

III. SECURITY¹

25. The Bonn Agreement has infused a new sense of hope and possibility for Afghans to live in a secure and safe environment protected from arbitrary coercion and physical violence. The first step is the creation of a secure environment within which broader needs and priorities of a fragile political process are assured. This will underpin the legitimacy and viability of the AIA. Furthermore, immediate priorities identified by the AIA such as reconstructing the road network, creating a climate of trust for the private sector, and restoring communications in the country cannot be implemented in the absence of security. Security for most Afghans is not an abstraction to be considered as part of a broader agenda of political convenience; it is the most urgent and crucial issue for consideration and support from the international community. It relates to immediate issues such as physical security and the institutional capacity to ensure it; reduction of small arms; demobilization and reintegration of former combatants; access to homes and fields and a mine action program that helps the displaced and refugees return home; the restoration of livelihoods, including breaking economic dependence and labor bondage to drug barons and their intermediaries; and the security of living in a society free of terror and coercion.

A. Security, Justice, and Human Rights

1. Security Force

26. The challenge for the AIA and the subsequent transitional administration is to establish effective security sector institutions able to provide security to communities and citizens while protecting the national sovereignty of the Afghan State and protecting human rights. The security sector (national army, police, intelligence, border, and customs) should be professional, representative of the community, appropriately sized, effectively managed, and subordinate to the civilian authorities.

27. The AIA is faced with a situation where virtually all institutional elements of the security apparatus have either completely disintegrated or have evolved into structures that are no longer relevant or responsive to the needs of an emerging democratic polity. The rebuilding and reorganization of the security sector is essential to the success of the fledgling political process and a prerequisite to the urgent task of the recovery and reconstruction of Afghanistan.

a. Immediate and Short-Term Priorities

- (i) conducting a security sector review;
- (ii) developing a national plan for the transformation of the security sector;
- (iii) supporting the implementation of the national plan;
- (iv) establishing a framework for ensuring civilian control and oversight of the security sector;
- (v) supporting an accelerated training programme for security sector personnel; and
- (vi) rehabilitating and reconstructing the military and police academies; providing support to equip, modernize, and maintain such security sector institutions.

¹ Assumptions on the security and police force size and roles were provided by the AIA and were not independently assessed.

28. The security sector organizations should be representative of the multi-ethnic character of the country, adequately paid and trained to enable it to pursue its mission of providing security and protecting human rights.

29. Constituting a new civilian police force is a major concern of the AIA. At present this does not exist with the exception of a small contingent of traffic police and of security officers detailed to provide guard functions in public buildings. Police functions have changed over time to intelligence gathering and paramilitary activities. They no longer operate within any commonly understood concepts of national or community policing.

b. Immediate Actions

30. Immediate priorities are to

- (i) establish a professional police force;
- (ii) develop of immediate training requirements for the police force
- (iii) develop a legal framework, internal rules and regulations consistent with international criminal justice standards;
- (iv) establish a correctional service
- (v) support development of criminal investigation capacity, forensics, preventive and community policing;
- (vi) undertake immediate action to establish training curriculum to include “white collar” crimes, human right violations, and violence against minorities and women.

National Bureau of Investigation

31. A national plan of action for crime prevention and for combating drugs and terrorism is urgently needed. The development of a substantive capacity for dealing with serious crimes will be needed. Immediate priorities are

- (i) counterterrorism;
- (ii) drug interdiction and drug-related investigations;
- (iii) investigations of threats to national security and to elected/appointed leaders of the Government; and
- (iv) investigation of customs, tax, and financial crimes.

32. To ensure that talented men and women are available for the tasks assigned to the NBI, it is essential that a professional National Security Training Center (NSTC) be established. The purpose of such a center would be not only to produce ‘world class’ staff for different departments of the Government, but also to act as a center for upgrading skills of senior officials, with exposure to broader concepts of civilian protection and to security matters relating to terrorism and drugs. The NSTC would also serve as a center for excellence in modern investigative techniques in promoting behavior and practices consistent with democratic values and upholding of human rights.

