Chapter 5

Security Sector Reforms – Army, Police & Judiciary

Before the formation of the Afghan Interim Authority (AlA) in December 2001, most Afghan state institutions were paralysed due to more than two decades of continuous war. State bureaucracy was hardly functional. The problem was further exacerbated by the lack of qualified Afghans, who had migrated to the West or to the neighbouring countries. When the AlA was given its six month mandate to govern, it basically inherited institutions with no execution capability. The Bonn Agreement called upon the UN Security Council to deploy an international force to Kabul and eventually to other areas. It was also decided that the international community would help the Afghans to establish new security forces, which would consist of an army under the Ministry of Defence, a police force under the Ministry of Interior, and an intelligence service, the National Directorate of Security, an independent body that would report directly to the president.

This chapter probes the Afghanistan’s security sector, highlighting the major components of the strategy adopted, the division of responsibilities among international and local actors, and the progress achieved to date. It analyses the process of reconstructing and transforming the security architecture of the Afghan state, known as security-sector reform (SSR). The study specifically assesses the German-led multilateral effort to create, train and sustain an Afghan National Police (ANP) force and the United States led efforts to establish a new Afghan National Army (ANA). Further, efforts made by Italy in the establishment of the Judicial Commission have been examined.

From this analysis, an attempt has been made to identify the most problematic issues of Afghanistan and the steps required, by both local and international actors, to increase local ownership within these institutions. The chapter further outlines several lessons derived from efforts to build sustainable local ownership in the management of Afghanistan’s various institutions. It concludes by highlighting the transition, since the early 1990s, from traditional peace keeping to “democratic peace-building”, with a growing emphasis on economic development along with building professional, civilian-led and ethnically balanced institutions in war shattered societies.
The 2001 Bonn Agreement addressed the security sector only superficially, with vague provisions for the extension of the state authority over militias and the establishment of Judicial Reform Commission. The steady deterioration of security in Afghanistan since 2001 has put SSR at the forefront of the state-building process. By 2003, Karzai was referring to the SSR process as the “basic pre-requisite to recreating the nation that today’s parents hope to leave to future generations” (Sky 2006).

The term “Security Sector Reform” (SSR) has been commonly used in “post-conflict transitions”. Despite the growing recognition of the importance of SSR, the meaning of the concept has gradually been obscured and distorted. SSR is not merely a modern euphemism for the training and equipping of security forces, the most common form of Western security assistance to developing states during the Cold War. Rather, it embraces a holistic vision of the security sector, one which balances the need to embrace the operational effectiveness of the security forces with the need to ensure that they are subordinated to democratic civilian authority and confirm to international norms of human rights. It is a complex process, and includes a range of components: disarmament, demobilisation, and reintegration of former combatants, the establishment and deployment of new military and police forces; the establishment of civilian authority over the security sector; and the implementation of devices to make security sector more broadly accountable.

The political contexts of security sector reform programme will differ from country to country (Maley 2005: 297-312), and exactly how to implement security sector reform is itself a matter of some debate. On the one hand there is a holistic vision which views that: without a long-term vision and a focus on integrated change, reform simply will not prove sustainable (Sedra 2006: 94-110). On the other hand, security analysts Eric Scheye and Gordon Peake argue that the holistic approach is over-optimistic, and that one should strive instead for security sector reform that is “more modest and circumspect and therefore more achievable in its goals” (Scheye and Peake 2005: 295-327). A circumspect approach should respond to local needs rather than seek to impose a one-size fits all model. The challenge for the policy makers is to infuse the wisdom of the holistic approach with the reality of incremental change in a resource-scarce environment. Reconciling these imperative in the face of ongoing threats to human security has been one of the most daunting challenges that the Afghan authorities and their backers have had to face.
Many of the problems that confront the SSR process today can be traced back to the “slide towards expediency” in its implications (Sedra 2006: 95). One of the principal obstacles to the effective realisation of the reform has been the framework established to support it. At a Group of Eight (G8) donors’ conference in Geneva in April 2002, the SSR agenda was formally set with the establishment of the lead nation system. The security sector was divided into five pillars, and a lead nation was appointed to oversee reforms in each.¹ The United States carrying prime responsibility for reconstructing the army, Germany for police reform, the United Kingdom for counter narcotics, Italy for judicial reform, and Japan for disarmament, demobilisation and reintegration of combatants. By identifying the individual donors to specific areas of the reform agenda, the system was intended to ensure the balanced distribution of resources and durable donor engagement.

However, no mechanism was established to coordinate the activities of the lead nations or build synergies among them. This deprived the SSR model from its core precepts, namely, the need for a holistic and integrated approach. Some donors presumed that Afghanistan government would coordinate the donor activities, but acute shortfalls in capacity prevented from doing so. While the system succeeded in firmly affixing the lead donors to their pillars, it also made them territorial. Donors were often more concerned with the success of their leading activity, while ignoring the overall success of the SSR. Moreover, the system did not adequately consider differences between donors in competencies or resources. This contributed to massive resource disparities between the pillars, resulting in disparity between the pace and achievements of the reform.

5.1 Crafting a New Army

The achievements of the military reform pillar are much more than the rest of the SSR agenda, largely because it has been extremely well resourced relative to other four pillars. By the end of 2005, approximately $3.5 billion had been spent on reforms of the defence sector, compared to only $900 million on the police (US Government Accountability Office 2005: 9). Although military reform is invariably the most resource-intensive component of any SSR agenda, but the large gap is striking.

¹ The framework has been introduced at the January 2002 Tokyo donor conference, but took form at Geneva
Reconstructing the army has two components: the creation of the Afghan National Army and reform of the Defence Ministry.

5.1.1 The Afghan National Army (ANA)

A long term strategy of the Afghan government has been the establishment of a new Afghan National Army (ANA). Constructing the army is essential if the state is to move towards establishing a monopoly over the legitimate means of violence. The construction of a new army is a complex exercise, however, since it involves not just recruiting and training troops in basic combat techniques, but also identifying the specific roles of the military and developing an organisational culture that will make a force robust rather than fragile (Jalali 2002: 72-86). In Afghanistan, there is a need of trained security force to secure the country’s borders from foreign infiltrators, help deter borders from the territory of neighbouring states, deal with high-level internal security threats, provide logistical capability to deal with a range of natural threats such as earthquakes, and flash-floods – the kind of work that is known as “aid to the civil authority”.

Looking into the needs of Afghanistan to have a specialised security force, Karzai issued a decree formally establishing the Afghan National Army at the Bonn II conference in December 2002. The decree set a troop threshold of 70,000 and outlined the organisational structure of the army and of the Defence Ministry (Petersberg Declaration 2002). The decree was the product of months of wrangling over the size of the ANA among the Defence Ministry, ISAF, the United States and other international actors.

Training of the first class of ANA recruits began on May 14, 2002, at the Kabul Military Training Centre (KMTC). A special Coalition Joint Task Force was set up, dubbed Task Force Phoenix, to oversee the training. The Defence Ministry stated in its October 2004 *National Military Strategy* that the end-state of the process was an ANA that would “strongly and seriously avoid political, factional, group, ethnic and other discriminatory tendencies... conforming to modern and democratic countries,” (Ministry of Defence of Afghanistan 2004: 10). While the US maintains overall control of the training programme, France assumed responsibility for training the officer corps, and the UK for training non-commissioned officers (NCOs). By November 2006, 14 different countries had joined Task Force Phoenix. This task force operated under the umbrella of the US Office of Military Cooperation –
Afghanistan (OMC-A)\(^2\). The OMC-A was established to look after the overall development of the ANA, including its force structure, chain of command, logistics, physical infrastructure and equipment procurement.

The issue of the ANA's size and the fiscal sustainability of the security sector has been a thaw in the development of this sector. The United States has invested heavily in its creation. In the Afghan budget, the expenditure on ANA for the years 2003-04, 2004-05 and 2005-06 was estimated in million US$ as 797, 788 and 830 respectively. Most of the funding came from various US appropriations. It is highly debatable whether costs on this scale could be sustained by any Afghan government in the foreseeable future, and this brings political risk for the government, as Barnett R. Rubin has argued, "If the state cannot sustain the recurrent costs of its security forces its stability will be at risk. Nor can any state long survive the funding of its army and police by foreign powers" (Rubin 2005: 99).

According to a World Bank report, in the 2004-05 financial year the ANA had cost the equivalent of 293 percent of domestic revenue and 13 percent of GDP (World Bank 2005: 42-43). Responding to this report US Defence Secretary Donald Rumsfeld reportedly reduced the ceiling for the ANA to 45,000 soldiers, a decision made unilaterally without Afghan consultation (Rubin 2006: 21-22). The decision was accompanied with assurance that Afghanistan would come under the security umbrella of the US, safeguarding it from external threats. Nonetheless, this unilateral decision of US was opposed by the Afghan government, particularly by the Defence Ministry. In July 2006, Defence Minister, Rahim Wardak claimed that the government could not secure the country with an army smaller than 150,000 troops (Associated Press 2006). The threats posed by the insurgency demand highly specialised and agile forces, not massive troop formations. The deadlock was apparently resolved with Bush's request for increased funding for the security forces in early 2007. However, the acrimonious episode demonstrated continuing tensions within the military-reform process, and its tenuous ownership by the government.

