the creation of the Project Oversight Committee (POC) composed of high-level officials from the Afghan government. This committee now sets the strategic agenda for prioritising justice sector reform initiatives. In 2010, the National Priority Programme entitled *Law and Justice for All* placed major focus on the parts of the legal system considered “most relevant to the way citizens experience the legal system and the rule of law.” This will entail meeting a series of targets for 2011, including: enacting the draft Criminal Procedure Code to replace the Interim Criminal Procedure Code; preparing commentaries on the Civil and Penal Codes to assist legal professionals in interpreting them; developing state policy and capacity for returning illegally seized lands; expanding the ambit of anti-corruption tribunals; and improving the provision of legal aid services.

In terms of harmonising international support for reform of the Afghan judiciary, the European Commission has not taken on the same sort of coordination role that EUPOL Afghanistan was mandated to fulfil for the police sector. However, there are a number of linkages between European initiatives on police and justice sector reform. The staff of EUPOL Afghanistan includes significant numbers of justice and rule of law experts, and a Commission representative sits on the IPCB. Regular monthly meetings between the EUSR, the Commission, and EUPOL Afghanistan, as

¹⁸¹ Afghanistan Research and Evaluation Unit. *The A to Z Guide to Afghanistan Assistance*, edited by J. Lamey. Kabul: AREU, 2011.
<http://www.areu.org.af/Uploads/EditionPdfs/1103E%20A%20to%20Z%20Guide%202011.pdf>.

well as more informal exchanges, have contributed to a close working relationship between the three.¹⁸²

4.5 Conclusions

Since the European Commission took the lead on justice sector reform in 2006, and on police reform in 2007 through the EUPOL Afghanistan mission, coordination of the individual Member States' contributions to both sectors has been greatly improved. Linkages have also been developed between the two sectors. Despite EU engagement becoming more holistic and better coordinated, though, staff and resource shortfalls remain the most serious threats to Europe's performance in the Afghan theatre. EUPOL Afghanistan is operating well below its authorised personnel strength, with many positions failing to attract qualified applicants from the Member States. This is perhaps understandable, due to the dangerous conditions of the work, but if the European donors to the SSR process are serious about their commitments to supporting the emerging Afghan state, greater political and financial support will be essential. Seconding more professionals with the appropriate qualifications from the Member States will improve not only the effectiveness of the EU in coordinating police and justice sector reforms, but also the credibility of European civilian interventions in international eyes. The coordination of EU institutions and instruments with each other is especially important in this regard, and while the Commission, the EUSR, and EUPOL Afghanistan deserve praise for the work they have already done in strategically aligning their respective contributions, improving internal cohesion must be an ongoing focus. Brussels and the Member States must

¹⁸² E. Gross. "Security Sector Reform in Afghanistan: The EU's Contribution." *Occasional Paper 78*. Paris: European Union Institute for Security Studies, 2009.

develop a joint understanding of what sort of commitments they are genuinely prepared to make to Afghanistan. The role which Europe can claim for itself will be decided on the basis of this, and coordinating such holistic efforts as the EU has undertaken should be recognised as the demanding task it is.

5 Analysis and Conclusions

When conducting dilemma analysis, it is essential for questions about the significance of each policy dilemma to be grounded in the local context. Chapter 3 of this thesis identified several challenging factors within the Afghan environment that are contributing to the emergence of these dilemmas. The most important factors were: the warlord problem and the culture of impunity which it has created; the ongoing insurgency, with its disruptive effects for state-building and the security sector; and the illegal economy, particularly with regard to the narcotics trade and the issues of corruption and unaccountability currently plaguing Afghanistan's public institutions. It is no coincidence that the donor community has faced difficult policy dilemmas in Afghanistan. The specific constellation of challenges which exists there has created a situation in which the inherently contradictory aspects of externally assisted state-building will necessarily force the international community to accept difficult trade-offs. Not all international actors prefer to make the same choices when faced with these trade-offs, and although it may be possible to address some of the fragmentation of international efforts through increased information sharing, forging a truly unified strategic consensus means acknowledging that different strategies have different costs. This chapter will analyse the relationships between the contradictions of state-building and the five most prominent policy dilemmas facing the donor community in Afghanistan.

5.1 The Footprint Dilemma

The European Commission has made valuable contributions to Afghanistan's police and justice sectors, but there is no question that the EU's footprint is small relative to that of the United States. This is true in terms of the number of personnel deployed, as well as in regards to the level of financial support being given, and the intrusiveness of the EU's mission. In all three of these ways, the US presence as a donor to the SSR process dwarfs that of the EU.