2. Justice

a. Current Situation

33. Until adoption of a new Constitution, the Bonn Agreement provides that the 1964 Constitution and existing laws will be applicable to the extent that they are not inconsistent with

the Bonn Agreement itself and with the international legal obligations of Afghanistan. In some cases existing laws will need to be updated or modified.

34. The Criminal Procedure is accusatorial by nature as the investigation is conducted by the Police under the authority of the Office of the Attorney-General. There are no investigative judges and trials are typically conducted in front of panels composed of three professional judges. Traditional customs are also applied in the private sphere, particularly for civil matters, by certain ethnic groups in rural areas. This involves typically a mediation or reconciliation process before an elder of the community. With the exception of commercial matters, customs are never applied by the courts but they may accept the result of a mediation or reconciliation process.

35. As of 1992 there were approximately 1,800 judges, 1,100 prosecutors, 6,000 support staff for the courts, and 4,000 support staff for the offices of the Attorney General. The vast majority of professional judges and prosecutors were dismissed by the Taliban and also by earlier governments. They were mostly replaced by Sharia and theology graduates that had no previous judicial experience. Many judicial support staff remained in place throughout these years.

36. As of December 2001, 24 judges had been appointed to the Supreme Court, the provincial appellate court of Kabul, and in the various municipal and rural districts of the province of Kabul. No judges were formally appointed outside this province. Substantive judicial activities have not yet resumed.

b. Short-Term Priorities

- (i) Technical support to the AIA will be required to review the compatibility of existing laws with international standards;
- (ii) reintegration of the significant number of qualified judges who are believed to still be in Afghanistan;
- (iii) assistance in the area of court administration and prosecution services, with an emphasis on the internal organization of the courts and offices of the Attorney-General, strategic planning, administration, and institutional reform;
- (iv) development of judicial accountability mechanisms, in the Supreme Court, Office of the Attorney-General or Ministry of Justice, should be a priority; and
- (v) assistance should be given in the development, and implementation, of short-term and long-term training of judges and prosecutors.

c. Immediate Actions

- (i) Deployment of a senior judicial affairs adviser to coordinate planning for future phases, and act as an adviser to the AIA on judicial related issues; and
- (ii) provision of financial support will be needed to fund salaries, basic equipment and supplies for employees of the judicial system. Support will also be required to reconstruct courts and other justice buildings and for related investments.

d. Longer Term Needs and Options

- (i) Formulation and implementation of a program of legal literacy and communication so that people understand their rights and responsibilities under the law;
- (ii) professional development, with an emphasis on training and the development, plus implementation, of a code of conduct;
- (iii) deployment of three judicial affairs officers: one for legal reform, one for court administration and prosecution services and one for professional development. These persons, and their support staff, would assist the central Government institutions;
- (iv) assistance for the establishment of a Judicial Commission to rebuild the domestic justice system in accordance with Islamic principles, the rule of law and Afghan legal traditions;
- (v) review of the Juvenile Justice System; and
- (vi) support organization for legal aid services.

3. Human Rights

a. Current Situation

37. The denial of human rights, including the marginalization of certain groups, was a significant contributing factor to the outbreak and perpetuation of conflict. It is essential to recognize that the promotion of the rights of women, children, the disabled and minority groups must run through all programs.

b. Short-Term Priorities

- (i) Assistance for the establishment of an independent human rights commission;
- (ii) review of existing legislation and treaty obligations with regard to human rights;
- (iii) accordance of the right to the UN to investigate human rights violations and make recommendations; and
- (iv) development and implementation of a program of human rights education.

c. Immediate Actions

Provision of technical assistance for the establishment of the human rights commission.

d. Longer-Term Needs and Options

- (i) Despite the widespread concern expressed at human rights issues facing Afghans, there is a need for more analysis, specifically on the nature of underlying factors that shape discriminatory attitudes, policies, and societal structures. There is also a need to document those indigenous mechanisms that enable care and respect for the weaker members of society and support positive inter-communal relations.

