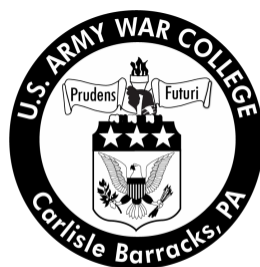


Afghan Sub-National Governance: Enabling Success by 2014

by

Lieutenant Colonel Kyle J. Marsh
United States Army



United States Army War College
Class of 2012

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ENABLING SUCCESS BY 2014**

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The situation in Afghanistan is incredibly complex, with challenging time constraints to produce strategic success. Only through a revised approach that enables Afghan sub-national governance to develop legitimacy and capacity can the international community achieve its strategic end state of a stable and politically viable Afghan state. This paper will argue that Afghanistan's current legitimacy vacuum was created by a lack of appreciation of the historical and cultural aspects of Afghan governance, the impact of a hastily ratified constitution, misaligned U.S. policy and strategy of a "top-down" versus "bottom-up" methodology, and the absence of effective local justice. An adjusted approach that creates the governance "missing middle" and systems to support good governance will enable sustainable legitimacy by 2014. A failure to recognize the importance of sub-national governance and its role in improving legitimacy places the future of Afghanistan and U.S. strategic interests in jeopardy.

AFGHAN SUB-NATIONAL GOVERNANCE: ENABLING SUCCESS BY 2014

The future of Afghanistan may not be won in the villages, but history teaches us that it will not be won without them.

—Lieutenant Colonel Brian Petit¹
U.S. Army Special Forces

President Barak Obama announced in June 2011 that the United States (U.S.) had met its initial strategic objectives in Afghanistan and was placing in motion an aggressive transition plan focused on cementing the security gains achieved since 2009. Furthermore, he declared that the U.S. would execute a responsible withdraw of “surge forces” by the summer of 2012, and that all U.S. forces would complete their redeployment by 2014.² President Obama based this new strategic policy on an assertion that Afghanistan was no longer a terrorist safe-haven that threatened the national security of the United States which indicated that the “tide of war is receding.”³ However, Afghan villagers who hear these words might question the validity of the President’s declaration. Their assessments are in deep contrast to the positive U.S. perspective of the situation, given the presence of an Afghan security force with unproven capacity to provide collective security, and an Afghan government that is unwilling or unable to safeguard the peoples’ future. Afghan sub-national governance, commonly referred to as the “missing middle”, must be improved, empowered, and resourced.

The exigency created by President Obama’s 2009 transition timeline and the current conditions in Afghanistan require yet another strategic reassessment. Given the brief two-year window of opportunity until final withdrawal, a new U.S. strategy requires a whole of government approach, international commitment to modified objectives, and

support for the potential increase of civilian government mentors. A new strategy must consider tactical options to enable the solutions for a strategic problem. Analysis of current strategy reveals that the means available and strategic ends are achievable but an adjustment to the “ways” is required to produce mission success. Without such an adjustment, achieving the International Security and Assistance Force’s (ISAF) strategic end state of providing “a secure environment for sustainable stability that is observable to the population” will be nearly impossible.^{4,5}

This paper explores a new way ahead for governance development in Afghanistan. It examines the revised policy and strategy that would support Afghan stability from the “bottom-up” versus the “top-down” and identify sub-national (district and village) governance aptitude as the vital ingredient for success. The suggested “new way ahead” will identify important supporting functions of district level justice, counter-corruption, and powerbroker accountability. These focused efforts will generate momentum, legitimize local governance, increase government participation, and create the conditions for sustainable stability long after international forces depart Afghanistan.

Afghan Illegitimacy – Historical Context

Governmental “legitimacy” is rooted in a population’s belief that their government possesses the ability, honesty, and capacity to rule the state. Early 20th century political economist and German sociologist Karl Emil Maximilian “Max” Weber, stated that legitimacy is achieved when a state has the capacity to “establish dominance within a specific territory through the legitimate use of force.”⁶ Simply stated, populations judge legitimacy based upon a government’s ability to protect life. In addition, legitimacy is a function of popular confidence that the motives and behaviors of civil authorities are morally founded upon acceptable policies.⁷ More contemporary academic thought

defines legitimacy as a function of the existing political systems' ability and methods of resolving important issues.⁸

A 2005 study by the Overseas Development Institute, a London based leading independent think tank on international development and humanitarian affairs, identified standards of statehood that demonstrate state strength, competence, and legitimacy. Ashraf Ghani, a prominent Afghan politician and current chairman of the Afghan Institute for State Effectiveness, who was identified in 2010 by Foreign Policy Magazine as one of the top 100 global thinkers,⁹ prophetically described in this study the current situation in Afghanistan when he noted,

A state unable to satisfy the requirements will struggle to create a proper identity with its citizens...The creation of contending centers of power, the multiplication of increasingly contradictory and ineffective decision-making process, the loss of trust between citizens and state, the de-legitimization of institutions, the disenfranchisement of the citizenry and ultimately, the resort to violence.¹⁰

In 2012, Afghan government legitimacy faces serious challenges that are very similar to those described by Mr. Ghani. Afghan confidence wanes due to mistrust, ineffective decision-making, and evidence of unethical and morally bankrupt behavior by Afghan leaders. Furthermore, the Afghan central government's legitimacy is haunted by a tested and tumultuous history. Over the past two decades, most Afghans have experienced an almost continuous state of conflict, an ineffective constitution, corrupt elections, and a dearth of any form of effective, supportable sub-national governance.

To understand the current situation in Afghanistan, the importance of sub-national governance, and the recommendation for a "bottom-up" methodology, one must appreciate the history that has created the current state of illegitimacy. Four factors have worked against effective, legitimate governance: the Afghan constitution,

U.S. policy and strategy on supporting governance and development, a lack of effective justice, and the role and influence of historical and rising powerbrokers.

The “Kabul-centric” governmental system established by the Afghan constitution is a major reason behind the lack of Government of the Islamic Republic of Afghanistan (GIROA) legitimacy. Over the last thirty years, Afghanistan declined from a relatively stable monarchy to a failed state that was consumed by a devastating civil war. In the late 1990’s, the country fell under the control of a religious, theocratic, and fundamentalist movement, which harbored a global terrorist network and declined to the distinction of being the world’s premier supplier of opium.¹¹ Following the expulsion of the Taliban, the 2001 Bonn Agreement established the current framework for the Afghan political system that included a strong central government. In 2004, the grand assembly or “Loya Jirga” ratified a constitution that authorized overarching power in the central government and did not diffuse power to the provinces or districts. Centralized control and power reduced Afghan President Hamad Karzai’s fear that any form of a “hybrid – prime minister” system could generate unrest,¹² as he feared that regionally influential powerbrokers would exploit any authority and resources placed in the hands of provincial and district governors.¹³ Fearing an ethnically divided Afghanistan, the international community endorsed this constitutional structure because it enabled Karzai to control all powerbrokers. However, a careful study by Western advisors would have revealed that a preponderance of Afghanistan’s historical conflicts originated when a centralized government attempted to impose its will on individual regions. Thus, a centralized, highly powerful, and over-controlling central government without a balance of effective sub-national government was historically postured to fail.