5.1.1 Externally Supplied Personnel

The staff ceiling of 400 for EUPOL Afghanistan has never been met, and with actual staff numbers usually somewhere in the high 200s, the mission is compromised in terms of both its ability to achieve goals, and its credibility in the eyes of Afghans and the international community. The EU's small footprint and apparent inability to deploy staff in many areas around Afghanistan gives the US and its militarily oriented police reform strategy much greater credibility in the eyes of Afghan government officials.¹⁸³ As a result, the role of the police in society has been framed in a way to be consistent with the US counterinsurgency strategy, with the ANP sometimes being drawn into military operations to support the ANA.¹⁸⁴ This militarised role for the police, coupled with increasing force ceilings and exacerbated by high casualty rates, has led to the development of a situation where the quantity of police officers being trained is treated as a more urgent matter than their quality.

¹⁸³ House of Lords, "The EU's Afghan Police Mission: Report with Evidence," HL Paper no. 87, 16 February 2011, <http://www.publications.parliament.uk/pa/ld201011/ldselect/ldcom/87/87.pdf>.

¹⁸⁴ Ibid.; C. Hodes, and M. Sedra. "The Search for Security in Post-Taliban Afghanistan." *Adelphi Paper 391*. New York: International Institute for Strategic Studies, 2007.

As a reflection of this prioritisation, salaries for military-style police forces such as the ABP and ANCOP tend to be much higher than those of the civilian AUP and CID. The starting pay for ANCOP is \$260 per month, compared to the usual \$165 per month for a recruit serving in a regular police unit.¹⁸⁵ In addition, ANCOP requires its officers to have a basic level of literacy, and as a result, literate officers tend to be drawn away from civilian police forces where they could perform valuable duties such as collecting and processing criminal evidence, or bringing cases to trial. Even filling in simple forms required for day-to-day operations of the AUP and the CID require the basic abilities of reading and writing, but in a country with a police illiteracy rate of 90%,¹⁸⁶ most of the literate officers fill the ranks of the militarily oriented ANCOP.¹⁸⁷ Civilian policing has unquestionably suffered as a result.

5.1.2 Financial Support

As outlined in Chapter 1, state-building depends on supporting the state's capacities, reaching a durable political settlement, and imbuing the state with popular legitimacy. State-building is, importantly, more than simple capacity-building for the institutions of government. However, much of the EU's focus in Afghanistan has been directed exclusively to the field of capacity-building. In fact, international involvement as a whole has even tended to undermine the other two facets of state-building by supplying military and financial resources through external channels instead of through the state. This has created many problems, in particular for the legitimacy of

¹⁸⁵ C. Chivers. "Afghan Police Earn Poor Grade for Marjah Mission." *New York Times*, 06 August 2010.

¹⁸⁶ A. Ulrich, and A. Weinzierl. "Illiterate, Corrupt, and Trigger-Happy: German Trainers Describe Pitiful State of Afghan Police." *Der Spiegel*, 04 July 2010, <http://www.spiegel.de/international/world/0,1518,687416,00.html>.

¹⁸⁷ House of Lords, "The EU's Afghan Police Mission: Report with Evidence," HL Paper no. 87, 16 February 2011, <http://www.publications.parliament.uk/pa/ld201011/ldselect/ldcom/87/87.pdf>.

the Afghan government, which derives 90% of its revenue from foreign aid.¹⁸⁸ The primary issue is not the amount of aid being given, but rather its manner of delivery. Up to 80% of the money passes through what is known as the “external budget,” and bypasses the country’s core budget.¹⁸⁹ This dual budgetary system means that most of the public spending in Afghanistan occurs outside the government’s fiscal control, diminishing the relevance and legitimacy of the state, and weakening the national budget as the primary tool for giving meaning to national policy. The European Commission’s economic and technical assistance to Afghanistan have had positive effects, making it possible to distribute large-scale relief and initiate an ambitious programme of reconstruction and modernisation within the police and the judiciary, but this has come at a cost. Unfortunately, the state’s ongoing dependence on external patronage undermines its legitimacy in the eyes of the Afghan people, and the externally driven reform process has not inspired enough feelings of local ownership within the population.

5.1.3 Intrusiveness

While it aims to fundamentally overhaul the structure of Afghanistan’s justice and police sectors, the EU’s footprint has tended to be much less intrusive than that of the US. EUPOL Afghanistan has been unable to deploy significant numbers of staff to many provinces, and the nature of relations between the police and Afghan society remains largely unchanged. The legitimacy of the central state is threatened when it cannot deliver public services, and the failure of the ANP to provide even basic

¹⁸⁸ World Bank. Afghanistan Reconstruction Trust Fund, “Promoting Generation of Public Expenditure Reforms” (Background Paper, 2010), http://siteresources.worldbank.org/INTAFGHANISTAN/Resources/Afghanistan-Reconstructional-Trust-Fund/Public-Expenditure-Review_Summary.pdf.