- (ii) Training programs should be provided for judges, lawyers, law students, police, prison officials and others involved in the administration of justice and human rights issues.

B. Reintegration of War Combatants

38. The total number of combatants in Afghanistan is an elusive figure and the concept of demobilization is not entirely helpful in understanding the complexity of the Afghan situation. The AIA and the international community must conceptualize the problem in terms of reintegration of combatants into the broader fabric of economic and social life. The focus must be on immediate and multifaceted public works programs, as part of a broader reinvestment strategy, particularly in remote geographic populations and marginalized groups. The relationship between economic deprivation and militancy (to provide one's services to local commanders) is well established and understood. A robust economic intervention program would go a long way in restoring livelihoods to communities and populations whose economic choices have severely narrowed over the last 10-20 years.

39. Two broad programming strategies can be identified. The first involves selective integration (based on ethnic balance, competence and experience) into the new security forces, or into mine action units. The second is giving people alternative means of livelihood within civilian life.

40. The broad underlying principles for integration should

- (i) address the root causes for why people become combatants as a means of survival;
- (ii) recognize and encourage voluntary reintegration;
- (iii) launch national reconciliation initiatives and peace education campaigns to enhance confidence building;
- (iv) identify appropriate reintegration strategies, wherever possible as part of the broader reintegration program, with due attention to the particular needs of former child combatants;
- (v) avoid targeting ex-combatants as a special group, giving them preferential treatment over the rest of the community;
- (vi) avoid giving cash incentives for surrender of arms; and
- (vii) encourage disarmament as a requirement for entry into the different reintegration programs and/or employment schemes.

1. Immediate and Short-Term Priorities

- (i) determine numbers, locations and criteria for demobilization;
- (ii) discuss the problem with national and local authorities and with community organizations, including incentives and disincentives to war, ways to reintegrate fighters, and ways to address resentments created by past use of armed force;
- (iii) identify appropriate reintegration strategies, including, in particular, training requirements for alternative livelihood of the ex-combatants; and
- (iv) discuss institutional arrangements and identify implementing partners for the different components of the program.

C. Drug Control

1. Current Situation

41. Prior to the Taliban ban, large swathes of arable land, particularly in the southwest and the northeast of the country were engaged in poppy cultivation. Afghanistan was the source of 80% of the world's poppy production. Much of the land previously planted with poppy is likely to revert to previous cultivation practices unless interventions are made in the next few months to provide alternatives to poppy cultivation. Enormous pressures are exerted on communities by traditional drug dealers and intermediaries who have seen their profits and businesses severely disrupted as a result of the ban on poppy cultivation by the Taliban. A resurgence of the drug trade poses a serious and direct threat to the fledgling political process underway.

42. Supporting the interim administration's enforcement of a poppy ban is essential. Meanwhile, it is essential to create alternative livelihoods for farmers and seasonal laborers, requiring interventions that are sophisticated and linked to the broader program of recovery and reconstruction in Afghanistan.

2. Short-Term Priorities

a. Immediate Actions

- (i) Announcement of a poppy cultivation ban.
- (ii) Establish a viable law enforcement environment within the AIA.
- (iii) Set up a drug control commission in Kabul.
- (iv) Establish drug control units in key provinces.
- (v) Conduct needs assessment and program missions in key provinces (Badakhshan, Helmand, Nangarhar, and Kandahar).
- (vi) Monitor illicit opium poppy cultivation.
- (vii) Provide immediate assistance to landholders and sharecroppers.

b. Other Priorities in the First 2.5 Years

- (i) Establish a drug enforcement capacity within the new police force.
- (ii) Create a legal framework in compliance with UN conventions on drugs, crime and terrorism.
- (iii) Formulate alternative livelihood strategies to poppy cultivation.
- (iv) Develop rural credit systems in major poppy growing areas.
- (v) Formulate countrywide rehabilitation and prevention programs.
- (vi) Address drug abuse situation countrywide.