However, the Afghan constitution also authorizes elected councils at the provincial and district levels to center-balance such over-centralization. To date, district council elections have not occurred. Given the strong centralized power structure, the continued failure to exercise this constitutional requirement isolates the local populace from its Kabul appointed sub-national government and extinguishes any hope for building legitimacy. As Ashraf Ghani noted, the continued political exclusion of the population at the sub-national level serves as a driving impetus of instability.¹⁴ Even though provincial elections occurred in September of 2011, the process was marred by reported corruption and more importantly, those elected have experienced suppressed influence and are typically only consulted for social development issues.¹⁵

The second factor affecting the GIRoA's legitimacy has been a disjointed and unsuccessful U.S. strategy for Afghanistan. Until 2009, U.S. policy was unwilling to bear the costs associated with tackling the true essence of the Afghan dilemma. Given its focus on attaining success in Iraq, the U.S. implemented a series of short-term solutions that aimed to dismantle al Qaeda as quickly as possible and permit a rapid downsizing of the deployed force. Furthermore, the North Atlantic Treaty Organization (NATO) suffered a pertinacious fear derived from its experience in Yugoslavia that Afghanistan would divide along ethnic lines. As noted, a solution for this fear was found in the international support of the strong central government model. NATO planners also feared overwhelming local rejection of external forces as had occurred in the British occupation of Afghanistan in the nineteenth century and the Soviet's invasion of the twentieth century, when Afghanistan erupted into a nationwide revolt to expel the invaders.¹⁶ In fact, Osama Bin Laden felt assured of his safety in Afghanistan because

he believed, like the NATO planners, that an invasion would instigate a guerilla war of mujahidin fighters that would achieve a similar outcome to the Russian expulsion from Afghanistan.¹⁷

However, Western planners could not have been more wrong. This scenario failed to occur because most Afghans simply desired a basic element of security against a resurgent Taliban movement and protection against the indigenous factions that had torn the country asunder during the civil war. Contrary to NATO conventional wisdom and a misunderstanding of cultural influences, Afghans believed that a larger unitary state provided protection from unwanted neighbors meddling in their internal issues. Simply stated, Afghans desired justice, security, economic prosperity, and the hope of living a peaceful existence as part of a unified Afghanistan and were willing to accept, for the first time in their long history, a foreign occupation.¹⁸ Afghans expected little of the occupying foreign forces beyond deploying international troops to the country's major regions to improve security and restrict the influence of the local powerbrokers, investing in agriculture that would include improved irrigation and crop options, and restoring and expanding Afghan infrastructure - trunk roads and electric lines.¹⁹

During a period of positive Afghan popular support from 2002 – 2005, the U.S. and NATO strategy assigned a small footprint in Afghanistan and restricted most of its forces to Kabul.²⁰ Between 2002 and 2003, the U.S. committed only seven thousand soldiers to a country the size of France, as forces focused not on security and development but on hunting al Qaeda remnants and Taliban supporters. An ISAF contingent of only five thousand soldiers drawn from forty nations complemented the U.S. commitment as ISAF assumed responsibility for the security of Kabul. Needless to

say, in a country with a population of over thirty million, the forces deployed were woefully insufficient. At a time when the Afghan population needed to observe foreign forces to cement their expectations, sufficient security and developmental efforts were absent. By 2004, the popularity of the U.S. and NATO intervention sharply declined in the Pashtun south and east where Taliban influence remained and discontent and poverty were the most acute.²¹ ISAF's desire to gain Afghan popular support was lost as local hope and optimism turned to resentment. The essence of rising despair was expressed by an Afghan who commented,

After 2001...people were very optimistic that peace and stability would come and a proper government that would care about the people. In the first one or two years, they were waiting, but it didn't happen...optimism was slowly replaced by disappointment.²²

The third aspect affecting Afghan governmental legitimacy is the absence of justice and dispute resolution. Justice is defined by the United Nations as, "an ideal of accountability and fairness in the protection and vindication of rights and the prevention and punishment of wrongs."²³ A lack of justice is an important element that defines Afghan government weakness, promotes corrupt activities, and encourages political exclusion.²⁴

Within Pashtun communities, justice is viewed as a fundamental responsibility of those in power, and injustice is amplified when abuses by those in positions of power cause deliberate harm, exclude voices, or discriminate.²⁵ Pashtuns are motivated by the unwritten rules of "Pashtunwali" to resist the unjust actions imposed upon them or their neighbors.²⁶ Injustice incites dissatisfaction (*naraz*) and the obligation to revenge the affronted (*majbur*). In addition, Pashtun culture believes that a lack of accountability violates the precepts of rule of law, is classified as injustice, and thus inspires *naraz* and

majbur. Without effective justice that is enforced by the GIRoA, the obligation and attractiveness to join the insurgency satisfies Pashtunwali honor (*ezzat*) and revenge requirements. As an example, a Taliban supporter from Wardak Province stated,

A district police chief was assigned by Kabul – and the police under him were robbers. They plundered and looted and raided people's houses...People became angry and, to take revenge, they stood against him and his group. The Taliban used this opportunity...Our district is all Taliban now. The people support them.²⁷

Western nations under appreciate the connection and importance of justice to rule-of-law enforcement within Afghan culture. Enforcement, both formally and informally, is a necessary aspect of rule of law acceptance and respect.²⁸ The Afghan government's inability to enforce law within its own institutions and among government officials creates discontent, serves as a seed of illegitimacy, and limits the Afghan government's efforts to achieve a political identity.²⁹

The final component of failed legitimacy is the role and function of historical and aspiring powerbrokers. The civil war, which followed the Soviet's departure from Afghanistan in 1980, severely undermined the legitimacy of all the factions involved. Any new system of government would struggle to achieve legitimacy if it rewarded the regional powerbrokers who practiced extreme methods of violence to achieve their dominance. The defeat of the Taliban regime was important but paled in comparison to a strongly held hope by most Afghans that NATO's intervention would depose the powerbrokers, restore traditional tribal order and authorities, and prevent further civil war.³⁰