In August 2006, the ANA conducted its first battalion-sized combat operation, which combined logistics, mortars, scouts and infantry from several different companies (Zucchino 2006). Although the mission was closely monitored and

\(^2\) In July 2005, the Office of Military Cooperation – Afghanistan (OMC-A) was renamed the Office of Security Cooperation – Afghanistan (OSC-A), after it assumed responsibility for supporting the police as well as the Afghan military. Its name was changed again in May 2006 to the Combined Security Transition Command – Afghanistan.
supported by Coalition Embedded Training Teams (ETTs), the mission was nonetheless viewed as a milestone in the development of the ANA, which has found it difficult to end its dependence on international military forces. The ETTs, which comprised over 800 mentors in June 2006, have been instrumental in the development of the ANA. They operate at corps, brigade, battalion and company levels, ranging in size from 8 to 16 personnel (Hodes and Sedra 2007: 56).

The high rates of illiteracy in Afghanistan and the lack of professional military experience have been the major hurdles in developing leadership in the ANA. To address this, the CSTC-A has overseen the establishment of a National Military Academy of Afghanistan (NMAA) and a Command and General Staff College. On March 22, 2005, the NMAA began training its first class of 109 cadets. Modelled on the US military academy at West Point, the NMAA is a four-year, degree granting institution. The Command and General Staff College, modelled after the US Army and NATO equivalent, opened its doors to its first class of army and police officers on October 28, 2006. It prepares officers to take on command assignments from the battalion level upwards (Ministry of Defence of Afghanistan 2006).

5.1.2 Problems in the Evolution of ANA

By April 2007, half the number of the target of 70,000 personnel ANA troops had been trained and deployed (Hodes and Sedra 2007: 56). However, despite the achievements of the ANA, it is still affected by significant problems. Prominent among these is the issue of troop retention. Initially, the ANA was plagued by alarmingly high desertion rates, reaching 10 percent per month in summer of 2003, but by mid 2005 this had been reduced to 1.2 percent per month (Sedra 2006: 97). Various factors explain the causes responsible for such high desertion rates. Initially, the desertion rates were high as many of the early “recruits” were in effect nominees of armed militias, who would have found the demands of western trainers very different from militia life. Furthermore, majority is of illiterates: the corps commander in Kandhar, for example reported in early 2006 that 80 percent of his soldiers were non-literate, as were 50 percent of his officers (Baldauf 2006a).

Secondly, there was palpable discontent early on in the process with living conditions, food and the lack of adequate mosques on military bases. The US has since addressed these issues through intensive infrastructure development and refurbishing military facilities. In September 2004, the US Defense Security
Cooperation Agency awarded a $1 billion contract to the Army Corps of Engineers to build vital ANA infrastructure, including a central command in Kabul and four regional commands.

Thirdly, the lack of ethnic balance in the force soon after its creation encouraged desertion. Due to the Tajik dominance in the Defence Ministry, ANA included a disproportionately large number of Tajiks and a small number of Pashtuns. This problem was addressed after the US instituted an ethnic quota system in 2003. By 2006, the ethnic composition of the army had been brought within the designated tolerance levels. Finally, the intensity of counter-insurgency operations in the south, coupled with unwanted long term deployments away from home regions and families, encouraged soldiers to desert.

The desertion rates declined after the problems of the soldiers were taken care of. Improvement of the wages of the soldiers has been a factor in reducing the desertion rates: as the World Bank has documented, ANA pay scales easily outstrip those of ordinary bureaucrats and teachers, starting at US $71 a month (World Bank 2005b: 21). The initial salary for a rank-and-file ANA soldier was $50 per month, this was raised to $70 in 2004 and to $100 in late 2006 (Shannon 2007). But there is a lack of an effective mechanism for soldiers on deployment to deliver their salaries to their families. The US military is developing a computerised salary-payment of Afghan soldiers, but this has yet to become fully operational. The security sector specialist Mark Sedra has well assessed the ANA's achievements as: “Despite many problems that the ANA has faced, it is widely viewed as a ‘success story’ in the SSR process, particularly when compared with the state of reform in the police and the judiciary. The ANA has displayed a high degree of discipline, professionalism and combat effectiveness and, due to the institution of ethnic quotas, is largely representative of the country’s ethnic composition” (Sedra 2006:97).

5.2 Renewing the Police Force

The assessment of the Afghan National Army has been broadly positive, but the same cannot be said about the Afghan National Police. To understand why this has been the case involves exploring the very distinctive and important roles that civilian police have to play, roles which often receive inadequate attention when the broad paths of political transitions are being planned. A properly functioning civilian police fills the crucial security gap between protection against external and high-level
internal threats, and protection against behaviour that is although not unlawful but is still unpleasant. Police are required to deal with the threat of inter-personal criminality, and the police function has been recognised as a distinctive state responsibility.

In light of its previous cooperation with Afghanistan in the 1960s and 1970s, the government of Germany was given the responsibility to lead a combined bilateral and multilateral effort to create, train and sustain an Afghanistan National Police (ANP) force. The police reform process was formally launched in March 2002, with the opening of German Police Project Office (GPPO) on April 3, 2002. The GPPO is tasked with:

i. Advising the Afghan security authorities in an effort to rebuild an Afghan police force that is bound by rule-of-law principles and has a respect for human rights.

ii. Assisting in training of police recruits;

iii. Supporting the re-establishment of a police academy;

iv. Implementing bilateral police funding assistance; and

v. Coordinating international support for the reform process.

Germany has adopted an entirely different approach to reconstruct the civilian policing than that pursued by the United States in developing the ANA. While the ANA was entirely constructed from the ground up, the Germans sought to transform the existing police structures and personnel. This approach was adopted primarily due to resource constraints, as the German government was not prepared to allocate funds that would have been required to create the force from the scratch.

5.2.1 Police Organisation

The main law governing the Afghanistan National Police (ANP) is the 1384 (2005) Afghanistan Police Law, as well as the 1383 (2004) Interim Criminal Procedure Code (ICPC). These laws in turn are based on the Articles 56, 75(3), and 134 of the Constitution. Article 2 of Afghanistan’s Police Law which was promulgated in September 2005, defines the term “police” saranman (commissioned officer), satanman (non-commissioned police officers) and satunkai (patrolmen), “who are employed and operate within the organisation of the Ministry of Interior to ensure the public order and security according to the provisions of the law” (Ministry of Justice 2005a: 1).
From 2002 to 2006, the GPPO administered $80 million in German assistance. The flagship initiative was for the rehabilitation of the National Police Academy at Kabul, which offers training to commissioned and non-commissioned personnel. Although the GPPO developed the curriculum for the academy, a Norwegian Police Project has designed and implemented specialised training modules in human rights, management and gender issues. While the German programme effectively established a system to reconstitute the middle and higher ranks of the police, it bypassed the ordinary ranks, the patrolmen or satunkai, who represented the main interface with population. The bulk of the police in the country were former militiamen who lacked any semblance of formal training, and their ‘militiamen’s mentality’ was not conducive to effective community policing (Sedra 2002).

Figure 5.1: Organisational Structure of the MoI

The Ministry of Interior controls the police department. It is also responsible for overseeing provincial and district administration in Afghanistan’s 34 provinces, and for implementing the government’s counter narcotics policies. Figure 5.1 illustrates the organisational structure of the MoI, and the six police departments that come under the authority of the Deputy Minister for Security. The Deputy Minister for Security is also responsible for the National police Command Centre, which is designed to strengthen communications and coordination among the five Afghan National Police Regional Command Centres, as well as with other security entities such as the ANA, the National Security Directorate (NSD) and foreign military forces. Each of Afghanistan’s 34 provinces and approximately 400 districts are assigned a Chief of Police.

The police chain of command was revised in 2006 (Table 5.1), following the establishment of five ANP Regional Commands in Kabul, Gardez, Kandhar, Herat and Mazar-i-Sharif. The Regional Commands were established in part to create an Afghan National Police structure parallel to the Afghan national Army (ANA) – which also have five regional commands in the same locations – in order to facilitate better security, coordination and to reduce the number of provincial chiefs directly reporting to the MoI in Kabul. The new police structure was favoured as it reduced the power and authority of governors, many of whom were perceived to be resisting the authority of the central command. The new chain of command clarified that “Governors are not in the operational chain of command of the national police and will not direct police activities at the tactical or operational level” (Ministry of Interior of Afghanistan 2006).

Table 5.1: Police Chain of Command

<table>
<thead>
<tr>
<th>Minister of Interior</th>
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<tbody>
<tr>
<td>Deputy Minister for Security Affairs</td>
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<tr>
<td>Regional Commanders</td>
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<tr>
<td>Provincial Chiefs of Police</td>
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<tr>
<td>District Chiefs of Police</td>
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</tbody>
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5.2.2 Size and Composition of ANP

The size and structure of all government ministries and provincial departments in Afghanistan are determined by their *tashkil* – the staffing establishment detailing the number of sanctioned post at each grade level. In November 2005, the government of Afghanistan approved a *tashkil* authorising an ANP force level of 62,000, including 50,000 Afghan Uniformed police (AUP) and 12,000 Afghan Border Police (ABP). The figures were based on calculations by German and Afghan planners (Inspector General of the US Department of Defense and Department of State 2006: 11). This figure was roughly derived from the ratio of police to citizens applied in Germany. However, this formula was not applicable in a country facing a legacy of war, with rugged topography and low population density.

Due to the rise in Taliban-led insurgency in southern Afghanistan in the spring and summer of 2006, the move to increase authorised police levels gained momentum, with the US making a relatively unilateral decision to increase force numbers by 20,000. Thus, in 2007, the force target was increased to 82,000 including 18,500 border police, in response to rising insecurity. However, even at this new force ceiling Afghanistan will have the smallest per capita police force in the region. A suitable comparison is Iraq, whose population of 27 million is comparable to that of Afghanistan. Its police force stood at 152,000 in May 2006 with plans to expand it to 190,000 (ICG 2007: 10).