3. Longer-Term Needs and Options

- (i) Build sustainable livelihoods in traditional poppy growing provinces.
- (ii) Reduce opium poppy cultivation and drug trafficking.
- (iii) Provide effective enforcement of drug ban.

D. Mine Action

1. Current Situation

43. Afghanistan is the most mine and unexploded ordnance (UXO)-affected country in the world, with 732 square kilometers of known mined area, of which an estimated 100 km² are mined in former frontline areas, and approximately 500 km² of UXO in contaminated battle areas. There are some 200,000 survivors of mine/UXO accidents and a death and injury rate running at 150-300 per month prior to the current crisis.

44. The mine and UXO problem in Afghanistan has been exacerbated by recent events, with new areas being contaminated by Coalition UXOs. Ammunition depots in major towns, when hit, have spread UXOs over as much as a 5 km radius. Mine/UXO injuries have escalated due to new contaminations and to increased population movement, often in unfamiliar areas.

45. In addition to the human toll and the loss of valuable livestock, mines/UXO are an obstacle to internally displaced persons and refugee return. They deny people access to farm and grazing land, shelter and water, and prevent the rehabilitation of essential infrastructure such as roads, bridges, irrigation systems, schools, and other public buildings. At least 60% of mine- and UXO-contaminated areas are within such areas, resulting in major losses to both Afghan economy and society.

46. Mine action in Afghanistan has been extremely cost-effective based on experienced UN and NGO mine clearance teams and large scale use of mine detection dogs. Each dollar spent yields about \$4.60 in economic returns. The annual yield for one km² of clearance is as much as \$2,000 for grazing land and \$13,500-520,000 for farmland. Cleared roads provide some \$250,000 in economic benefits per 50 km. Mine action has resulted in an estimated 50% reduction in civilian mine victims, and has facilitated the return or resettlement of approximately 1.53 million refugees and internally displaced persons.

2. Short-Term Priorities

a. Immediate Actions

- (i) Emergency response and resumption of regular operations in which 5,000 existing mine action personnel will undergo supplementary training and be equipped to return to Afghanistan. In this emergency phase the main goal is to clear mines and UXO from roads and facilities to support humanitarian activities response and to allow more than 2 million internally displaced persons to safely return to their homes;
- (ii) Recruitment, training and equipping of an additional 4,000 mine action personnel, with particular focus on demobilized former combatants;
- (iii) The Afghan Campaign to Ban Landmines (ACBL)—in partnership with the Mine Action Centre (MACA), UNICEF and 64 NGOs and other partners—to develop a new advocacy strategy;
- (iv) A stockpile destruction strategy to be developed by MACA; and
- (v) The Department of Mine Clearance to be re-established and developed.

b. Other Priorities in the First 2.5 Years

The extent and pace of the expansion of mine action will be dependent on funds available, absorption capacity and early identification of bottlenecks such as training time, equipment purchase lead time and the availability of external resources such as trained mine dogs. A full Landmine Impact Survey will help develop priorities.

3. Longer Term Needs and Options

47. In 5-7 years (depending on availability of resources) Afghanistan could be free from the impact of mines and UXO. "Impact-free" means:

- (i) All high priority mined areas and battle areas will have been cleared and other lower priority areas will have been surveyed and permanently marked;
- (ii) The number of mine/UXO victims will have been reduced significantly, and adequate reporting, accident surveillance, medical care, and rehabilitation will be available to mine survivors through public and community health services;
- (iii) Mine awareness/risk reduction education will be available to all through schools, health and other community education programs, and community leaders;
- (iv) The Government will have enacted legislation banning the production, sale or use of mines. All existing stockpiles of mines will have been destroyed; and
- (v) Mine action will be integrated into overall national development plans. A national mine action program will be in place, with the necessary legislative framework and interministerial oversight.