The prominent role of powerbrokers like Ismail Khan (Afghan Federal Minister of Energy and Water), Abdul Rashid Dostum (Chief of Staff to the Commander in Chief), Gul Agha Sherzai (Governor, Nangahar province), and Atta Mohammad Noor

(Governor, Balkh Province) in the Afghan political process are the greatest obstacles preventing the development of an accepted sovereign and legitimate state. Each of these individuals are widely known in Afghanistan and are often accused of extortion, murder, theft, bribery, and drug smuggling. Their tentacles of influence reach deep into the districts and villages as many local police commanders and local leaders, related by family or tribe, launder money, smuggle drugs, and extort funds from public and private citizens on behalf of the extremely influential powerbrokers. A lack of accountability, their increasing government positions of dominance, and their unchecked influence in the districts and villages are impediments to government legitimacy and effective justice.³¹

In a 2010 Royal Institute of International Affairs report on justice, politics and the insurgency in Afghanistan, Stephen Carter and Kate Clark noted that the government of Afghanistan offered high-level cabinet positions to known criminal powerbrokers. President Karzai offered these appointments to limit their ability to disrupt government effectiveness and to keep his “enemies close”. President Karzai’s actions undermined the legitimacy, authority, and transparency of the government. In addition, the perceived turning of a blind eye by the international community to these inappropriate appointments and recent Afghan presidential pardons of well-known drug smugglers, rapists, and Taliban commanders have fueled contemptuous feelings and instigated intense hatred and mistrust.³²

In all, the international community faces conditions significantly impacted by the role of the Afghan constitution, flawed U.S. governance development strategy that aimed to legitimize the GIRoA through a central government focus, the lack of effective

justice, and the expanded influence and role of powerbrokers. Each element has contributed to the dire conditions in Afghanistan. A new way ahead with priority given to sub-national government capacity is required to adequately address these strategic issues and to enable strategic success by 2014.

Views on a New Way Ahead

A new way ahead, one that creates a stable and viable Afghanistan, must include specific aspects of capacity building and must have clearly defined priorities. Arguably, the security line of effort is progressing through a detailed and focused plan headed by the NATO Training Mission – Afghanistan (NTM-A). However, aspects of the sub-national political structure and supporting systems that promote GIRoA legitimacy require significant development. U.S. policy can effect improvements in sub-national governance by affecting Afghan resourcing streams, drive political power re-distribution, and ensuring Afghan constitutional compliance. By declaring that al Qaeda has been defeated in Afghanistan, the U.S. can now realign resources to achieve non-security oriented objectives.

The new way ahead must place Afghans in the lead and the path must be guided by a revised strategic framework with three primary pillars. First, U.S. policy and strategy must serve as a forcing function to induce changes in Afghan governance and tie the changes to “conditionality” – that continued U.S. support is connected to achieving specific measurable progress. The U.S. and its allies must define clear measures of effectiveness (MOE) and conduct critical assessments across all three pillars.³³ The second pillar requires the Karzai administration to establish sub-national governance capacity and access while divesting governing authorities and funding to the provincial and district governors without central government interference. The final

pillar of a new strategic framework requires the GIRoA to establish sub-national governance, justice, and corruption accountability.

The importance of the first pillar was highlighted in 2010 when President Karzai publicly committed to being more transparent and expressed a willingness to make necessary changes within the Afghan government. Despite his words, change has been slow and in many cases completely rebuffed by President Karzai. The U.S. President and the U.S. Congress must work closely to ensure that a conditions-based strategy succeeds. Historically, both branches of government have been resistant to a tough conditions-based approach. For example, the U.S. Congress has threatened to restrict funds but has failed to act on several occasions. In 2009, a supplemental appropriations bill mandated withholding 10% of a \$90 million dollar Department of State (DOS) counter-narcotics project.³⁴ In addition, the 111th Congress considered delaying a \$4 billion dollar commitment to civilian aid projects pending the outcome of an investigation of Afghan leaders interfering in court proceedings of politically connected and wealthy family members. U.S. officials believed that Afghan government employees embezzled nearly \$3 billion dollars for personal gain.³⁵ In neither case was money withheld. The U.S. Congress and the President must remain resilient and use U.S. and international funding as influence and collateral against the Karzai administration's resistance to lead government structural change.

The second strategic framework pillar includes sub-national governance capacity and access. The Afghan government is too centrally controlled from Kabul and too weak at the sub-national level to provide the two basic requirements of effective service provision and local participation and representation.³⁶ Few ministries are represented in

the district government and those leaders representing these ministries are centrally appointed and behold to leaders in Kabul. They possess no connection with the locals whom they govern. Michael Shurkin of the RAND Defense Research Institute described the poor current state of sub-national governance when he wrote,

[Kabul appointees] are not accountable to the local population and often have few incentives to focus their energies on anything other than personal enrichment, providing for their own client networks, and serving interests of their patrons. If constitutionally mandated district, village, and municipal elections had taken place, they would have provided a positive link between communities and the state.³⁷

Three existing programs provide the means to allocate both personnel and funding to achieve meaningful and sustainable sub-national capacity. Each program represents a viable solution to empowering and establishing effective sub-national government but the way ahead will require modification to certain elements of the programs' structures. These programs include the use of District Support Teams (DST), the National Solidarity Program (NSP) with district council elections, and the Village Stability Operations (VSO) initiative. All three programs are distinct yet complementary, and if coordinated effectively provide the best potential solution for developing the legitimate governance essential for strategic success.

In 2009, ISAF in concert with United States Agency for International Development (USAID) initiated the use of DSTs to improve governance at the local level. The program serves as an enabler for local governance development and legitimacy building over the long-term. There are currently thirty-five DSTs within Afghanistan, twenty of which are operating in Regional Command – East.³⁸ These teams are similar to Provincial Reconstruction Teams (PRT) and are comprised of a mix of military and civilian members.³⁹

Civilian representatives from DOS, USAID, and the U.S. Department of Agriculture (USDA) remain in the same district for twelve to eighteen months in order to build trust-based relationships with their mentored officials.⁴⁰ DSTs fill a shortfall of civilian advisory expertise at the district level but the question is whether U.S. political resolve will remain for the long-term. John Nagl, president of the Center for New American Security stated,

I am quietly hopeful so long as we maintain this commitment for the long haul. I'm afraid five to 10 years is what it's going to take. We as a nation, I think, have not invested in the Civil Operation and Rural Development Support (CORDS) which were combined military and civilian teams that pacified South Vietnamese villages and brought in development projects and governance. There are more members of military bands than there are Foreign Service officers to cover the whole world. There were more members of USAID working in Vietnam at one time than there are USAID officers in the whole agency that cover the whole world today.⁴¹

Expansion of the DST program must be a key element of success as ISAF enters the transition phase and as the GIRoA assumes the lead in governance and security. Even as soldiers redeploy, mentorship and development support at the district level must continue. Security concerns for those remaining after 2014 will increase but through careful planning now, resource requirements and risk can be mitigated to prevent reversible gains.