¹⁸⁹ P. Ashdown, and J. Ingram. “Falling Short on Afghanistan.” *New York Times*, 29 April 2009.

redress for injustices in many parts of the country has undermined the state-building process. In many places, the police are still viewed as part of the problem, and a source of insecurity, rather than as protectors.¹⁹⁰

5.1.4 Implications

It appears that in spite of its ambitious aims to transform the nature of the police and judiciary, as well as the relationships those sectors have with each other and with the population at large, the EU's real footprint in Afghanistan is a relatively small one. Certainly it is small when EUPOL Afghanistan is held up against the dominating US presence, and when Member State troop contributions are compared with those of the United States. The small footprint has limited the EU's effectiveness at achieving mission objectives, and its credibility as a strategic coordinator. The character of Afghanistan's police has been allowed to develop along the paramilitary dimension, while civilian policing, which has less immediate impacts on the insurgency, has languished as a result.

However, the much larger US footprint is not without its drawbacks. The initial justification for state-building which was given in Washington was based on the assumption that a functioning democratic order would deny sanctuary to terrorists and actively help resolve the insurgency. Therefore, the US adopted an ambitious transformational agenda which envisaged revolutionising the terms of state-society relations in Afghanistan, in much the same way as the EU aims to revolutionise relations between society and the police and justice sectors. Yet even substantial

¹⁹⁰ House of Lords, "The EU's Afghan Police Mission: Report with Evidence," HL Paper no. 87, 16 February 2011, <http://www.publications.parliament.uk/pa/ld201011/ldselect/ldcom/87/87.pdf>.

military pressure from the US has failed to achieve these political aims. As Astri Suhrke writes, it now seems that “the statebuilding venture can only be rescued if it is separated from the pursuit of the ‘war on terror,’ and if the insurgency is successfully dealt with.”¹⁹¹ Thanks to the culture of impunity surrounding well-known and widely reviled warlords, many Afghans have become disillusioned with the intervention and with their new government, and the kind of political settlement which was envisaged by the signatories to the Bonn Agreement of 2001 has not come about. Frequent casualties of Afghan civilians have exacerbated the problem, helping to alienate many local communities.¹⁹² The large US presence is also causing domestic support within the US itself to waver as casualties mount and public opposition to the continuing war in Afghanistan becomes stronger.¹⁹³ Similarly, troop contributions from EU Member States have aroused some domestic opposition,¹⁹⁴ and European politicians have applauded US decisions to reduce the scale of their military presence in Afghanistan.¹⁹⁵ On the other hand, there have been few calls, if any, for the support to police and justice sector reform to be cut off. EUPOL Afghanistan reports that the mission is well liked by the Afghan people.¹⁹⁶

¹⁹¹ A. Suhrke. “The Dangers of a Tight Embrace: Externally Assisted Statebuilding in Afghanistan.” in *The Dilemmas of Statebuilding: Confronting the Contradictions of Postwar Peace Operations*, edited by R. Paris and T. Sisk, 227-51. New York: Routledge, 2009, p. 247.

¹⁹² J. Straziuso. “US Guidelines Aim for Fewer Afghan Civilian Deaths.” *Seattle Times*, 06 July 2009.

¹⁹³ Rasmussen Reports. “59% Want Troops Home from Afghanistan,” *Public Opinion Survey*, 11 August 2011,

http://www.rasmussenreports.com/public_content/politics/current_events/afghanistan/59_want_troops_home_from_afghanistan; Pew Research Center. “50% Bring Troops Home from Afghanistan,” *Public Opinion Survey*, 03 April 2011, <http://pewresearch.org/databank/dailynumber/?NumberID=1233>.

¹⁹⁴ P. Beaumont, and J. Burke. “Should We Bring our Troops Home from Afghanistan?” *The Observer*, 08 November 2009, <http://www.guardian.co.uk/commentisfree/2009/nov/08/observer-debate-afghanistan>.

¹⁹⁵ J. Burns. “France Plans Reduction of its Afghan Troops.” *New York Times*, 23 June 2011, <http://www.nytimes.com/2011/06/24/world/europe/24allies.html>; E. Ganley, and J. Keaten. “Europeans Hail US Drawdown from Afghanistan.” *Navy Times*, 23 June 2011, <http://www.navytimes.com/news/2011/06/ap-europeans-hail-us-afghanistan-drawdown-062311>.

¹⁹⁶ European Commission. “EUPOL: Serving Afghanistan.” (Newsletter of the European Union Police Mission in Afghanistan, 19 April 2010), http://www.consilium.europa.eu/uedocs/cmsUpload/100419%20EUPOL-Serving%20Afghanistan%206_10.pdf.