The ANP is Afghanistan’s core police institution. It comprises of five functioning departments while two departments – Standby Police and Afghan Highway Police – have been phased out. Table 5.2 provides a numerical breakdown of the ANP.

i. **Afghan Uniformed Police (AUP):** The AUP is the largest force within the ANP and is responsible for day-to-day police activities at the provincial and district levels. AUP is a civilian policing force responsible for maintaining public order and security.

ii. **Afghan Border Police (ABP):** The function of ABP is to secure Afghanistan’s borders and its international airports. It is responsible for providing border security, surveillance and control, including the prevention of smuggling, drug trafficking and cross-border movement of insurgents. The ABP are responsible for manning 13 border checkpoints and conducting patrols along the border.
Table 5.2: Composition and Size of ANP

<table>
<thead>
<tr>
<th>Police Force or Department</th>
<th>Afghanistan Compact (Approved Size)</th>
<th>Afghanistan Compact (Increased Size)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Afghan Uniformed Police (AUP)</td>
<td>31,000</td>
<td>45,000</td>
</tr>
<tr>
<td>Afghanistan Border Police (ABP)</td>
<td>11,825</td>
<td>18,000</td>
</tr>
<tr>
<td>Afghan National Civil Order Police (ANCOP)</td>
<td>0</td>
<td>5,000</td>
</tr>
<tr>
<td>Standby Police</td>
<td>4,116</td>
<td>0</td>
</tr>
<tr>
<td>Afghan Highway Police (AHP)</td>
<td>3,400</td>
<td>0</td>
</tr>
<tr>
<td>Counter Narcotics Police of Afghanistan (CNPA)</td>
<td>2,264</td>
<td>2,264</td>
</tr>
<tr>
<td>Other (MoI, Customs, Criminal Investigation Department, KPA, Regional Commands, CTC/RTCs)</td>
<td>9,395</td>
<td>11,736</td>
</tr>
<tr>
<td>Total ANP</td>
<td>62,000</td>
<td>82,000</td>
</tr>
<tr>
<td>Total Afghan National Auxiliary Police*</td>
<td>0</td>
<td>11,271</td>
</tr>
</tbody>
</table>

* ANAP are a temporary force and will be phased out as ANP reaches full strength

iii. Afghan National Civil Order Police (ANCOP): The ANCOP was conceived in mid-2006. The mission of the ANCOP is to maintain civil order in Afghanistan’s seven largest cities, to provide a robust and mobile police presence in remote high-threat areas, and to serve as a rapid reaction force to support other police in an emergency. The ANCOP is better trained with 16 weeks of training and better equipped than the AUP and ANAP. Such force has been prepared to respond effectively to urban unrest and rioting, in contrast to ANPs ineffective response to the May 2006 riots in Kabul.

iv. Standby Police: This functioned as a rapid reaction force that could be deployed as required throughout the country. Stand by police force has been phased out and the ANCOP has taken its responsibility as a rapid reaction force.

v. Afghanistan Highway Police (AHP): Highway police were responsible for ensuring security on Afghanistan’s major highways. Instead of providing security,
the highly corrupt and ineffective highway police became a cause of concern for the government. It was finally phased out in mid 2006. The plan was to integrate AHPs 3,400 personnel into the AUP and redeploy them. Many refused to redeploy, instead, reportedly deserted along with their uniforms and weapons. Discussions are ongoing about redesigning and creating a new AHP in the future.

vi. Counter Narcotics Police of Afghanistan (CNPA): This force functioned as enforcing the ban on poppy cultivation. Unlike all the other police forces, which report to the MoIs Deputy Minister for Security, the CNPA reports to the Deputy Minister for Counter Narcotics. The CNPA includes a National Interdiction Unit (NIU), established in October 2004 that conducts interdiction raids across Afghanistan.

5.2.3 US Support: Combined Security Transition Command Afghanistan (CSTC-A)

Although Germany was the key partner for police reform but the slow progress of police reforms had a cascading effect throughout the entire security sector, prompting the US to enter the process in early 2003. The USs growing interest and prioritisation of the police sector illustrated in Figure 5.2 depicts the dramatic increase of US police funding from $24 million in 2002 to $2.5 billion in 2007. US assistance to the police sector was initially managed by the US Department of State’s Bureau for International Narcotics and Law Enforcement Affairs (INLEA). In April 2005, the Department of Defence Central Command (CENTCOM) took over the responsibility for US support of the police sector, and its implementation in Afghanistan was assigned to the Combined Security Transition Command – Afghanistan (CSTC-A).

![Figure 5.2: US Support to the ANP 2002-07](source: Afghanistan Office, US Department of State, 2007.)
Within CSTC-A, the responsibility for police training and reform lies with the Task Force Police Directorate (TFP) and the Police Reform Directorate (PRD). Task Force Police is mandated to oversee the training, mentoring, and organisation of ANP units in the field, while the PRD is responsible for mentoring and training senior ANP staff, and implementing reforms at the central level to develop an effective national security institution (Inspector General of the US Department of Defense and Department of State 2006: 18). While CSTC-A assumed overall responsibility for programme implementation, the US ambassador to Afghanistan remains responsible for policy guidance, and INLEA remains involved and retains contract management authority for police training, mentoring and MoI reform.

The initial impetus for the US to get involved in the police sector was to provide security for 2004 presidential election. As German training programme at the Kabul Police Academy was addressing the training needs of commissioned and non-commissioned police officer, no one was providing basic training for police patrolmen and new recruits. In 2003 and 2004 US support focussed on establishing a constabulary training system for Afghanistan’s ordinary police. The US based company DynCorp International was contracted to construct a Central Training Centre (CTC) in Kabul along with seven Regional Training Centres (RTCs) in Kandhar, Gardez, Jalalabad, Bamiyan, Kunduz, Mazar-i-Sharif and Herat. It was also assigned the responsibility to implement a training curriculum developed by the US Department of Justice’s International Investigative Training Assistance Programme.

In addition to providing training, the US built and refurbished police facilities and infrastructure. By 2005, it became clear that its efforts of training and equipping more police were not giving the desired results because of the ineffective and often corrupt environment in which they worked. Thus, in 2005, a major institutional reform programme was launched, focussing primarily on reforming the police component of the MoI- including revision of the police tashkil, payroll reform, and pay and rank reform.

5.2.4 European Union Police Mission in Afghanistan (EUPOL)

Apart from individual European countries, the European Union (EU) and the European Commission (EC) are also involved in police reform efforts in Afghanistan. The European Commission has been the single largest donor of police salaries through the UNDPs Law and Order Trust Fund for Afghanistan (LOTFA), providing

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nearly $160 million from 2003 through 2006 (Wilder 2007: 21). The Office of the European Union Special Representative (EUSR) in Afghanistan provides important political analysis on rule of law issues in Afghanistan, including the police sector.

The role of the European Union in the police sector has expanded considerably since February 2007, following the decision of European Security and Defence Policy (ESDP) mission in Kabul – now known as European Union Police Mission in Afghanistan (EUPOL). EUPOL was formally launched in Afghanistan on June 17, 2007. It has been established as there was growing pressure on European countries to provide more support for Afghanistan, and supporting a civilian police mission is politically more palatable for European governments than sending additional troops to support NATO counter-insurgency operations in southern Afghanistan. EUPOL has brought 160 police experts contributed by 23 nations. EUPOL had brought the bulk of the non-US policing personnel in Afghanistan under its umbrella, including non-European actors such as Canada and Australia. The EUPOL personnel have been deployed at the central, regional and provincial levels in order to train, mentor, monitor and advice the ANP. Following the establishment of the EUPOL mission, Germany no longer plays the role of key partner for the police sector; the responsibility has now been taken over by EUPOL.

5.2.5 UNDP – Law and Order Trust Fund for Afghanistan (LOTFA)

The US and Germany fund the police reform programmes directly, but the rest international donor contributions to the police sector are channelled through Law and Order Trust Fund for Afghanistan. LOTFA was established under the auspices of UNDP and led by a Steering Committee comprising representatives from the MoI, the Ministry of Finance (MoF), Germany as the key partner, UNAMA, UNDP, and other major police sector donors. LOTFA pays for police related costs, prioritised as follows (UNDP 2007, Law and Order Trust Fund Project):

i. Police salaries;
ii. Procurement, operation and maintenance of non-lethal police equipment;
iii. Rehabilitation, reconstruction, operations and maintenance of police facilities;
iv. Gender orientation (selection, recruitment and training of police); and
v. Institutional development.

3 ESDP is a central component of the Common foreign and Security Policy pillar of the EU, and comes under the authority of the intergovernmental European Council represented by member states.
Undesignated donor contributions to LOTFA are all used to pay for top priority – police remuneration – until annual costs are fully covered. Only then can other priorities be funded with undesignated LOTFA funds (UNDP 2006: 5).

The cause of the establishment of LOTFA demonstrates one of the principal long-term problems facing the entire security sector, including the police: fiscal sustainability. LOTFA was created precisely because the government lacked the resources to finance a reformed ANP. Between 2002 and 2006, over $330 million was channelled through the fund, the vast majority allocated to salaries. In its fourth phase (April 2006 – March 2008) the fund was finding it difficult to attract financing from donors (Hodes and Sedra 2007: 67). While numerous donors, including Finland, Ireland, the UK and the Netherlands, contribute to the fund, the major portion of donations come from the European Community (EC) and the United States, which account for over 75 percent of all contributed funds by late 2006 (Table 5.3). With the implementation of the revised pay structure, the World Bank has estimated that salary costs for the police could increase to $177 million a year, accounting for roughly a third of domestic revenues according to FY2005/06 figures (World Bank 2005b: 42-43). Even an above-expected increase in state revenue over the coming decade will not offset this increase, meaning that international donors will have to support the Interior Ministry for the foreseeable future.