The second important program that enables popular access to sub-national government is the NSP. The Afghan Ministry of Rural Rehabilitation and Development (MRRD) initiated the NSP in 2003 to strengthen governance at the local level (district and below) and link village and rural populations to the lowest level of Afghan government administration. The NSP enables Afghan villages to identify, plan, manage and monitor their own development projects, and works to empower rural communities to make decisions affecting their own lives and livelihoods.⁴² Of paramount importance

is to legitimize Afghan government authority and provide resources through Community Development Councils (CDC) that gain access to funds once CDC members are elected by the village inhabitants. As of the summer of 2011, the NSP had established 27,759 CDCs in both secure and contested areas⁴³ that provided priority projects that met immediate needs of drinking water, irrigation, roads, schools, and electric grid access or upgrades.⁴⁴

Overall, NSP has been well received throughout Afghanistan and a perception that the Karzai administration has broken from a Kabul-centric personality is growing. However, a major disconnect exists in the mechanics of providing program funding. NSP transactions occur directly from Kabul to the village CDC, bypassing the sub-national (district) governor who the program should empower. CDCs answer directly to the national MRRD which has no ministerial representatives at the district level, as funds bypass district governors (DGs) who have the responsibility to coordinate their district development plan (DDP).⁴⁵ Fixing this disconnect will require the U.S. and other allies to apply condition-based funding to induce the Karzai administration to either forego much needed development funds or modify the funding stream to go through the provincial MRRD representative and DGs. President Karzai must also establish district-level MRRD positions which will synchronize efforts from the top to the bottom.

When the funding stream is corrected, the third element of governance transformation, district council elections, will become an important enabler for improved sub-national government legitimacy. In his November 19, 2009 inaugural speech, President Karzai pledged to include district council elections during the 2010 parliamentary elections, but failed to deliver on this promise.⁴⁶ The Afghan Research

and Evaluation Unit (AREU) highlights that elected district councils are a key missing element of building legitimacy:

There is no universal applied system for district representation in Afghanistan. The sub-national governance policy paper finalized by the Independent Directorate for Local Governance (IDLG) in the spring of 2010 describes the nature of district governance and provides district councils similar powers and duties at the district level as the provincial councils have at the provincial level.⁴⁷

The IDLG policy calls for appropriate funding to support these councils in their required duties and responsibilities. As previously stated, elections have not taken place and do not appear on the distant horizon. The Afghan government has produced many excuses which include repeated references to the “expense and complexity of elections and the need to identify boundaries between certain districts.”⁴⁸ Without district council elections, the ability to connect village leaders to the district government and the challenges to achieve legitimacy will remain. As was noted by AREU during a June 2011 roundtable, the “traditional missing middle” district level government component must be enabled in order to move Afghanistan towards sustainable statehood. One observer during the roundtable stated, “People are disenchanted at the district level and below because, as a rule, provincial-level bodies are not readily accessible...disputes are most often settled in the villages...and resources don’t flow down [as needed and promised].”⁴⁹

Over the next two years, ISAF and all supporting agencies must prioritize and expand their capabilities to build the linkage between village and district governance. The expansion of DSTs, CDCs, modification of NSP funding, and pressure on the Karzai administration to execute district council elections are critical elements to achieve a desired end state of sub-national government legitimacy by 2014.

The final essential program that supports sub-national governance development is the VSO initiative. While there can be no governance without security – there can be no lasting security without governance. The U.S. “Afghanistan and Pakistan Regional Stabilization Strategy” emphasizes that:

Improving the Afghan people’s confidence in their government requires improved service delivery, greater accountability, and more protection from predatory government practices, particularly at the district and community level, where the Taliban is providing its own brand of brutal but efficient governance.⁵⁰

After ten years of war, the repeated lesson is that the prominent element of Afghan society is the village. The village is both the major challenge and the point of success that the insurgency and the GIRoA vie to win. A strategy of “top-down” reconstruction was appropriate for countries such as Japan after World War II and Iraq after 2003, with a history and political culture of strong centralized state institutions that the population understood and accepted made up the identity of both countries. However, employing a similar top-down strategy in Afghanistan does not work well where history shows locals resent centralized power and influence.⁵¹ Given that 70% of Afghanistan’s 32 million citizens live in rural settings, the village serves as the epicenter for the Taliban to prolong the conflict, exhaust American public support, and force Western governments to withdraw their soldiers and resources.⁵²

VSO is a U.S. sponsored program that focuses small teams of either special operations or conventional forces with enhanced skill sets into contested areas that are typically outside the sustained security of ISAF, the Afghan National Army (ANA), or Afghan National Police (ANP). The essence of VSO is to build and support village leaders and inhabitants to resist Taliban influence.⁵³ VSO aims to foster local security, build trust-based relationships, empower elder leadership, project development,

improve village connection to district governments, and train and equip elder endorsed nominees for an Afghan Local Police (ALP) force. General David Petraeus, former ISAF Commander, referred to VSO as the program that achieves “tactical effects with strategic implications.”⁵⁴

Several experts agree that VSO programs are critical for operational success. Fred Kagan, resident scholar at the American Enterprise Institute and a member of the architect “strategic assessment” team, was selected by General Stanley McChrystal to provide advice on the course of the war in Afghanistan. Kagan commented with reference to VSO that,

The emergence of a functional and credible local security program in 2010 is perhaps the most striking and unexpected development—and potentially one of the most important. The Afghan Local Police (ALP) program is designed to extend the reach of Afghan and Coalition forces to rural areas rather than to replace them. Perhaps more importantly, ALP empowers villages and clusters of villages—not tribes—to resist the Taliban by supporting the consensus decisions of local elders arrived at in traditional Pashtun ways...This program offers a promising view of what at least part of the ultimate political solution to this conflict might look like.⁵⁵

In addition, Seth Jones, senior political scientist at the RAND Corporation and former representative for the commander, U.S. Special Operations Command, to the Assistant Secretary of Defense for Special Operations commented that “Afghanistan is, and always has been, a quintessentially decentralized society, making necessary to build local institutions to create security and stability.”⁵⁶ Evidence shows that as VSO programs grow, that insurgent influence in the village is neutralized and expelled from the community. Furthermore, with the departure of the insurgency from the area, the Taliban’s shadow government influence and rule of law vanishes, thus providing essential space for GIRoA influence. However, the success of a specific VSO program is contingent upon the district government’s capabilities and willingness to continue the

positive forward momentum.⁵⁷ One member of a special forces VSO team stated, “We establish stability in the villages first, then connect village governance to the districts and the provinces. Investing in Afghanistan’s villages is analytically rigorous, socially tiring, and highly dangerous.”⁵⁸