5.2 The Duration Dilemma

The duration dilemma is closely related to the footprint dilemma. Foreign military forces are more likely to wear out their welcome when they have a large and intrusive footprint, but also when they are deployed for too long.¹⁹⁷ However, timescales for the withdrawal of foreign military forces from Afghanistan are vastly different from the timescales necessary for building a working justice sector infrastructure, and a police force capable of using it. A functioning security environment is a basic requirement for state-building, which has always been envisioned as a post-conflict activity, but there are serious doubts as to whether the Afghan security forces will be able to assume the burden of providing security on their own.¹⁹⁸ Once international troops depart, the level of support which the insurgency will receive from other regional powers such as Iran and Pakistan also remains unknown.

In Afghanistan, the EU's footprint and duration dilemmas are both bound up with the contradiction between short-term and long-term imperatives. Given the ongoing problem of the Taliban-led insurgency, the need to establish a secure environment for trainers to train the ANP has meant that civilian policing and establishing the rule of law have become lower priorities than military-style policing. Officers are trained too quickly for a truly dangerous job, and most of their training revolves around survival skills.¹⁹⁹ Quality control of the police will remain a crucial issue for managing a

¹⁹⁷ R. Paris, and T. Sisk, eds. *The Dilemmas of Statebuilding: Confronting the Contradictions of Postwar Peace Operations*. New York: Routledge, 2009.

¹⁹⁸ B. Smith. "Security Transition Begins in Afghanistan." *Al Jazeera*, 17 July 2011, <http://english.aljazeera.net/news/asia/2011/07/201171754513968204.html>.

¹⁹⁹ M. Clark. "Training Afghan Police Remains Biggest Challenge." *CBS News*, 24 August 2010, <http://www.cbsnews.com/stories/2010/08/22/eveningnews/main6796001.shtml>; A. Ulrich, and A.

successful transition. When the GPPO was able to administer three-year training modules it was possible to monitor the quality of recruits with some accuracy, but the shorter eight-week courses have sacrificed quality for quantity. Concerns have been voiced over the vetting procedures both at the start of training and at its conclusion.²⁰⁰ Some 20% of graduates fail their drug tests,²⁰¹ and the scale of Taliban infiltration of the ANP is impossible to estimate. Given the ease with which Afghans may obtain entry into an organisation desperate for numbers, it can be assumed that vetting procedures are not adequate to prevent infiltration of the police.²⁰² Thankfully, the record of attacks by Taliban “sleepers” has been small so far, and given the lack of meaningful data about who prospective recruits really are – beyond a basic family or tribal level – vetting candidates remains a distant dream. Initiatives such as the US-led Personal Asset Inventory, which documents the holdings of police officers using biometric technology, will take time to provide a workable baseline.

Without time for a host country’s political institutions to implement reforms and consolidate the rule of law, an intervention actually has the potential to do harm over the long run. Afghans worry in particular over the loyalty of informal police (*arbakai*) such as the LDI/CDI or the ALP towards the central state.²⁰³ If command and control mechanisms are not robust, these forces could easily feed a future generation of local

Weinzierl. “Illiterate, Corrupt, and Trigger-Happy: German Trainers Describe Pitiful State of Afghan Police.” *Der Spiegel*, 04 July 2010, <http://www.spiegel.de/international/world/0,1518,687416,00.html>.

²⁰⁰ House of Lords, “The EU’s Afghan Police Mission: Report with Evidence,” HL Paper no. 87, 16 February 2011, <http://www.publications.parliament.uk/pa/ld201011/ldselect/ldcom/87/87.pdf>.

²⁰¹ A. Ulrich, and A. Weinzierl. “Illiterate, Corrupt, and Trigger-Happy: German Trainers Describe Pitiful State of Afghan Police.” *Der Spiegel*, 04 July 2010, <http://www.spiegel.de/international/world/0,1518,687416,00.html>.

²⁰² C. Hodes, and M. Sedra. “The Search for Security in Post-Taliban Afghanistan.” *Adelphi Paper 391*. New York: International Institute for Strategic Studies, 2007.

²⁰³ House of Lords, “The EU’s Afghan Police Mission: Report with Evidence,” HL Paper no. 87, 16 February 2011, <http://www.publications.parliament.uk/pa/ld201011/ldselect/ldcom/87/87.pdf>; I. Ngogwugwu. “Fears Surface over US-Trained Local Afghan Police.” *This Day Live*, 19 July 2011, <http://www.thisdaylive.com/articles/fears-surface-over-us-trained-local-afghan-police/93513>.

warlords in Afghanistan, or even provide former warlords with a convenient way of preserving their existing militias under a new name. It is therefore very important for the international community to withdraw in such a way that Kabul's control over its own legal armed groups can remain intact. The EU's exit strategy and transition of Afghanistan's government towards full autonomy are tightly bound up with the duration dilemma. The question for the coming years will be whether the Afghan security forces are indeed ready to operate independently. It remains to be seen whether the absence of foreign military protection will compromise the ability of Afghan security forces to do their jobs. Several European countries including France, Germany, and Spain have announced decisions to scale back their troop deployments, but have promised that Afghan security forces will continue to receive support, training and equipment.