Table 5.4 depicts the increasing ANP remuneration costs funded through LOTFA. The increase of the wage bill from $60 million in 2003-04 to a projected $194 million by 2009-10 raises serious doubts regarding the fiscal sustainability of the ANP. Decision to increase the size of the police force to 73,000 in 2006 and then to 82,000 in 2007 accompanied by the decision to increase the lowest level of police salaries from $70 to $100 per month, will cost approximately $100 million per year. Thus, ensuring that donors significantly increase their LOTFA contributions and commit to maintaining these increased contributions for the medium to long term, will be a major police sector challenge in coming years.

5.2.6 Police Sector Coordination

One of Germany’s responsibilities as the key partner for the police reform was to coordinate the international support to the Afghan police force. Germany’s task of coordinating police reform efforts has been challenging, due to the confusion generated by the term “lead donor”. While some countries understood lead donors to
be the major donor and implementer of programmes in their respective SSR pillars, others understood their role as coordinating policy making and donor support in their sector. After two years when it became clear that the German role in directly implementing and financing police reform efforts would be limited the US became more active in their sector. The sudden increase of US involvement in the police sector from 2004 onward has created coordination challenges. There was an inherent tension that a lead donor –Germany– was trying to manage US, which was contributing many times more personnel, but having a completely contradictory vision and strategy than Germany.

Evidently, two different approaches to police-building were developing. Germany was cautious and rational, building on what already existed and extending outwards. It was guided by a vision of the ANP as a civilian law and order force – not a security force. On the other hand US approach has been bold and sweeping, attempting to tackle a number of pressing problems all at the same time. US was guided by a vision of the ANP as an important security force with a major counter insurgency role. It is important to note that the US decision to assign the police a strong counter-insurgency role was strongly opposed by some US government agencies.

The contradictory approach of US and Germany has inevitably placed strains on the US-Germany relationship in the police sector. Efforts to improve coordination between the German and US police missions improved significantly in late 2006 and early 2007. This improvement followed a meeting of police advisers in Dubai in April 2006, during which both missions resolved to work in close coordination. A significant initiative to improve coordination and build synergies among all the stakeholders in the police-reform process took place in October 2006 with the introduction of the International Police Coordination Board (IPCB) at a second meeting of police advisers in Dubai. On the strategic level, IPCB is intended to serve as the chief coordination forum, coordinating and prioritising the international police reform effort in Afghanistan. The first meeting of IPCB was held in March 2007, with Germany serving as Chair and Norway as the Secretariat. Other members include the Ministry of Interior, EUPOL, CSTC-A, ISAF, UN Assistance Mission in Afghanistan (UNAMA), Norway, Canada, UK and PRT along with military liaison officers (Wilder 2007: 27). Although IPCB could play a vital role in bringing greater coordination and strategic direction to the reform process, its impact has been limited.
Debates continue on whether it is a decision making body or simply a forum for information sharing and dialogue.

Table 5.3: Contributions to LOTFA, 2002-06 (in US$ '000)

<table>
<thead>
<tr>
<th>Donors</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>ARTF</td>
<td>836</td>
<td>20,800</td>
<td>39,211</td>
<td>39,095</td>
<td>38,997</td>
<td>39,526</td>
</tr>
<tr>
<td>Canada</td>
<td>2,435</td>
<td>3,053</td>
<td>1,653</td>
<td>39,526</td>
<td>156,829</td>
<td></td>
</tr>
<tr>
<td>EC</td>
<td>98</td>
<td>123</td>
<td>136</td>
<td>781</td>
<td>1,138</td>
<td></td>
</tr>
<tr>
<td>Finland</td>
<td>2,018</td>
<td>6,588</td>
<td>8,606</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Germany</td>
<td>8,900</td>
<td>8,900</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Netherlands</td>
<td>4,751</td>
<td>1,248</td>
<td></td>
<td>12,612</td>
<td>18,611</td>
<td></td>
</tr>
<tr>
<td>Norway</td>
<td>1,047</td>
<td>424</td>
<td></td>
<td>1,471</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Switzerland</td>
<td>247</td>
<td>384</td>
<td>877</td>
<td>1,030</td>
<td>2,693</td>
<td></td>
</tr>
<tr>
<td>UK</td>
<td>2,609</td>
<td>2,609</td>
<td></td>
<td>2,609</td>
<td></td>
<td></td>
</tr>
<tr>
<td>USA</td>
<td>20,000</td>
<td>40,000</td>
<td>40,000</td>
<td>100,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Others*</td>
<td>350</td>
<td>351</td>
<td>898</td>
<td>130</td>
<td>1,729</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>7,031</strong></td>
<td><strong>65,921</strong></td>
<td><strong>65,294</strong></td>
<td><strong>81,071</strong></td>
<td><strong>112,046</strong></td>
<td><strong>331,363</strong></td>
</tr>
</tbody>
</table>

*Contributions totalling less than $1 million. Source UNDP, 2006

Table 5.4: LOTFA Annual Police Remuneration Costs FY 1382-88 (2003-2010)

<table>
<thead>
<tr>
<th>Year</th>
<th>Force Size</th>
<th>Monthly Salary of Patrolman</th>
<th>LOTFA Annual Police Remuneration Costs (salaries &amp; benefits)</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY1382 (2003-04)</td>
<td>No reliable data</td>
<td>$16</td>
<td>$60.7 million</td>
</tr>
<tr>
<td>FY1383 (2004-05)</td>
<td>53,400</td>
<td>$16</td>
<td>$69.3 million</td>
</tr>
<tr>
<td>FY1384 (2005-06)</td>
<td>58,000-65,000</td>
<td>$70</td>
<td>$68.0 million</td>
</tr>
<tr>
<td>FY1385 (2006-07)</td>
<td>62,000-73,000</td>
<td>$70</td>
<td>$96.0 million</td>
</tr>
<tr>
<td>Projections</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FY1386 (2007-08)</td>
<td>Afghanistan Compact authorised size: 62,000</td>
<td>$70</td>
<td>$114.3 million</td>
</tr>
<tr>
<td>FY1386 (2007-08)</td>
<td>Present size: 73,000</td>
<td>$70</td>
<td>$142 million/Year</td>
</tr>
<tr>
<td>FY1386-87 (2007-09)</td>
<td>Present size: 73,000</td>
<td>$100</td>
<td>$169 million/Year</td>
</tr>
<tr>
<td>FY1387-88</td>
<td>Proposed size: 82,000</td>
<td>$100</td>
<td>$194 million</td>
</tr>
</tbody>
</table>

Note: Pension liabilities are not included in the projected figures

While efforts have been made to improve police sector coordination in Kabul, there are still major communication and coordination gaps between police
programmes in Kabul and those based in RTCs and PRTs at the regional and provincial levels. Amongst the PRTs and RTCs also the proper coordination is missing. In the absence of a common national police reform strategy, each PRT is running its own police programme based on its own national guidelines, thereby missing out on the synergies that a more coordinated effort would provide. An allied issue of concern is the asymmetry that exists between the very large-scale CSTC-A programme and other much smaller programmes, at times with only one or two police advisors based in a remote PRT.

There are also major coordination challenges within the Afghan government itself, and between donors and the government. Security sector is being affected due to the strained relationship between the Ministry of Interior (MoI) and Ministry of Defence (MoD). Police reform efforts have been drastically affected due to the weak links between the police and justice sectors of the Afghan government. Endemic corruption poses a further challenge to the reform process of all the sectors. There is an earnest need to address the issue of corruption at all levels in the various sectors, especially the police and the Interior Ministry. Developing and implementing police reform programmes in partnership with a ministry that is largely unreformed – and that has shown little interest in reforming – has often proved to be a largely futile exercise. President Karzai must make serious efforts in completely reforming the Ministry of Interior. Unless this happens, efforts to coordinate and promote police reform in Afghanistan are unlikely to succeed.

5.2.7 Restructuring and Reforming of Police

By 2005 Afghan government and its international supporters have realised that by only providing training and equipments will not develop an effective policing system. The training was having only limited impact and one the individual returned to work in the unreformed institutional environment he was back to his old ways of working. At the same time, the escalation of the Taliban-led insurgency in southern Afghanistan led to a greater recognition of the need for a more effective police force. These two factors resulted in more attention and allocation of resources to institutional restructuring and reforming of the ANP since 2005.

The major police restructuring efforts include:

i. Establishing 5 Provincial Regional Commands (PRCs) in Kabul, Gardez, Kandhar, Herat and Mazar-i-Sharif modelled after the ANA regional structure;
ii. Revising the Chain of Command to include Regional Commands, and to minimise the role of provincial governors;

iii. “Rebalancing” the police force to redeploy additional police in southern Afghanistan to assist in counter-insurgency operation;

iv. Eliminating some police structures (the Afghan Highway Police and Standby Police) and creating new ones (Afghan National Auxiliary police and Afghan national Civil Order Police); and

v. Reforming the *tashkil* and increasing the size of the police force from the Afghanistan Compact approved size of 62,000 to 82,000.