The security portion of VSO occurs with the establishment of a village Afghan Local Police (ALP) force. In July of 2010, Karzai approved the Minister of Interior (MOI) managed national ALP initiative that aimed to bring localized security to villages located in contested areas. Although an Afghan program, ALPs are initially supported by ISAF with respect to the training, equipping, and screening of potential candidates.⁵⁹ The village shura nominates each ALP member and endorses his trustworthiness. The MOI accounts for the ALP under an authorized district “tashkil”⁶⁰ and the force itself answers directly to a district’s chief of police. ALP goals include the assignment of a percentage of senior ALP members into the district ANP force.⁶¹ Operational experience in Regional Command-North indicates that the district police structure is robust enough to command, control, and support integrated ALP forces.⁶² In addition, district police chiefs were very positive about the increased security capability, especially in difficult areas to control. ALP dependency on ISAF support is initially high but reduces as training proficiency improves and coordination and accountability with the district police chief develops. The current ISAF Commander, General John Allen stated,

These villages that seek to embrace Afghan Local Police in the Village Stability Operations program are mobilizing their communities for their own security...that’s a great example of where the Taliban are losing ground and they’re losing influence because they can no longer get inside the population of these areas.⁶³

A final aspect of VSO is the improvement projects that the village leadership can access. Projects nominated by the village shuras are submitted to the district governor

for awareness and provide positive reinforcement for participating in the security program. As sub-national governance and national funding mechanics improve, shuras will submit projects to the district council development committee for inclusion in the district development plan. A periodic budget allocation, managed by district governors and their elected councils, will place development responsibility on the shoulders of those most connected and responsible to the district constituent base. When a budget is appropriated to the lowest level, legitimacy will improve and accountability imposed by an interested population will increase. Until the mechanics of Afghan funding are corrected, funding under the U.S. Commanders Emergency Response Program (CERP) is bridging the gap. These funds are controlled by the VSO teams and provide access for emerging needs and also serve as a carrot for villages with ALP programs that maintain local security. Many VSO teams use local conditions-based funding techniques to influence the village elders to conduct vital coordination with the district leaders before any funding is provided.

Even with strict conditions-based funding policy and more accessible and capable sub-national governance, conditions in Afghanistan will remain difficult to stabilize without marked improvement in the third pillar of the new strategic framework - sub-national justice capacity and accountability. Efforts must hold Afghan officials accountable for illegitimate and criminal activities. Improved justice systems will limit the effects of corruption and neutralize national/regional powerbroker influence that controls the provinces and districts. Afghans repeatedly indicate that they view criminal patronage (54%) as a significant threat to long-term stability, on the same level as poor security or unemployment.⁶⁴ A recent report released by the United Nations Office on

Drugs and Crime (UNODC) revealed that 59% of Afghans experience bribery (*baksheesh*) daily.⁶⁵ National level corruption on a grand scale is beyond the scope of this paper and but effective sub-national governance will reduce criminal official influence that is at the heart of abuses by criminal patronage networks.⁶⁶

Patronage is a common element of Afghan culture and an inherent part of Afghan governance. Through patronage, Afghan leaders use traditional complementary relationships and exercise influence to increase their position among groups. However, when this patronage becomes criminalized, the Afghan population resent and reject Afghan officials. Criminal patronage tarnishes the Afghan government's ability to establish trust and confidence. In his book, *Democracy's Dilemma: The Challenges to State Legitimacy in Afghanistan*, Wali Shaaker stated,

These matters constitute the underlying factors contributing to the delay in the formation of a stable and capable state. In other words, by engaging in and sustaining illegal activities...prevent democracy's promises of security, justice, and progress to materialize.⁶⁷

Afghans suffer the effects of criminal patronage in every imaginable form - illegal checkpoints, Afghan National Police (ANP) refusal to investigate known corruption, judicial bribery, nepotism, money laundering, bribes, drug trade, and personal gain through the abuse of power or prestige.⁶⁸ The UNODC report accurately detailed the direct impact that these criminal networks have on an unprotected society when it stated that 75% of all incidents of bribery and extortion were paid in cash, and that each incident averaged \$160 in a country where the per capita wage is approximately \$425 per year.⁶⁹

Furthermore, the nature of many complaints are not just focused on localized bribery but have recently identified gross criminal acts by associates of national

powerbrokers involved in the business of narcotics. Shaaker defined these behaviors as “arbitrary arrests, detentions, torture, extortion, and extra-judicial killings are examples of the ways in which corrupt officials in control of law enforcement treat the civilian population.”⁷⁰ In essence, Afghan corruption has moved beyond using power for personal gain to employing acts of targeted violence to threaten, influence, and intimidate the people.

A common form of criminal patronage, with strategic implications, that directly impacts sub-national legitimacy is the level of criminal activity practiced by the ANP.⁷¹ The close interaction between the population and their local police promote hatred and a constant reminder of governmental abuse of power. Many of the ANP abuses occur along ethnic or tribal lines and go unreported out of fear of retribution or revenge and, due to the absence of trusted sub-national investigators. The insurgency has turned ANP corrupt activity (personal gain through public position) into a rallying cry for their cause of separating and “protecting” the people from the GIRoA. A “knight in shining armor” image is cultivated by the Taliban as they present themselves as the means for the public to exact revenge on their abusive police.

An example of this dynamic occurred in 2011 in the Qaisar District of Faryab Province in Northern Afghanistan that witnessed a tripling of attacks on the ANP over the course of a few months as the Taliban exacted revenge on behalf of the affected public. The Taliban provided satisfaction of the *naraz* and *majbur* to revenge ANP injustice while extending a hand of support to these same people by offering quick dispute resolution through the application of strict sharia law. Thus, through ANP injustice the insurgency gained strength while the central government’s legitimacy

declined. A 2009 study conducted by the United Kingdom's Department for International Development (DFID) found that a "perception of the government as corrupt and partisan means people look elsewhere for a more moral form of government" and that "the people even prefer bad Taliban when the alternative is government."⁷²

The solution to neutralizing criminal patronage requires a two-pronged approach of improving sub-national justice systems and the development of counter-corruption capacity at the provincial level. First, the Afghan public must have access to professional and trusted prosecutors, defense attorneys, and judges. In addition to access, a justice education program is needed to teach a vast majority of the rural population of the Afghan rule of law system and their rights to air grievances or seek defense. Second, the GIRoA must establish a system to investigate and prosecute corruption charges at the provincial and lower levels. Successful Afghan prosecution demonstrates government commitment to hold accountable those that have violated the trust and confidence of the local populace. In addition, publicized sub-national counter-corruption initiative limits perceived unlawful Kabul influence. Again, the international community should apply conditions-based funding to influence President Karzai to grant Provincial Governors the authority to direct activities and remove officials if guilty of corruption. The ability to adjudicate cases at the district level through accessible prosecutors, defense lawyers, and judges and the authority to try cases of criminal patronage at the provincial level is foundational for legitimacy to grow. In addition, these efforts will begin to erode the appeal of rapid, impartial Taliban justice.