The longer a large and visible foreign presence is deployed in a host country, the more resistance it tends to encounter, so in light of the US draw-down and the transition to Afghan control, it is wise for the EU to "play for time," so to speak, by reducing its already small footprint and taking even more of an advisory role. EUPOL Afghanistan already operates with a far less visible footprint than the NTM-A, and the "Train the Trainers" programme of police mentoring will be a particularly important element in managing the transition process successfully. Although its scope and coverage will be limited, the mission is well situated to take advantage of a longer deployment than foreign military forces would be given. State-building must be a long-term process, but because of political considerations not altogether conditioned by the needs of state-building, large-scale withdrawal of foreign military forces is now a foregone conclusion.

5.3 Participation Dilemmas

A key challenge for state-builders is to ensure that the institutions of an emerging state are perceived as legitimate by the local population. This is not something which can be externally directed, because conceptions of legitimacy are grounded in local experience. However, people do mistrust the state when they believe its leaders are unrepresentative, corrupt, criminal, or above the rule of law. Trust is particularly fragile in Afghanistan, where there has never been a strong central government, and where factionalism and ethnic conflict have historically led groups which control the state to use its coercive power against rivals, rather than on behalf of the public good. Realistically, the international community must often draw former combatants – especially potential spoilers – into the political settlement. The requirement from a state-building perspective is to engage other segments of society in post-conflict politics as well. The more the population can see the institutions of the state used by a wide range of different – even conflicting – interest groups, the more the state’s popular legitimacy grows.

Promoting local ownership in the political process inevitably involves deciding who the “owners” should be, and it is here that the international community faces a participation dilemma. Paris and Sisk point to a distorting effect which state-building interventions can have, comparing the international presence to “a powerful magnet in an electric field.”²⁰⁴ By entering into a partnership with factional leaders, warlords, and other figures with ties to armed groups, crime, the illegal economy, and the

²⁰⁴R. Paris, and T. Sisk. “Conclusion: Confronting the Contradictions.” in *The Dilemmas of Statebuilding: Confronting the Contradictions of Postwar Peace Operations*, edited by R. Paris and T. Sisk, 304-15. New York: Routledge, 2009, p. 308.

insurgency, the international community has damaged the credibility of the state. This problem derives from the simultaneous need for social justice and a clean break with the past. One of the participation dilemmas in Afghanistan revolved around the so-called Northern Alliance, which made use of existing military structures to fight the Taliban in exchange for allowing militia commanders to become partners in the state-building project. Given the primacy of military concerns to the US at the outset of its involvement in Afghanistan, the choice was made to incorporate these questionable local commanders into the new government, at the cost, most likely, of some of the long-term legitimacy of the state.

Beyond the question of working with unrepresentative leaders, the EU has been forced to take a hand in the actual decision-making process for implementing reforms. This additional facet of the participation dilemma concerns the role played by the international community itself. The policy dilemma has its origins in another of the contradictions embedded in the idea of state-building: namely, that external control is required to stimulate local ownership. By diverting the attention of Afghan authorities towards externally defined objectives, such as the force strength targets for the police, the EU and other donors prevent local stakeholders from pursuing their aims in a more undirected way. Security is not the product of a mathematical formula, and it could well be that qualitative indicators of police competency would be more helpful for building institutional capacity in the Afghan context than the quantitative metrics advanced by donor governments. Such quantitative goals are helpful for the donors to show apparently concrete progress along a very visible dimension of police reform, but the increases to the *tashkeel* have proven to be both economically unsustainable and ineffective when it comes to providing the rule of law.

5.4 The Dependency Dilemma

Related to the footprint and duration dilemmas is the problem of fostering dependency within the institutions of a host country. When the population is led to rely on large flows of assistance, managed externally and directed according to externally influenced strategic decisions, the state-building project risks working against its own long-term goal of developing a legitimate, self-reliant government. Dependency dilemmas are especially closely related to two contradictions embedded in the concept of state-building. Firstly, at the outset of an intervention, external control is often necessary to create the conditions for sustainable security and self-government. Secondly, spending can often be influenced by donor preconceptions of local needs, with supposedly universal values being promoted as a remedy for problems originating in a distinctly local context. The values of democratic governance, human rights, gender equality, and free-market economics tend to condition most long-term planning for state-building missions, but in Afghanistan there is a large segment of the population for whom such values are simply not representative or legitimate. Dismissing the opinions of such people may be required for the international community to pursue its vision of what an emerging state should resemble, but local sources are often those best qualified to identify needs and their appropriate remedies. There are risks associated with dismissing local preferences for how state-building should be carried out.