Apart from the above stated restructuring efforts, two important institutional reform initiatives have been the payroll reform and pay and rank reform, where significant progress has been made in the past few years. The reform was necessary as the corrupt and unreliable police payroll system as well as the insufficient salaries prompted the police to be associated with the drug trade. The, drug trade is the leading source of corruption in the police department with up to 80 percent of the police force being allegedly involved in the trade (Hodes and Sedra 2007: 66). The lack of computerised banking and salary payment system early in the reform process meant that wages were not effectively delivered to officers in the field.

However, significant progress has been made under the auspices of the CSTC-A finance team in the Ministry of Interior to establish systems to more efficiently deliver the salaries. They have introduced a three-phased process to increase the reliability of payroll payments (CSTC-A, “Afghanistan Cross Walk”, September 27, 2006):

**Phase I:** Includes an Individual Payment System (IPS), in which Ministry of Finance personnel travel to the provinces to verify payroll lists and pay policemen.

**Phase II:** Includes Pay b List. In this, Ministry of Finance sends payroll to provincial branches of Da Afghanistan Bank and branch tellers pay policemen after checking their identification.

**Phase III:** It is an Electronic Fund Transfer (EFT) system, which transfers funds to individual bank accounts of policemen.

By the end of year 2006, individual payment system was in operation in all but three provinces – Daikundi, Nimroz and Nuristan – while the electronic fund transfer system was being piloted in Kabul and resulted in the establishment of over 14,000 bank accounts for police officers. The goal is for all salary payments to be made
through the EFT, but the lack of a country-wide banking system will probably delay this for several years. The payment to ghost police undoubtedly still exist but it has been drastically reduced. With the gradual advancement in the payment system this problem will be completely phased out. After the pay and rank reform, the payroll system is expected to become more effective.

The Pay and Rank Reform process is designed to implement the force structure embodied in the *tashkil* endorsed by the government in November 2005. Prior to the launch of the rank reform component, the Interior Ministry and the police were extremely top-heavy, with field grade and general officers outnumbering sergeants by three to two (Huxsoll 2005). The major objectives of pay and rank reform were as follows (Inspector General of the US Department of Defense and Department of State 2006: 27):

i. Restructuring of the top-heavy ANP by reducing senior positions;

ii. Instituting a rigorous process for testing and selecting officers based on merit rather than personal and factional connections and bribery; and

iii. Increasing pay to facilitate recruitment and retention and reducing corruption.

Based on the Afghanistan Compact approved size of 62,000, the Table 5.5 depicts the number of police in each rank and their salaries before and after pay and rank reform. With the rank reform, the number of police officers in the ranks of captains through generals was reduced by 76 percent from 10,443 to 2,552, and the number of patrolman, sergeants and lieutenants increased by nearly 30 percent from 45,982 to 59,478. With the pay reform an effort was made to bring police salaries in line with the previously increased ANA salaries, and to decompress the salary scales by increasing the ratio of lowest to highest monthly salaries from about 1:1.5 ($70: $107) to 1:10 ($70: $750) (Schultz 2006). The subsequent increase of ANA salaries in 2006 again created salary disparities between the ANA and ANP. The pressure from the ANP to match their salaries with ANA resulted in a decision at the April 2007 JCMB meeting to have ANP salary levels broadly equivalent to the ANA. This would mean an increase in the salary of lowest ranking patrolmen from approximately $70 to $100 per month.
### Table 5.5: Before and After Pay and Rank Reform

<table>
<thead>
<tr>
<th>Rank Reform</th>
<th>Before Reform</th>
<th>Police Ranks</th>
<th>After Reform</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>340+</td>
<td>Generals</td>
<td>117</td>
</tr>
<tr>
<td></td>
<td>2,450</td>
<td>Colonels</td>
<td>301</td>
</tr>
<tr>
<td></td>
<td>1,824</td>
<td>Lt. Colonels</td>
<td>467</td>
</tr>
<tr>
<td></td>
<td>2,067</td>
<td>Majors</td>
<td>580</td>
</tr>
<tr>
<td></td>
<td>3,762</td>
<td>Captains</td>
<td>1,057</td>
</tr>
<tr>
<td></td>
<td>1,705</td>
<td>1st Lieutenants</td>
<td>1,518</td>
</tr>
<tr>
<td></td>
<td>1,834</td>
<td>2nd Lieutenants</td>
<td>2,756</td>
</tr>
<tr>
<td></td>
<td>1,043</td>
<td>3rd Lieutenants</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>4,800</td>
<td>Sergeants</td>
<td>9,324</td>
</tr>
<tr>
<td></td>
<td>36,600</td>
<td>Patrolman</td>
<td>45,880</td>
</tr>
<tr>
<td></td>
<td>56,425</td>
<td>Total</td>
<td>62,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Pay Reform</th>
<th>Before Reform</th>
<th>Police Ranks</th>
<th>After Reform</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$107</td>
<td>Lt. General</td>
<td>$750</td>
</tr>
<tr>
<td></td>
<td>$103</td>
<td>Maj. General</td>
<td>$650</td>
</tr>
<tr>
<td></td>
<td>$95</td>
<td>Brig. General</td>
<td>$550</td>
</tr>
<tr>
<td></td>
<td>$92</td>
<td>Colonel</td>
<td>$400</td>
</tr>
<tr>
<td></td>
<td>$88</td>
<td>Lt. Colonel</td>
<td>$350</td>
</tr>
<tr>
<td></td>
<td>$83</td>
<td>Major</td>
<td>$300</td>
</tr>
<tr>
<td></td>
<td>$78</td>
<td>Captain</td>
<td>$250</td>
</tr>
<tr>
<td></td>
<td>$69</td>
<td>1st Lieutenant</td>
<td>$200</td>
</tr>
<tr>
<td></td>
<td>$66</td>
<td>2nd Lieutenant</td>
<td>$180</td>
</tr>
<tr>
<td></td>
<td>$62</td>
<td>Sergeant</td>
<td>$115/140/160</td>
</tr>
<tr>
<td></td>
<td>$70</td>
<td>Patrolman</td>
<td>$70/80</td>
</tr>
</tbody>
</table>


The most prominent component of pay and rank reform was instituting a merit-based process for selecting competent officers for the reduced number of officer positions. The process was intended to purge the police of unqualified and corrupt officials. It was a phased process, beginning with the most senior posts and working down to the rank of lieutenant. For the overall monitoring of selection process a Rank Reform Commission was established, consisting of senior officials from Ministry of
Interior headed by a police general and advised by CSTC-A and the GPPO. The Commission developed a well defined selection process.

The first phase of selection, formally completed in early 2006, involved the appointment of 31 senior general (two or three stars). The appointed candidates were chosen via a three stage rigorous selection process. After submitting an application candidates were subjected to a file-review process, during which their education, professional experience, personal history and character were assessed. This was followed by a written examination to assess the “candidates’ knowledge of the law and legal procedures, analytical abilities, management style and ethics” (Huxsoll 2005). In the final stage, candidates were interviewed by a selection board consisting of the interior minister along with two other senior members of the ministry and a representative from the German and police missions. Each candidate who successfully completed the three stages was assigned a score, which was used to allocate a ranking. Finally, the ranked list was subsequently reviewed by the interior minister, and passed to the president for approval.

While the first phase of selection was successfully implemented, the result of the second was mired in controversy. This phase involved selecting 86 major generals and brigadier generals, including the 34 provincial police-chief posts. The controversy began with the Karzai’s decision to adjust the ranked list of 86 candidates submitted for final approval. Of the 50 amendments Karzai made to the list, the most noteworthy were his addition of 14 candidates who had failed in the examination (Hodes and Sedra 2007: 69-70). Karzai justified his decision on the basis of the need to have a more ethnically balance result, as the original list featured only one Uzbek and very few Hazaras (Walsh 2006). The GPPO was not ready to accept any manipulation of the final list of selected candidates. Although US also protested against Karzai’s decision, it was flexible enough to accept the changes arguing that results were more important than process and the fair selection of 72 candidates out of 86 was a major improvement over their predecessors.

Responding to the continued criticism from the international community, Karzai appointed a probation board to monitor the performance of the 14 controversial candidates. The board consisted of six senior police generals, with Germany, the US, the EU and UNAMA attending as observers (Wilder 2007: 41-42). In January 2007 the probation board rejected 11 of 14 appointments under review. In September 2006, Karzai signed a decree establishing a Special Consultative Board
intended to mitigate such problems in the future. The body is mandated to approve senior-level appointments, in a transparent and accountable fashion. However, the government seems not much interested in taking the services of the board, so few appointments had been taken to the body for approval (Wilder 2007: 42).

The third and fourth phase has made an attempt to overhaul the intermediate ranks of the force. Phase three has addressed the posts of colonels and majors, filling 1,000 positions from a pool of 8,000 eligible applicants. In phase four captains and lieutenants have been appointed for 5,000 company grade officer posts from a field of over 10,000. The options for rejected candidates are either of accepting a demotion, which under the new pay structure, still involves a significant rise in salary of up to 500 percent, or retiring and accepting a severance package. Severance packages offer one year’s salary under the new salary scale, and an opportunity for vocational training.

In Afghanistan’s environment of extremely weak institutions there is a need to have dedicated individuals who are more dedicated for the progress of the nation than their own. Considering the government’s poor track record in making effective appointments and President Karzai’s preference for continuing with the corrupt and potential trouble makers inside his government, the international community will need to continue to pressure the government on reforming the ministries and screening corrupt officers as well as ministers.