An example of effective counter-corruption effort occurred in late 2010 when the Faryab Provincial Governor, Abdul Shafaq, requested ISAF assistance to develop a

counter-corruption task force that would provide internal province investigation and prosecution of criminal patronage cases. Governor Shafaq felt that local enforcement, trial, and communication of the results would empower the provincial and district officials, increase public confidence, and improve public perception. Governor Shafaq insisted that the system be Afghan led but supported by ISAF mentors. The result was the development of a Provincial “Counter Corruption Prosecution Cell” (P-CCPC) (Figure 1) that included a supporting ISAF targeting function. Through ISAF intelligence based targeting, the potential for development and hand-off of cases for investigation became possible.

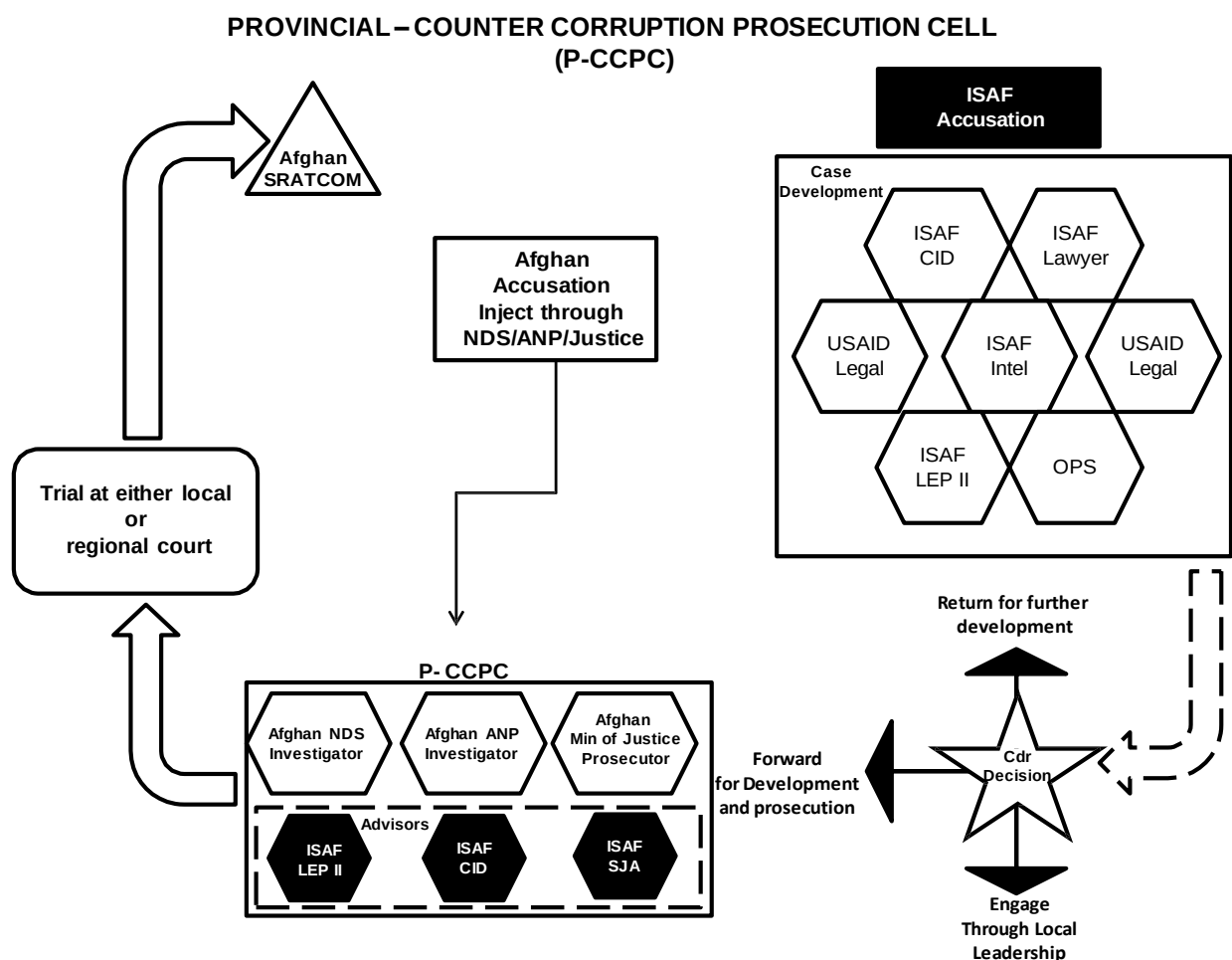


Figure 1: Counter Corruption Structure

The process illustrated demonstrates how cases could be developed and transition from ISAF to the P-CCPC for local Afghan action. Important to this process was the mentoring requested by Governor Shafaq. The ISAF lawyer, Criminal Investigation Division (CID) representative, and Law Enforcement Professional (LEP - a civilian contracted police advisor) served as the continuity with respect to cases forwarded by ISAF and provided mentoring during Afghan case development.

Conclusion and Recommendations

President Obama's June 2011 announcement of a new transition strategy for U.S. forces in Afghanistan generated a requirement to reassess what efforts will achieve the desired effects to produce long-term stability for Afghanistan. The situation in Afghanistan is incredibly complex but tactical solutions focused at the sub-national level can create the conditions for strategic success by 2014. This paper presented the necessary context to appreciate why ISAF finds itself in a position that demands a new way ahead, with a specific focus on developing sub-national capacity.

New U.S. conditionality policy will use the "power of the purse" as a tool to persuade and influence the Karzai administration to improve sub-national governance and effect needed structural changes. The Karzai administration must disseminate authority, control, and funding to both provincial and district initiatives. The U.S. Congress must maintain direct oversight of developed measures of effectiveness and avoid any urge to reward any action other than full compliance.

Increased sub-national governance will connect the village across the "missing middle" to Afghan district government where politics and resources can directly impact the needs of the people. Successful execution of the constitutionally-required district council elections will promote village representation, participation, and a voice in

decision-making. Furthermore, the existing DST, NSP, and VSO programs provide the necessary enabling structures to quickly build sub-national momentum. However, Kabul must modify portions of these nationally coordinated programs to ensure funding is not centrally controlled but used as a source of sub-national authority reinforcement.

