

U4 Helpdesk Answer 2019:7

# Corruption in Afghanistan and the role of development assistance

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Corruption in Afghanistan undermines the provision of basic services, enables the production and trafficking of narcotics and fuels instability. In the short term, official development assistance has prevented the collapse of the Afghan state's core functions. However, donors' highly fragmented, poorly executed stabilisation and democratisation measures have strengthened structures of neo-patrimonial governance and allowed parallel structures of service delivery to develop.

Moreover, an unknown but significant amount of development assistance ends up funding various armed factions. The government has adopted an anti-corruption strategy and made reforms to Afghanistan's legal code. Nonetheless, gaps remain in the institutional framework and lack of enforcement continues to be a barrier to state-building.

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**U4 Anti-Corruption Helpdesk**

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# Query

Please provide an overview of the state of corruption in Afghanistan and the role of official development assistance.

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## Background

### The current state of play in Afghanistan

After more than 40 years of war, hope for a political settlement is once again emerging in Afghanistan. The US, intent on withdrawing its troops, is now directly negotiating with the Taliban. As talks move towards the topic of a ceasefire agreement, there are reasons for cautious optimism about the potential for a framework agreement (International Crisis Group 2019). Moreover, the Afghan government has invited the Taliban to unconditional negotiations. These issues, however, are complex, and details on what the Taliban and the Afghan government are willing to accept are sparse. At the same time, major issues remain, and a peaceful future for Afghanistan is still in question.

First, while negotiations are ongoing, the conflict in Afghanistan continues and takes the form of one of the deadliest conflicts in the world. The Taliban has had considerable success on the battlefield and has imposed heavy casualties on the Afghan armed forces (ICG 2019). It is uncertain whether the Taliban will accept a comprehensive ceasefire

## Main points

- Endemic levels of corruption undermines the Afghan state-building project and corruption has become a driver of conflict in Afghanistan.
- Generally, the engagement of donors in Afghanistan has been characterised by weak coordination and inadequate oversight mechanisms. This has created a larger space for errors in development cooperation with Afghanistan.
- As a result of these issues, aid inflows have likely contributed to corruption, incentivised state capture and weakened state capacity.

agreement given that it may disrupt the organisation's momentum (International Crisis Group 2019). Moreover, the Islamic State of Khorasan is attempting to cement its presence in Afghanistan, particularly in Nangarhar, and have conducted indiscriminate attacks against Shia-followers and Hazaras (CSIS 2018).

Second, Afghanistan continues to be aid dependent, and it is unlikely that the Afghan state can maintain all of its basic core functions in the case of a sudden pull out of international donors.

Indeed, the Afghan government is unable to raise the revenue to finance even its most basic expenditures and does not have the resilience to withstand a large donor pull out. The proportion of aid to GDP averaged 76% between 2005 and 2011 (OECD 2011). The Special Inspector General for Afghanistan Reconstruction (SIGAR) (2019) mentions that the potential costs of maintaining Afghan security operations and counter-insurgency operations will amount to approximately US\$6.5 billion in the next year. Of that, only US\$500 million will come from domestic revenue, while US\$5 billion will come from the US alone. In the financial year 2017-2018 roughly one-third of the total Afghan budget came from domestic revenue (ATR Consult 2018).

Third, long-term effective stabilisation will require not only a political settlement on several levels but some form of consensus between those international actors that will likely take over as NATO forces and donor agencies of NATO countries gradually reduce their engagement. A complicated geopolitical puzzle that involves a wide range of regional powers will have to be solved. This includes the role of Pakistan, Iran, Russia, China, India and the Gulf States (Rubin 2019). All these states have their own specific sets of interests and objectives in Afghanistan. These interests are (particularly in the case of India and Pakistan) at odds and the nature of competition will have wide-ranging implications for the Afghan state, the Taliban and future reconstruction and anti-corruption efforts (Rubin 2019).

Under all circumstances, addressing corruption is central to peace- and state-building in Afghanistan. Corruption and weak institutional capacity is a key driver of conflict in Afghanistan (Wheatland 2015). It also strengthens the Taliban insurgency (Felbab-Brown 2017). Integrity Watch Afghanistan (2018) finds in their latest national corruption

survey that 43% of Afghans agree with the statement “because of corruption, people in our area refer to the Taliban” and 62% agree that corruption within the Afghan state apparatus enables the Taliban’s expansion (though that number is lower in Taliban strongholds). Most issues in Afghanistan, from social exclusion to grievances, are reproduced by – or connected to – corruption.

Afghanistan and the international donor community have repeatedly stated that increased institutional capacity is a central pillar of development assistance in the country. The centrality of reforms and institutional capacity building has been stated at the high-level donor conferences in Brussels in 2016 and Geneva in 2018, where delegations from more than 60 countries and 30 international organisations convened. The adopted Geneva Mutual Accountability Framework (2018) reflects these priorities.

Preventing and countering corruption is thus key to ensuring stability in Afghanistan and must happen, no matter what the international relations of Afghanistan will look like in 10 years.

## Extent of corruption

Corruption is a deeply entrenched, systemic and widespread issue in Afghanistan: 83.7% of respondents in the 2017 Asia Foundation Survey believe corruption to be a major issue. According to the national corruption survey, 72% believe that corruption has become a more significant problem in the last two years (Integrity Watch 2018). Additionally, more than a quarter of Afghans report having experienced corruption in the last 12 months (Integrity Watch 2018), and one-quarter reports having experienced being the victim of nepotism in the past year (Integrity Watch 2018). The extent of corruption has had a strong negative

influence on public trust, and the vast majority (73%) of respondents in the national corruption survey do not trust local institutions tasked with providing public services (Integrity Watch 2018).