Earlier overhauling the police was given priority while reforming the Interior Ministry was perceived as secondary. The Interior Ministry continued to be one of Kabul’s most corrupt ministries. Andrew Wilder observed while conducting interviews for the paper, “Cops or Robbers? The Struggle to Reform the Afghan National Police”, that there was a consistent demand to reform the Interior Ministry, otherwise reform efforts would also fail and the money spent on it will be wasted (Wilder 2007: 52). The Afghan government’s 2004 strategy document presented at the Berlin donor conference stated “regardless of the scale and nature of donor support, the reform will have little impact if the Ministry [of Interior] does not show the political will to change” (Sedra 2004).

Despite continuous efforts of reforming the Interior Ministry, corruption is unabatedly thriving in the ministry. There are widespread reports of petty corruption within this ministry, and police demanding bribes from the public. The alarming level
of corruption in the ministry is linked to the drug trade. This “grand corruption” is extremely damaging to state-building efforts because it arrests the evolution of state apparatus (World Bank 2005a: 31). There are often reports about Interior Ministry officials accepting colossal bribes in exchange for appointing certain individuals into strategic and lucrative positions, often as police chiefs in districts and provinces involved in drug production or trafficking (Baldauf 2006c).

For reforming the Interior Ministry, priority must be given to address the issue of corruption. Few national level measures have been launched to address this issue—including the establishment of an anti-corruption agency, the Attorney General’s high profile campaign to arrest some government officials on corruption charges and the recent publication of the governments “Anti-Corruption Roadmap”. However the issue of corruption within the ministry and the Afghan National Police remains to be addressed, despite the recognition of the officials involved in drug trafficking. There is an urgent need to address the issue of corruption in both the Interior Ministry and the police department, which is seriously undermining the reputation and legitimacy of these institutions as well as that of Karzai’s government. Failure to prioritise the Interior Ministry reforms will result in minimal returns on the increasing investments being made in police reform. To achieve effective police reform the interdependence of the police and judicial sector needs to be addressed, with an effective strategy for reforming and strengthening the judicial system.

5.3 Rebuilding the System of Justice in Afghanistan

Afghanistan has a mixed civil law and Sharia-based formal legal system. The formal justice system of Afghanistan has been influenced, to varying degrees, by Western (especially French) legal thought and moderate Islam, radical Marxism, and by radical interpretations of Islam. The state legal system has been influenced by a deeply-rooted system of customary law and practices. This non-state system is comprised of tribal custom and “folk sharia” – local conceptions of Islamic Law. These three bodies of law: state law, sharia law, and customary law, overlap in subject matter, and each provides challenges of implementation for the other two.  

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4 The World Bank Public Financial Management report distinguishes between “petty corruption” and “grand corruption” in Afghanistan.

5 A book written in 1900 states: “The law of Afghanistan in the present day [1900] may be easily placed under three headings (1) those of Islam; (2) those of the Amir, which are based upon Islamic laws, the opinions of the people, and the Amir’s own personal views and ideas; (3) customary laws of the various tribes. In all criminal and political cases, practically the chief part of the law has been made
Due to the significance of the *sharia* in both the state and non-state systems, the clergy had its say in both the systems.

The formal and informal systems have often been at logger heads – providing competing forums and principles for resolving disputes. The focus of the formal system was to deliver justice and create consistent rules to be followed uniformly all over the country, whereas the focus of the informal system has always been equity – to resolve disputes according to local conceptions of fairness so as to restore harmony of the community. The growth of state power through the first half of the 20th century gradually increased the reach of the police and the courts. But, this was limited to the urban centres; while the traditional mechanisms continued to operate uninterrupted at the village level.

5.3.1 Historical Overview of the Judicial System

From the 1880s until the 1960s, Afghanistan essentially had a dual judicial system. This system has emerged and evolved in the last 120 years, since the creation of the bureaucratic state. The *sharia* courts headed by a clergy handled areas of law such as criminal law, family and personal law laid down in the *sharia*. A separate system of government courts handled state law issues, such as those relating to commerce, taxation, and civil servants. With the growth of state law, the writ of the state courts also expanded, until competition emerged as the courts battled over substantive jurisdiction.

In 1963, King Zahir Shah began a process of reform intended to democratise Afghanistan by increasing the power of the elected government, establishing separation of powers between the branches of government, and reducing the role of the monarch and royal family in the affairs of state. In 1964, a new constitution after being debated for over a year was ratified by a *Loya Jirga*. The new constitution made significant changes to the judicial system. The prominent ones among them being:

i. Article 97 declared the judiciary an “independent organ of the state” which “discharges its duties side by side with the Legislative and Executive Organs”;

ii. The Constitution created a unified judicial system, assembling the disparate parts of the old system into one hierarchical structure with a Supreme Court at its apex;

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by the Amir, and so in cases as to the Government revenue. But the rest, Islamic law is the general rule. Thus very little is left to custom” (Khan 1900).
iii. The Constitution created a unified system of laws. The basic principles of the *sharia* were to serve as a guide to the legislature, but the judiciary was proscribed from applying the *sharia* except where "no provision exists in the Constitution or the laws for a case under consideration" (Constitution of Afghanistan 1964: Art.102). Even then, judges were only required to follow the basic principles of Hanafi jurisprudence (Kamali 1985).

With the changes in the judicial system the need for legal professionals increased. Most judges in the legal system were trained in the *sharia* not in Afghan law and procedure. To overcome this problem, the law faculty at Kabul University was improved, and competitive exams introduced for entrance into the judicial service. In 1968 a judicial training programme was initiated, providing the judges an additional year of practical coursework and training in the judicial system. In a few years there was a substantial increase in the formally trained legal community, which consisted of about 1200 people, of which 715 were judges, 170 prosecutors, and 100 lawyers (Kamali 1985).

The logic of the general courts system is as follows: the bulk of the cases, are basic civil and criminal law cases, in which all judges are trained and which occur in all districts of the country. Therefore, each district has a District Primary Court that has a criminal bench, a civil bench, and a document registration office for legal documents pertaining to birth, marriage, divorce, and property. The geographic jurisdiction of the court is same as the administrative district of the state. Appeals can be made to the provincial courts on questions of fact and law, and appeals on question of law can be taken to the Supreme Court in Kabul.

5.3.2 Assessment of the Present Judicial System

One of the legacies of Afghanistan’s constantly shifting political terrain since 1964, with its numerous changes of regime is a convoluted and overlapping body of law. A new constitutions in 1964 was superseded by new constitutions or basic laws in 1977 (Daoud’s Republic), 1980, 1987, 1990 (PDPA), 1992 (proposed Mujahideen

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6 Kamali argues that the primary purpose of this reform was not to deviate from the *sharia*, but rather to improve the "legality" of the system. Kamali believes that the changes in the system were made to ensure that people could not be deprived of fundamental rights due to the indeterminacy of the *sharia*. Such indeterminacy violates the notion, first articulated in the 1789 French Rights of Man, that no act can be a crime unless a law exists at the time criminalizing the act — a principle also known by the Latin *nullen crimen sine lege* (Kamali 1985: 21).

7 The term “primary” is used throughout to indicate a court of first instance, in other words the first court to hear a claim.
Constitution), and the new constitution approved in 2004. Each of these regimes passed laws suitable for them. The Bonn Agreement recognised the 1964 constitution and all existing laws that were consistent with Afghanistan’s international legal obligations. A subsequent presidential decree, issued in 2002, mandated the Justice Ministry to de-conflict the legal system removing any contradictions between existing laws, and determine which laws were valid. A new constitution endorsed in 2004, provided a foundation for the rationalisation of the country’s legal framework. However, till date the process has made only limited progress.

Although, the Bonn Agreement called for the appointment of a Judicial Reform Commission, “to rebuild the domestic justice system in accordance with Islamic principles, international standards, the rule of law and Afghan legal traditions” (Bonn Agreement 2001: Art. II(2)). Judicial reform was, from the outset, approached as a secondary objective to the task of training and equipping the country’s security forces. The wide disparity in international assistance provided to the security force train-and-equip programmes as compared to efforts to reconstitute the judicial system exemplify this prioritisation. For 2001-2003, only about $25 million had been allocated to the reconstruction of the justice sector, by mainly Western donors, although the overall request of the Afghan government amounted to $190 million up to 2006 (Ammitzboel 2005: 38). According to the World Bank, only 3 percent of expenditures in the security sector were allocated to justice institutions in FY 2003/04 (World Bank 2005b: 50). Up until early 2005, the justice sector had only received 2-4 percent of the financial resources allocated to the entire security sector. (Sedra 2006: 100). Given the fact that even before the downfall of the Taliban regime, the country was perceived as having the lowest ranking justice system in the world (Jones et al. 2005: 99) this level of assistance was grossly inadequate.