Sub-national justice capacity improvements will require prosecutors and judges to practice in their assigned districts. Many judges refuse to live or work in their assigned districts due to the security situation. In addition, prosecutors and defense attorneys must be accessible in the districts. The Taliban demands many things from the villages like tithe (*usher*), food, and fighters but they provide little in return. Sub-national justice capacity in essence defeats the Taliban's strength of providing quick, fair, and equitable justice. As Lieutenant Colonel Brian Petit stated, history reveals that a successful Afghanistan will not exist without the village supporting the process.

The additional component of justice improvement is the reduction of criminal patronage networks and the corruption that is directly connected to dominant powerbrokers. A capacity at the sub-national level to prosecute and punish those who exercise predatory acts against the population will go far to build legitimacy and satisfy one of the few public expectations of ISAF.

The challenges of bringing these changes to fruition will be great. First, the international community must believe that Afghan problems require Afghan solutions and accept that these solutions may show little resemblance to Western solutions. The importance of trust-based relationships, key leader engagements, and respectful mentorship are vital to persuade action. Only through Afghan leadership and ownership can these changes become cemented and a permanent aspect of the political fabric of

Afghanistan. The second challenge will be the enduring role of ISAF mentors. As ISAF prepares to depart Afghanistan, local leaders will posture themselves to appear less connected to ISAF influence in order to establish their own independent identity and local appeal. This may create dissension and disagreement or even blatant refusal to comply with recommendations. Third, the political will of the Afghan leadership remains an important aspect of these changes. Any disturbance of the current conditions and economic status of the criminal networks could prove dangerous and produce more resistance to successful government. Each Afghan leader who embraces these changes and the accountability required will place themselves in danger of retribution attacks. The personal and collective cost of supporting these changes will be great but only through bold leadership will Afghanistan achieve any form of legitimacy.

The final challenge will be security for civilian district government mentors as ISAF soldiers depart the country. This challenge will force resources to be aligned to ensure security and backfill shortfalls. A perception of imminent mentor departure or indications that a civilian withdrawal will align with the soldier transition will produce a lack of acceptance of mentor advice and reluctance by Afghans to rock the boat and assume personal risk.

The international community must remain fully committed to improving sub-national efforts to enable strategic success. Three fundamentals are key to mission accomplishment: patience, persistence, and perseverance. First, the international community must remain ever patient by sustaining the necessary support to governance development even though national domestic support may fade. Second, international efforts must remain persistent in its demands for Afghan leaders to initiate the sub-

national changes discussed and remain committed to using monetary support as a “carrot” to force change. Third, the enabling of long-term legitimacy through sub-national entities must persevere even after ISAF forces depart Afghanistan. Through perseverance, the character of Afghan government will change, and through improved national character; hope can grow.

Afghan government legitimacy can only be gained in the short time remaining through an aggressive and robust sub-national governance focus. Without immediate adjustments, strategic objectives will likely fail. Change is difficult but Afghan leaders must believe that international commitment and political will are strong. The seeds of legitimacy sewn through the sub-national level of governance and cultivated over the next several years must grow roots deep and strong enough to withstand difficult days but survive to produce a strategic harvest in the years to come.

Endnotes

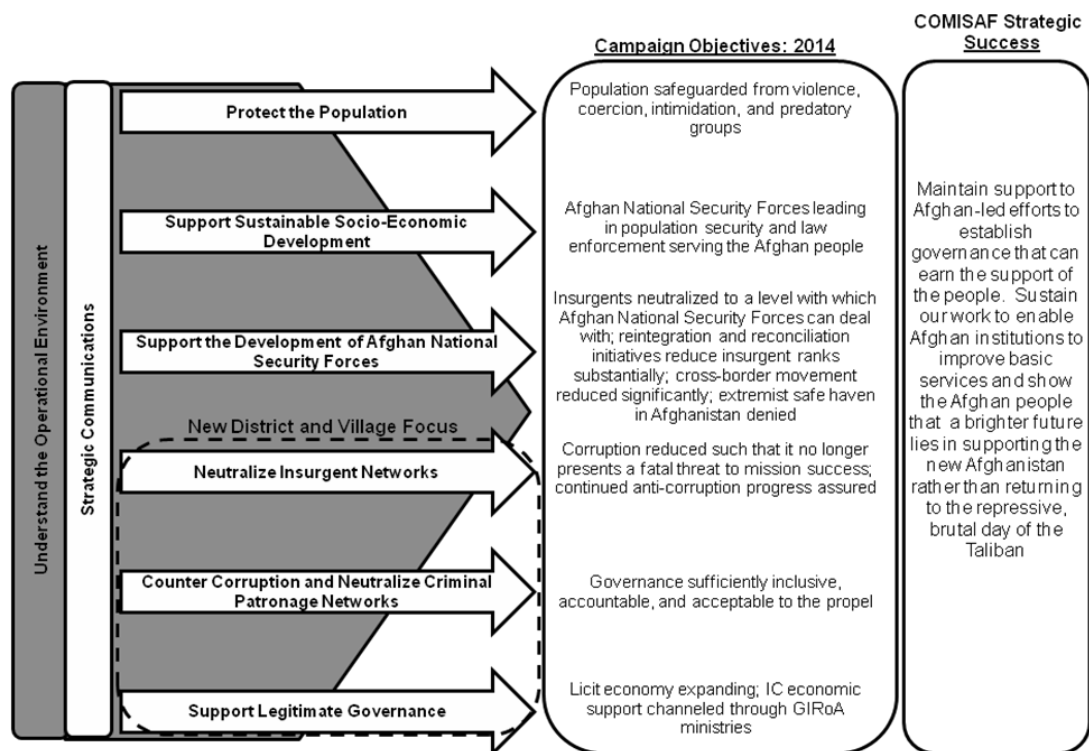
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¹¹Alexander J. Their, "The Making of a Constitution in Afghanistan," *New York Law School Review* 51, (July 2006): 94.

¹²Colin Cookman and Caroline Wadhams, *Governance in Afghanistan: Looking Ahead to What We Leave Behind* (Washington, DC: Center for American Progress, 2010), 7.

¹³Ibid.

¹⁴Stephen Carter and Kate Clark, *No Shortcut to Stability: Justice, Politics and Insurgency in Afghanistan* (London: Chatham House, 2010), i.

¹⁵Thomas Barfield, *Afghanistan: A Cultural and Political History* (Princeton, NJ: Princeton Press, 2010), 574

¹⁶Barfield, *Afghanistan: A Cultural and Political History*, 277.