As mentioned earlier, 90% of the revenue available to the Afghan government comes from foreign aid, and the majority of the running costs for Afghanistan's security

forces are paid by external actors. Of this, up to 80% is being managed by donors themselves, creating costly inefficiencies and increasing the risk of fostering dependence within the Afghan government. In 2008, the US Government Accountability Office estimated that maintaining the security forces would require \$2 billion annually,²⁰⁵ and the US military has recommended tripling the size of the security forces in order to effectively combat the insurgency.²⁰⁶ This would entail support of \$3 billion annually for the ANA, and \$1 billion for the ANP.²⁰⁷ The Afghan government is clearly unable to meet the costs of maintaining its security forces without foreign assistance. However, state-building demands that Kabul have at its disposal the domestic sources of revenue that will enable it to extend and maintain its control over the countryside.

The main concern is that foreign aid will eventually cease, and that the government of Afghanistan will be unable to cope with the shortfall. Foreign development aid typically drops by 30-40% during a recession, and experience with developing countries has shown that much of the aid money tends to be wasted.²⁰⁸ A report from the Afghan Ministry of Finance in 2008 released findings which show donors have fallen 48% short of financing even their own estimates of Afghanistan's needs, and that much of the spending which has occurred has tended to be seriously out of line

²⁰⁵ United States Government Accountability Office. "Afghanistan Security: Further Congressional Support May Be Needed to Ensure the Completion of a Detailed Plan to Develop and Sustain Capable Afghan National Security Forces." Washington, DC: GAO, 2008, <http://www.gao.gov/new.items/d08661.pdf>.

²⁰⁶ S. McChrystal. "Commander's Initial Assessment," 30 August 2009, http://media.washingtonpost.com/wp-srv/politics/documents/Assessment_Redacted_092109.pdf.

²⁰⁷ G. Motevalli, "Factbox: Afghan National Security Forces," *Reuters*, 27 March 2009, <http://www.reuters.com/article/2009/03/27/idUSISL112818>.

²⁰⁸ V. Tolentino, and J. Bruce. "Foreign Aid and the Global Economic Crisis." *The Asia Foundation*, 01 April 2009.

with the priorities laid down in the ANDS.²⁰⁹ Megan Liaboe identifies four prominent economic options for reducing Afghanistan's dependence on external powers, and perhaps even more importantly, on the opium trade and the illegal economy.²¹⁰ These four options have been agreed upon by the Afghan government and the donor community, and comprise: a tax on major transport routes such as the "Ring Road," circumscribing about 80% of the countryside; subsidies to the agricultural sector, in particular for fruit exports; mining of Afghan natural resources such as gold, uranium, iron, and marble; and a pipeline to transport Turkmenistan's natural gas through Afghanistan. The mining sector is particularly promising, and holds the potential for large-scale job creation. A copper mine in Aynak has the potential to fill 25% of the government's financial gap if full production is reached.²¹¹ There are problems with each of these options, and none of them would altogether solve Afghanistan's financial woes, but they indicate that the country has the potential for significant economic development.

5.5 Coherence Dilemmas

The normative coherence dilemmas which face the international donor community in Afghanistan stem from the contradiction between universal values and local needs. An organisational coherence dilemma also arises, influenced primarily by the clash between short- and long-term objectives. Achieving normative coherence in a state-building intervention means reconciling different strategic visions within the donor community, as well as achieving a consensus with the host country on how to

²⁰⁹ P. Ashdown, and J. Ingram. "Falling Short on Afghanistan." *New York Times*, 29 April 2009.

²¹⁰ M. Liaboe. "Afghanistan and the Search for a Sustainable Economy." Williamsburg: Institute for Theory and Practice of International Relations, 2010, <http://irththeoryandpractice.wm.edu/projects/PIPS/0910/Liaboe.PB.pdf>.

²¹¹ Ibid.

proceed. Organisational coherence refers to the coordination between international actors to avoid duplication of labour and working at cross-purposes. It also refers to coordination among local actors, which is needed to produce nationally representative figures who can productively negotiate with the donor community.

5.5.1 Normative Coherence

Within the context of international support to the SSR process, the most important step for achieving normative coherence involves reconciling the civilian and military roles which the police are expected to fulfil. Core competencies of survival training, marching in a straight line, arresting suspects, and firing weapons are not sufficient to allow police to provide real human security in Afghan communities. Unfortunately, until there is consensus between international donors and the government of Afghanistan on how the police should be used, they cannot be trained with coherent goals in mind. The poor quality of civilian policing reflects rushed training and formation periods designed to cater to the military needs of state security.