Italy was tasked with being the ‘lead nation’ in the judicial reforms, providing financial assistance, coordinating external assistance and looking after the reconstruction efforts in this sector. Due to the Italy’s leading role in the rule of sphere and the very slow progress in this area exposed it to heavy criticism. The RAND Corporation research director in the field of state-building, James Dobbins, argues that: “Italy simply lacked the expertise, resources, interest and influence needed to succeed in such an undertaking” (Dobbins et al. 2007: 101). The criticism seems to be unjustified as Italy made serious efforts to reform the judicial sector but it did not received the required support from the donors. The Italian government

In 2004, J. Alexander Thier viewed that "every aspect of a functioning judiciary is presently absent in Afghanistan" (Thier 2004: 2). While Italy was left to carry the responsibility in judicial sector, international donors were providing support for other sectors of the reconstruction agenda, as a consequence, "no political capital was spent to put the sector on track"(Their 2004: 13). This resulted in curtailing policy ambitions to the resources available and stressing budgetary constraints, both now and in the long term, along with the concomitant need for self reliance and avoidance of any non-sustainable aid dependencies (UNAMA 2004: 33). The budgetary constraints in judicial sector have resulted in the deficient physical infrastructure such as court houses, law libraries, prison facilities and office buildings for prosecutors and lawyers. A complete record of the law had not been assembled and disseminated, creating regional variations in the nature and application of legal statutes. The attention to this sector was refocused when the security situation started to decline again. Then in February 2007, the EUs External Relations Commissioner, Benita Ferrero Waldner affirmed that all of Afghanistan’s judicial institutions’ “are absolutely in urgent need of reform”. Waldner further announced an EU pledge of €600 million to help reform Afghanistan’s public administration, 40 percent of which was to be allocated to judicial sector (Lobjakas 2007). Despite various reformatory programmes of the judicial sector the situation has changed little by the mid of 2009.

One of the most conspicuous shortfalls concerns the lack of judicial buildings. International donors have assisted with repairs to the judicial infrastructure, but this has largely been ad-hoc (UNAMA 2006). USAID is engaged in rebuilding provincial judicial infrastructure, and Italy has funded renovations and repairs to the Justice Ministry building in Kabul, and the Faculty of Law and Political Science at Kabul University. PRTs have also been involved in the refurbishment of district courthouses. Accessories and equipments required for the smooth functioning of the judicial office including office supplies, vehicles, telephones, furniture, computers and generators
are also being provided by international agencies. The building of the judicial infrastructure have made some inroads at the national and provincial levels, little has been achieved at the district level, the main point of contact between Afghans and the judicial system.

5.3.3 Formal Judicial Institutions

Afghanistan’s formal permanent national-level institutions of justice include the Supreme Court, the Ministry of Justice, the Attorney General’s office, and the Ministry of Interior. The Supreme Court, in addition to serving as the highest court of the land, also manages the entire court system at the provincial and district levels. The primary functions of the Ministry of Justice are: to serve as government lawyer; to manage the prison system; to provide legal assistance to government and to citizens in the provinces; and to draft laws for the government. The Attorney General’s office is an independent executive entity responsible for investigation and prosecution of crimes. The Ministry of Interior is responsible for the police.

The lack of judicial and administrative personnel, along with the ‘dismantled’ bar association, highlights the parlous state of Afghanistan’s legal sector. There is closely a severe deficit of human resources in the justice sector, but it is difficult to say how many competent legal professionals – including support staff – are needed for Afghanistan’s justice system to function at the most basic level. According to Ferrero Waldner “the system is operating with staff who are insufficiently trained or educated – recruited through a system that is not at all transparent - and who do not operate under very credible mechanisms for [ensuring] accountability and discipline” (Lobjakas 2007). There is limited information of the functioning employees and the likely more number of employees required for the effective functioning of the system. The best available guide to the needs of the system is the administrative structure of the country and the court systems.

In order to achieve the goal of a district primary courthouse in every district, almost 330-360 functioning court houses are required, each with a minimum of two to three judges and prosecutors each. Similarly, there would be 34 provincial appeal courts, each likely requiring at least a dozen judges and several prosecutors. Supreme Court has approximately 1,415 official “judge” positions in its staffing scheme of which 523 posts are vacant (UNAMA 2006: 8). The situation of the prosecutors is
similar. According to the office of the Prosecutor General, 2212 legal professionals are needed nationwide, among a total of 4934 staff (Barfield et al. 2006: 20).

To develop human capacity donors have funded a range of training programmes to improve the qualifications of existing judicial personnel and prepare the next generation of jurist. However, justice sector initiatives like all other reforms have been ad-hoc and poorly coordinated. International Development Law Organisation (IDLO) implemented the first major training programme called International Training for the Afghan Judiciary. It was launched in July 2003 with funding from Italy. The programme provided 18 months of ‘skills oriented training’ to 500 judges, prosecutors and Justice Ministry personnel. Since then, IDLO has implemented two other projects, funded by Italy and the Canadian International Development Agency (CIDA) (UNAMA 2006: 11). The IDLO training programmes have been under strong criticism from the Afghan government and the USAID as they were not based on the comprehensive empirical analysis of the capacity needs of the justice system. Moreover, the formal judicial institutions were not adequately consulted over the design of the programmes and often ignored or overlooked Afghan concerns.

The weakness of the training programmes has been their lack of a monitoring and evaluation component. There has been no follow-up training or assessments of whether graduates were applying their newly acquired knowledge. Monitoring undertaken by UNAMAs rule of law unit revealed that judges and prosecutors were “not applying fair trial standards or properly implementing the interim criminal procedure code” (UNAMA 2006: 11). To address such deficiencies and assert Afghan ownership over the training process, the Supreme Court has established a Judicial Training and Education Committee to “develop a more coordinated approach to the planning, implementation and evaluation of training programs” (UNAMA 2006: 12). The committee oversees the implementation of an induction course for new judicial actors and is working to develop a system of continuing education and training. Technical support and assistance to the committee is being provided by USAID, Germany’s GTZ and the Italian Justice Project. Italy and US have assisted in the establishment of national Legal Training Centre in Kabul in 2006. To enhance the formal institutional training the legal training and education programmes will be conducted from this centre.
5.3.4 Effectiveness and Legitimacy of the Formal Judicial System

The justice officials including police, prosecutors and judges have very little actual authority to make or implement their decisions. These offices are seen as instruments of unaccountable power holders, but they have limited legitimacy in the Afghanistan’s formal legal system. This situation can be viewed in the context of Afghan history. Afghan society has long been resistant to the intrusion of the state into local and personal affairs and the formal court system has always struggled for legitimacy. The anarchy of the last three decades has destroyed the legitimacy of the state, making Afghans to loose their faith in all central government institutions. The faith in the official system has further declined due to the prevailing corruption in offices, which has worsened in the current unstable context. It is a common understanding that involvement in the formal court system means greasing the palms of the greedy officials throughout the process. The threat of formal litigation is often used as a deterrence to convince disputants to settle their disputes in the informal setting.

It will take time to overcome these significant hurdles. Limited resources, power struggles, and entrenched networks are already making reform a slow and difficult process. The reach of the formal judicial system is restricted to urban centres only. People still prefer the informal customary law, the Pashtunwali and the Jirga system for dispute resolution. The path forward for the justice sector and for the Afghan state in general is to slowly establish pockets of effective, fair and accountable government.

To make inroads in the rural areas UNDP is implementing a project “Access to Justice at District Level” co-financed by Italy and the European Commission. The cost of the project, which is supposed to last for 30 months in duration, is about €6 million. The objective of the programme is to educate the Afghan rural communities about the new legal reforms. The project tries to circulate the basic rule of law and human rights principles in local communities using ‘informal’ persuasion methods – which include stories and discussions on radio, soap operas, and theatrical performances by companies of strolling actors and wall pictures, as well as teachings in elementary school or local mullahs’ seminars. It also seeks to reform the informal judicial activities exercised by jirgas/shuras, within a legal framework balancing both human rights and village institutions (Senier 2006:8).
The implementation of the project "Access to Justice at District Level" highlights the international approach of integrating the masses by formalising and legitimising some of their customary laws, provided, they do not contradict the human rights. The recent approach in Afghanistan has tended to reject the state-building practice of simply transferring Western administrative organisational models into developing countries, assuming their worldwide efficiency. (UNDP 2004: 6). At the local level it is possible that these more flexible and pragmatic institutional responses could assist in the fostering of public confidence in externally-designed norms through the reliance on structures and bodies normally trusted by local populace (Mani 2005: 29-30). Recognition of some non-state practices could offer benefits to both in the short and long terms, and could enhance efforts to re-establish the rule of law. At present, while the two systems have shown some interaction but it remains at the fringes. There is a need to have a mutual recognition for further cooperation.

According to the Afghanistan Independent Human Rights Commission (AIHRC), such traditional methods of delivering justice should also be promoted on the ground that they have the advantage of being immediately available to the local population. The approach should be to implement the formalised traditional Islamic laws to protect women's rights (Italian Justice Office 2006; Lau 2002: 26). In the patriarchal society of Afghanistan where women cannot claim any 'right' the traditional Islamic law provides some relief and at least partial protection to some of their rights, guaranteeing a core of minimum social protections although with several profound constraints (Riphenburg 2005: 34; Shah 2005: 239). However, local tribal codes do not provide women with any civil rights, permitting their handing over to victim's relatives as a form of compensation for a tort or a crime committed by their family members (International Legal Foundation 2004: 10).

Given the fact that rural women have limited opportunity to bring cases before courts located in provincial cities, such 'institutionalised' councils of elders might represent a viable and practical option for the administration of justice at the local level. In such a situation, the 'formal' acknowledgement of such 'informal' local judicial bodies by both the Afghan government and by international actors would require a basic reform of their rules of procedure to make them more consistent with the principles of Islamic and human rights law. Afghan legal scholars have even recommended complete incorporation of jirgas/shuras into the new system of justice (Wardak 2004: 335-338).
5.3.5 Towards an Integrated Model of Justice System

As the formal justice system in Afghanistan is perceived across much of Afghanistan as expensive, corrupt, elitist, inefficient and distant the traditional institutions deal with up to 90 percent of 'legal matters' in the country (Ministry of Justice of Afghanistan 2005b: 14). A survey conducted by the Asia Foundation in 2006, the largest ever undertaken in Afghanistan, found that only 16 percent of Afghans take legal disputes to government courts (The Asia Foundation 2006: 59). Rather, they look to traditional structures like the jirga, maraca and shura. This point to the need for the development of a new post-war model of justice – an integrated multi-dimensional model that represents Afghan cultural traditions, religious values, legal norms, and at the same time has the capacity to draw on human right principles. Considering these facts Ali Wardak has proposed an experimental model, which is illustrated in Figure 5.3.