¹⁷*Ibid.*

¹⁸*Ibid.*, 8.

¹⁹*Ibid.*, 313.

²⁰*Ibid.*, 313.

²¹*Ibid.*, 277.

²²Carter and Clark, *No Shortcut to Stability*, 6.

²³United Nations Secretary-General, "The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies - S/2004/616," August 23, 2004 <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N04/395/29/PDF/N0439529.pdf?OpenElement> (accessed February 1, 2011).

²⁴Carter and Clark, *No Shortcut to Stability*, i.

²⁵*Ibid.*, 2.

²⁶Pashtunwali (also known as Pakhtunwali) is an oral tradition of unwritten codes that uphold honor and guide the traditional lifestyle of the Pashtun ethnic group. It influences reactions and demands action to regain honor lost under Pashtunwali principles. These principles are held in high regard by all Pashtuns and are taught and practiced from cradle to grave.

²⁷Carter and Clark, *No Shortcut to Stability*, i.

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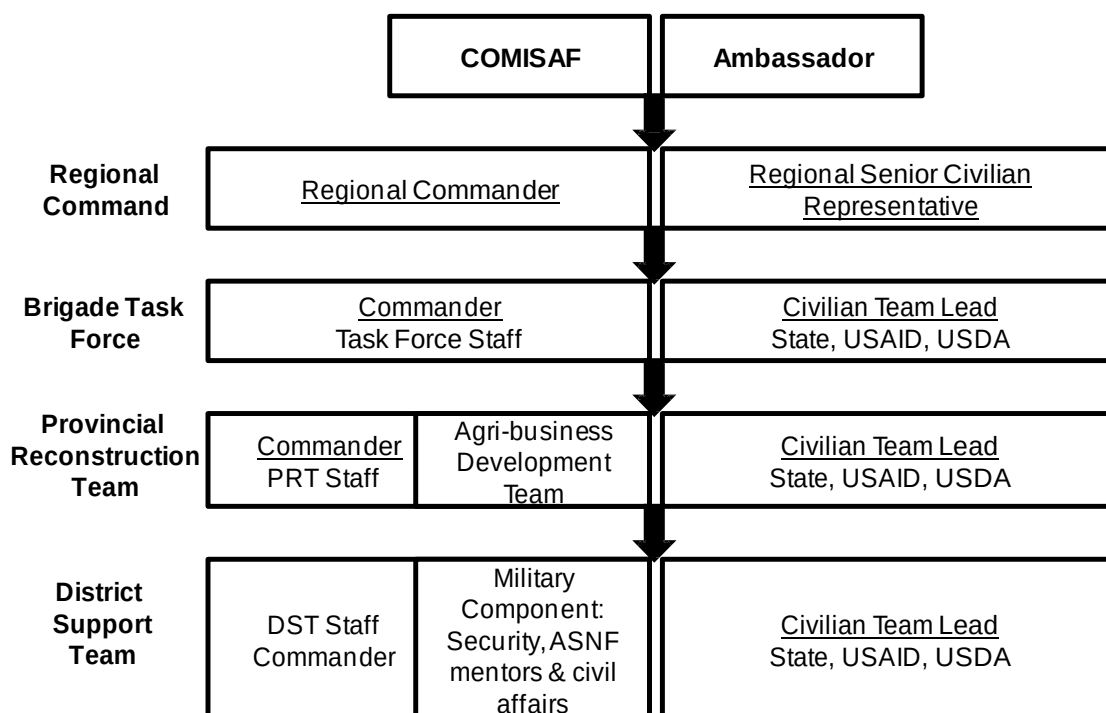
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³⁸John Brummet, U.S. Civilian Uplift in Afghanistan Is Progressing but Some Key Issues Merit Further Examination as Implementation Continues (Washington, DC: Special Inspector General for Afghanistan Reconstruction, October 26, 2010), 5.

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⁴⁸*Ibid.*

⁴⁹*Ibid.*, 5.

⁵⁰Shurkin, *Sub-national Government in Afghanistan*, 1.

⁵¹Ty Connett and Bob Cassidy, "Village Stability Operations: More than Village Defense," *Special Warfare Magazine Online* 24, no.3 (July-August-September 2011): 24.

⁵²Petit, "The Fight for the Village," 25.

⁵³*Ibid.*, 26.

⁵⁴Connett and Cassidy, "Village Stability Operations," 25.

⁵⁵Frederick Kagan and Kimberly Kagan, *Defining Success in Afghanistan* (Washington, DC: American Enterprise Institute, 2011), iv.

⁵⁶Connett and Cassidy, "Village Stability Operations," 25.

⁵⁷Petit, "The Fight for the Village," 30.

⁵⁸*Ibid.*, 32.

⁵⁹*Ibid.*, 31.

⁶⁰A tashkil is authorization determined by the Ministry of Interior. The actual authorizations are determined by several criteria that include assessed security threat and size of the governed area. A tashkil is comparable to the Department of Defense's Table of Organization and Equipment (TOE).

⁶¹Connett and Cassidy, "Village Stability Operations," 25.

⁶²The author was deployed to the western portion (Faryab Province) of Regional Command - North from April 2010 to March 2011. His unit's mission was to build capability and capacity of the ANP within key districts. Specifically, his organization conducted COIN operations in the districts of Ghormach, Qaisar and Almar.

⁶³Patrick Goodenough, "Bin Laden's Death Has Not Affected Battleground in Afghanistan, U.S. Commander Says," August 11, 2011, <http://cnsnews.com/news/article/bin-laden-s-death-has-not-affected-battleground-afghanistan-us-commander-says> (accessed 1 February 2011).

⁶⁴Shaaker, *Democracy's Dilemma*, 47.

⁶⁵United Nations Office on Drugs and Crime (UNODC), Corruption in Afghanistan: Bribery as reported by the victims, <http://www.unodc.org/documents/data-and-analysis/Afghanistan/Afghanistan-corruption-survey2010-Eng.pdf>, 3, (accessed February 1, 2011).

⁶⁶Criminal patronage networks are defined by providers and receivers. Together these groups form networks throughout Afghanistan that form dependence relationships and loyalties. Many are based on family relationships, tribal connections, and ethnic loyalties. The networks are closely linked to the distribution of goods and services in Afghanistan and are closely tied to many levels of corruption within the country.

⁶⁷Shaaker, *Democracy's Dilemma*, 47.

⁶⁸*Ibid.*

⁶⁹*Ibid.*

⁷⁰*Ibid.*

⁷¹*Ibid.*, 49.

⁷²Carter and Clark, *No Shortcut to Stability*, 5.