In dealing with the Afghan authorities, international actors should also be aware of different conceptions of legitimacy. As outlined in Chapter 1 of this thesis, legitimacy derives from several potentially competing sources. Within Afghanistan, most power elites draw their legitimacy from a combination of custom, clientelism, performance-based legitimacy, and ideologically-based legitimacy rooted in Islamic faith or ethnic solidarity. Maintaining informal networks and relationships will often be much more important to Afghans than any regulation or law. However, the broadly liberal norms underpinning state-building interventions tend to lead international donors to favour

process-based legitimacy, and while there is value in working towards a transparent, accountable, depersonalised, and democratic political process, pragmatism forces externally assisted state-building to work with figures whose legitimacy is derived from other sources. Speaking to supporters after his own presidential campaign had failed, Ashraf Ghani urged all Afghan citizens to be patient in their pursuit of justice and the rule of law, saying that “Our national duty lies in ensuring that we are going to end up with a legitimate outcome from a flawed process.”²¹² The international community may have no choice but to follow the same counsel. Assuming prematurely that Afghanistan is characterised by respect for human rights and the rule of law would be harmful self-delusion.

5.5.2 Organisational Coherence

Reform of the police and justice sectors in Afghanistan will require an integrated strategy. Although coordination has evolved from simple divisions of labour into more effective information-sharing, a unified strategy is still not evident. It must be decided whether the police should operate as a paramilitary organisation available for use combating the Taliban insurgency, or as a civilian force designed to promote and protect the rule of law. This will determine decisions on how to recruit, train, equip, and deploy the police, and will ultimately have profound implications for the Afghan security sector and the state-building process as a whole.

Germany’s initial involvement as the “lead donor” to police reform created some confusion, as it was unclear how the role of a lead donor should be interpreted. The

²¹² A. Ghani. *Statement on Afghanistan August 20 Election*, 22 August 2009, <http://ashrafghani.af/campaign/archives/1232>.

United States undertook the complete construction from scratch of the ANA, while Germany defined a more limited role for itself in directly implementing and financing police reform activities. The GPPO did, however, take its responsibilities to coordinate international aid very seriously. Germany's quick deployment of police trainers and its vocal support for the GPPO's coordination role led other international actors to believe the police sector was under control,²¹³ but when it became evident that the scale of the contribution Germany could make would be limited, the US became more involved through the Combined Security Transition Command-Afghanistan (CSTC-A). With the dramatic increases in US support, now channelled through the NTM-A, there have been obvious difficulties for a lead donor attempting to "coordinate" another donor which contributes 50 to 100 times the resources personnel. Coordination at first consisted of a division of labour, with the US providing basic training on a large scale while Germany supplied advanced training, but the lack of actual coordination quickly produced a duplication of efforts, as when Germany and the US launched parallel programmes to reform the Ministry of the Interior in 2004.²¹⁴ Two police coordination conferences in Dubai, in April and October of 2006, allowed most of the countries with police advisors in Afghanistan to agree on the importance of a shared strategy. The IPCB was created as a result of these conferences, along with the Interagency Police Coordinated Action Group (IPCAG) which took on the political and diplomatic aspects of coordination. LOTFA donors, the EUSR, the EC, and UNAMA are all represented on this body.

²¹³ A. Wilder. "Cops or Robbers? The Struggle to Reform the Afghan National Police." Kabul: AREU, 2007.

²¹⁴ M. Sedra. "National Police and Law Enforcement." (Technical Annex) *Securing Afghanistan's Future: Accomplishments and the Strategic Path Forward*. Kabul: Transitional Islamic State of Afghanistan, 2004.

In spite of the progress which has been made so far, several coordination challenges remain. Some of these result from the different policing and legal traditions of different contributors, including differences between civil and common law jurisdictions. Others are more fundamental and stem from the lack of a coherent vision for the police. The EU has aimed to fill this gap by launching the EC Rule of Law Mission and by subsuming national contributions to police reform within EUPOL Afghanistan. Much work remains to be done on improving links between the justice and police sectors, though, and the EU's ability to promote its strategic vision will depend on both the resources committed and the political weight of its Afghan missions in the eyes of Member States and other international actors.

5.6 Policy Recommendations

The EU's involvement in Afghanistan is heavily bound up with the SSR process. A great deal of progress has already been made, and the Afghanistan of 2011 is unrecognisable when compared to the Afghanistan of 2001. The following recommendations are not intended to devalue past achievements in reforming the Afghan security sector, but it is hoped that an analysis of the contradictions and dilemmas facing the donor community can contribute to more effective engagement in the future.

Devote resources for justice sector reform more equitably

Justice sector reform is essential to police sector reform and the entire SSR process. The Attorney General's Office and the Department of Prisons are not being properly financed, and contributions to the justice sector should include resources for all of the

key organisations. Links can be developed between these institutions by sector-wide training programmes.