Figure 5.3: An Integrated Model of a Post-War Justice System (District Level) in Afghanistan

The proposed model establishes the *jirga/shura* and genuinely independent human rights units alongside the existing court of justice (based on *sharia* and positive law) and their integration into the overall system of justice at district level. The *jirga/shura* unit would employ few full-time paid coordinators based in a fully equipped local office with a *jirga* hall. *Jirgalshura* would be conducted by around half a dozen elected local elders with expertise in traditional dispute settlement and having legitimate social influence. The elders would be paid only an honorarium and travel expenses charged from the public purse. The local administrator can seek advice from the *jirga/shura* members in issues relating to local governance.

The *jirga/shura* unit would deal with all types of civil incidents and minor criminal cases at district level. In the case of civil incidents, people may opt to start their cases with either *jirgalshura*, or with the district court of formal justice. However, all serious criminal cases would be dealt with exclusively by the district court of justice, and those cases that *jirga/shura* fail to resolve satisfactorily would be referred back to the formal process of the district justice system. The referral to the formal process would be based on a joint decision by *jirga/shura*, district judge and the district administrator. The paperwork and official procedures must be kept to the minimum so that the people can easily participate in the process on their own without the chances of middleman bridging in the gap and sowing seeds of corruption. The final ruling should be communicated to both the district court of justice and the human rights unit to ensure that it is in line with national legal norms and within acceptable limits of human rights. In this way, *jirga/shura* would significantly reduce the workload of the court of justice; more importantly, the use of this traditional local/tribal institution of dispute settlement would empower ordinary people to have ownership of the justice processes.

The processes, rituals and outcome of *jirga* as a traditional tribal/local Afghan institution conceptually resembles the spirit, values and principles of "restorative justice" – one of the most recent paradigms in modern criminology and criminal justice. The approach of the phrase – "restorative justice" – has been defined differently in varying social contexts, it proposes a community based model of justice that places special emphasis on the restoration of dignity, peace, and relationships, between offenders and victims; it provides restitution to victims and promotes the reintegration of offenders into the community (Braithwaite, 2002a; Braithwaite, 2002b; Braithwaite, 2003; Bottoms, 2003; Hudson, 2003; Johnston, 2001; Van Ness,
The ideology of restorative justice emphasises informalism and community involvement, is increasingly being practised in different parts of the world, especially in Australia, New Zealand, Canada and South Africa (Daly, 2003; Morris and Maxwell, 2003; Roberts and Roach, 2003; Skelton, 2002).

In the Wardak’s model, human rights unit would be run by two full-time independent, highly educated and well-reputed officials. Pragmatically to provide equilibrium to the male-dominated jirga unit, these officers should be female. The unit’s officials would act as ambassadors of human rights, and their role would be mainly education. Coordinating with district level education institutions, the human rights officials would prepare education and human rights activists and other Afghan personalities. The unit would also be a centre of lodging new cases of human rights abuses, including issues relating to domestic violence and resolving them in culturally sensitive ways. The human rights office would have the authority to monitor human rights violations by local government officials as well. The officers must be in a position to independently advise the district administrator about local human rights issues without being influenced by the state, warlords and other political factions. Otherwise, it will lose its significance becoming ineffective and even an instrument in the hands of those which have a combination of guns, power and money for continuing in positions of power.

The proposed model also illustrates complex inter-relationships between the district court of justice, jirga/shura and human rights units. The final ruling of jirga/shura should be reported to both the district court of justice and to the human rights unit, the latter two would consult the former for its mediatory role in cases that need diversion from the formal justice processes. Likewise jirga/maraka and human rights units would consult the court of justice about cases that may need to be dealt

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8 Carter and Connor (1989: 9) operationally define shura in this way: “A shura is a group of individuals which meets only in response to a specific need in order to decide how to meet the need. In most cases, this need is to resolve a conflict between individuals, families, groups of families, or whole tribes.” This description would seem to indicate that shura and jirga are fundamentally very similar Afghan informal (non-state) mechanisms of conflict resolution that operate in varying social and tribal contexts.

9 Jirga and Maraka involve very similar processes and the main constituent elements of the two are not fundamentally different from one another. Therefore, the concepts are often used interchangeably. However, the fact that jirga deals with serious and important conflicts within the tribe (or between tribes) such as murder, disputes over land, mountain, jungle/woods, and the fact that it operates at a higher level of tribal formations, its social organization is more structured. Maraka, on the other hand, mostly deals with civil and relatively less serious criminal matters at local village (or inter-village) level and therefore, it is loosely structured and its related rituals are not as elaborate as those of a tribal jirga are.
with in more strictly legalistic ways within the criminal justice system. Proper coordination and constructive interaction between the state and local civil society institutions would provide an integrated inter-agency justice system that is effective, accessible and humane. Such a system can only be effective when there is proper democratisation, institutional reform and development, disarmament, along with the establishment of the rule of law in post-war Afghanistan. It can therefore successfully operate in a social and political environment where the rule of law prevails, not the rule of gun and money.

But, the government has been reluctant to integrate the legal formal justice system with the informal. It does not want to cede authority or grant legitimacy to informal or traditional legal mechanisms, taking the view that recognition of informal structures would erode the power of the formal legal system and the state. The government is not ready to accept that the establishment of “a competent, coherent and effective justice system as a central component of a legitimate Afghan state… need not… [be] at the expense of all traditional or informal dispute resolution mechanism ” (Barfield et al. 2006: 3). Instead, a positive relationship between the informal and formal systems may “enable the government to harness the good of [the informal] systems, while also working to curtail its most problematic aspects” (Barfield et al. 2006: 3). Finding the equilibrium, as the Justice for All strategy recognises, requires work to “further study, dialogue and develop policy in the relationship between customary and “formal” law” (Ministry of Justice 2005b: 7). The studies undertaken to define and analyse the informal system have concluded that the “formal and informal [judicial system] already co-exist, and will do so for many years to come” (Barfield et al. 2006: 22). The question is whether the state and international assisting agencies will assist them to co-exist in a cooperative or competitive and antagonistic environment.

It has been observed that the legal system still admits both Islamic and secular offences and penalties, along with an Islamic family law which at times contradicts the international human rights treaties signed by Afghanistan and the 2004 constitution. Still, there is a remarkable contradiction in the founding principles of the justice system which is the result of two complementary efforts: strengthening domestic institutional capacity through the introduction of Western legal norms and international human rights protections and the need to restore legitimacy to the central authorities by adapting the justice system to Afghan rural, Islamic traditions and
conventions. These compromises are partly a reflection of the short-term approach taken to the development of the sector. In the long term, legal reform will depend on political transformation and the emergence of an Afghan political leadership capable of harmonising the system, overcoming the problem of conflicting legal principles and rules finally leading to the establishment of an unambiguous legal framework.

Ali Wardak’s integrated model of post-war justice system in Afghanistan proposes inter-institutional co-ordination between the Afghan formal as well as informal justice system, education, and human rights institutions. According to Wardak, the incorporation of jirga/shura into the formal justice system would not only simplify the justice process for ordinary people, it would enable them to have its ownership. This would make the justice system more widely accessible, cost effective, and expeditious, gradually resulting in the inclusion of women and those without guns and money into the political economic and cultural life of Afghan society.

As a result of external exigencies, the international policy framework have shifted from an orientation focused on pre-established organisational models, as observed in the Balkans and East Timor towards a mixed operational concept based on pragmatic political compromises and the formal involvement of national authorities in the reconstruction process. Perhaps in a mixed operational concept the applicability of Wardak’s model of post war justice system can also be tested. Although, it first needs to be thoroughly discussed among Afghan and international legal experts and ordinary people at grass root level, and then piloted in selected districts in Afghanistan. This political strategy can only succeed if it does not fall into a political vacuum. In this respect, the international community must ensure that the “light footprint approach” used in the Afghan state building process is not an ineffectual one.

5.4 Summary

The Afghan government and the international community in the process of rebuilding Afghanistan have stressed on security sector reforms. A new Afghan National Army has been formed under the supervision of USA, while the police and judiciary have been looked upon by Germany and Italy respectively. Each has its own set of problems and measures have been undertaken to resolve confrontational issues, yet many problems still persist. Corruption has been a major hurdle in the reform
process, with the Interior Ministry controlling the police department being the most corrupt in Kabul. With the steadily deteriorating security environment a historic opportunity to transform Afghanistan in the wake of the Taliban’s demise is slipping away as public disillusionment with the post-Taliban political order is growing. To confront the emergent crises of legitimacy there is a need to re-examine the approach in the security sector adopted by the international community and the Afghan government. The focus should be shifted from containing insecurity and safeguarding the regime to providing security, the rule of law and good governance to Afghans whether in the capital or far away in remote rural areas. When the government will be able to provide the basic public goods of security and justice it will be able to defeat the insurgency and assert its sovereignty over the entire country. Therefore, there is a need to shift the strategy from one rooted in regime security to one focused on human security specifically looking after the economic development of the country. The following chapter discusses in detail the reconstruction of the Afghan economy necessary for the long term stability of the country.