Develop institutional depth within the justice sector

A “criminal justice surge” is needed to address decades of neglect, especially at the district and provincial levels where most Afghans experience the justice dispensed by the state. Reform should focus on providing better geographical coverage and more standardised legal training for judges.

Formalise relationships between the state and non-state providers of justice

Informal provision of justice and customary dispute resolution mechanisms do not have to be inimical to the central state. A formal division of labour should be drawn up to create a hybrid justice sector, allowing more serious disputes to be decided by the state-run court system while allowing minor disputes to be managed through local communities. Non-state providers of justice must be carefully monitored to leave records of their decisions and ensure they operate within the principles of international law and the Constitution of Afghanistan. Realistically, informal mechanisms will continue to exist, and should be integrated into the state-building process, rather than ignored.

Create a civilian police force, not a military one

The priority for the ANP should be the provision of human security, instead of the security of the state. Afghanistan is still a conflict environment, and the police are still a target of insurgents, but the ANP should be a force for law enforcement, not a military auxiliary. Placing police officers in unnecessary danger has resulted in

extremely high casualties and contributed to an unacceptable attrition. Policing with the consent of communities also requires a rhetorical, conceptual, and operational separation of the police and the army.

Avoid empowering informal militias

The APPP should be reviewed with the greatest of care, and perhaps disestablished altogether. Given Afghanistan's history with informal non-state armed groups, the decision to allow local militias to operate with the state's blessing sends a powerful message that the government is not committed to the DDR process. Local warlords should be prevented from shielding their militias behind informal police forces.

Focus on qualitative measures of ANP competency before increasing the tashkeel

Increases in the force strength of the police units have not stopped the security situation in Afghanistan from deteriorating, and the police are still incapable of providing basic law enforcement in many areas of the country. Addressing this will require implementing more rigorous vetting procedures, longer training periods, and a qualitatively different style of training. There should be an emphasis on basic literacy and familiarity with human rights and the Afghan Constitution, and officers should be acquainted with the entire investigative and judicial process before being assigned to active duty.

Establish an independent police complaints authority

The police cannot police themselves, and an independent authority must be established with real disciplinary powers to investigate complaints against the police.

This authority could work with NGOs and the Afghan Independent Human Rights Commission to establish relationships within communities.

Procure more staff for EUPOL Afghanistan

The inability of EUPOL Afghanistan to meet its already inadequate personnel targets has seriously undermined the mission's credibility and its chances for success.

National governments within the EU should renew their efforts to procure qualified experts and officers for the posts which have not been filled. This is indispensable if EUPOL Afghanistan is to fulfil the coordination role intended for it, and if the EC Rule of Law Mission is to succeed, police reform will need to advance in tandem.

Develop an Afghan vision of the police and justice sectors

Articulating a coherent Afghan vision of the police and justice sectors is at least as important as reconciling the civilian and military conceptions of the role of the police. Some senior political figures with ties to armed groups or the illegal economy benefit from the status quo, and would prefer the ANP to remain factionalised. Addressing the culture of impunity at the highest levels of the Afghan government will mean securing the loyalty of the police towards the central state. One way of doing this may involve a revival of the pre-1992 practice of compulsory universal military or police service, and this idea should be publicly debated.

Make aid money conditional upon reform of the Ministry of the Interior

Tackling corruption at the highest levels remains a key challenge for Afghanistan and the international community. Removing the need for presidential decrees to fire officers in the Ministry of the Interior would help send a signal that a culture of

impunity will not be tolerated, and making receipt of foreign assistance conditional upon meeting certain benchmarks in the reform of the Ministry's anti-corruption procedures will provide powerful financial incentives.

5.7 Conclusion

It is disturbing that many of the challenges facing the state-building project in Afghanistan have been identified before, and have been well known for many years. There is no question that the EU and the international donor community continue to make commitments to the goals of state-building, and these goals are acknowledged as long-term processes. However, the process of dilemma analysis forces contradictions embedded in the idea of state-building to be recognised, and their implications explicitly unpacked. Often, as in the case of Afghanistan, these contradictions result in concrete policy dilemmas. The international community's experience in Afghanistan has highlighted all five of the major policy dilemmas which face modern state-building missions, and it is hoped that future research will uncover more cases which showcase the same set of dilemmas. Interventions must always take account of the local context, but to draw transferable lessons from one case to another, a set of consistent questions needs to be developed. By confronting the inconsistencies within international approaches to state-building, dilemma analysis offers a helpful framework for asking these questions. The value of this analytical tool is in identifying where different strategic visions diverge, and what policy options are likely to exacerbate or balance the challenges which emerge. In the case of Afghanistan, it is not too late to adopt policies which will enhance the prospects for a durable state and a better quality of life for the population.

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