Indeed, as these numbers indicate, Afghanistan is among the most corrupt countries in the world. It is currently ranked 172 out of 180 countries by Transparency International, having a score of 15 out of 100 (where 0 is “most corrupt” and 100 “least corrupt”). This makes Afghanistan the world’s eighth most corrupt country. The World Bank’s Worldwide Governance Indicators (2017) paint a similar picture. Here, Afghanistan is also among the world’s 10 worst performers in terms of government effectiveness, regulatory quality, rule of law and control of corruption. Moreover, Afghanistan is ranked as the world’s ninth most fragile state on the Fund for Peace’s 2019 Fragile States Index, scoring low on indicators for aspects such as state legitimacy, public service provisions and the efficiency of the security sector. Likewise, Afghanistan also features on the OECD’s States of Fragility 2018 list, being among the world’s “extremely fragile” countries.

The Bertelsmann Stiftung’s Transformation Index (2018) is slightly more positive, noting some positive development on various indicators over the years. Afghanistan scores 4/10 in terms of basic administration, 3/10 in terms of independent judiciary, 3/10 on performance of democratic institutions and ranks Afghanistan 91 out of 128 countries worldwide on its governance index.

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<sup>1</sup> A warlord militia is a diverse range of armed non-state actors. Many rose during the soviet invasion (some for, some against the Soviets) most played a role in the civil war but newer ones have been supported by international forces or the Afghan government.

## Forms of corruption

### Grand and political corruption

Since the aftermath of the NATO invasion of Afghanistan in 2001, the Afghan state has faced the following dilemma: it partly relies on warlords for security, but it also needs to control these to ensure a monopoly of violence (MacGinty 2010). To sustain the anti-Taliban insurgency and ensure the survival of the post-Taliban state, various warlords<sup>1</sup> have been co-opted into the Afghan state structure, receiving privileged positions in the government (MacGinty 2010). Since the 2001 Bonn conference, ministries were appointed following closed door sessions that were “more akin to political horse trading than open, consultative democratic procedures” (Schmeidl 2016). In short, the Afghan state is characterised by a strange paradox: the institutions of liberal democracy that are central to the state- and peace-building attempts by donors are underpinned and partly dependent on warlords and militias (Mehran 2018; MacGinty 2010).

While the strategy of co-opting warlords into the Afghan state apparatus was partly regarded a necessity to bring them along, it was also initially based on an assumption that warlords would turn into bureaucrats when the liberal peace-building project was implemented (Mehran 2018). However, this strategy led to a partial state capture by powerful, armed elites. Official institutions and political structures often cover for the power relations that lie underneath. For this reason, many Afghan analysts and academics describe the politics

of Afghanistan as neopatrimonial<sup>2</sup> (Mehran 2018; Schmeidl 2016). The state, in other words, has become a form of resource that can be accessed and controlled to direct rents and resources (Schetter & Glassner 2012). Rather than strengthening the technocratic political “centre” through co-optation by actors in the “periphery”, Afghan local politics greatly restrained the ability of the Afghan state to reform (Schetter & Glassner 2012).

This system of governance gives way to high levels of political corruption. This is particularly evident around elections. Both the 2009 and 2014 elections have been subject to highly irregular voting patterns and fraud (Goldstein 2014). Some argue that results might even have been brokered in advance (see Johnson 2018), and that, in fact, neither Ashraf Ghani, the current president, nor Hamid Karzai, the former president, might have emerged victorious from the 2014 and 2009 elections respectively (Johnson 2018).

This system of neopatrimonial governance has also led to great impunity at the highest level of government: 40% (a conservative estimate) of parliament after the first elections had backgrounds as drug traffickers, leaders of armed groups or had committed grave human rights abuses in the past, contravening the Afghan Constitution (Schmeidl 2016). Likewise, a convicted drug trafficker was among the senior staff in the first anti-corruption body in Afghanistan, the General Independent Administration of Anti-Corruption (Johnsøn 2016). In general, the transitional justice agenda in Afghanistan took a low priority in a transitional

process that were focused mostly on short-term security objectives in the War on Terror. This “climate of impunity” (Theros and Rangelov 2013:4) has shaped the new state in fundamental ways, and rule of law has suffered as a result.

Another long-term impact of the neopatrimonial governance system is the commodification of civil service and political office. Public positions have become a marketable commodity that patrons (typically networks of elites) can secure themselves, buy and sell as they deem relevant (Mehran 2018). A job (or a parliament seat), in other words, can be bought or secured by cash (Mehran 2018). The debt obtained from this purchase will have to be paid back, of course, which typically takes the form of ensuring a steady stream of rent income (Mehran 2018). As a result of these practices, meritocracy is practically absent from the parts of the governance system, though the extent to which corruption has entrenched itself may vary from institution to institution.

### Organised crime and drug trafficking

At the heart of Afghanistan’s state of fragility is the system of organised crime and predatory militias that are enabled by and reproduce corruption (Wheatland 2014). In the context of destroyed livelihoods following decades of war, poppy cultivation is a low-risk, high-return investment (Bojicic-Dzelilovic et al 2015). In the post-2001-era different Afghan players have secured control over larger segments of the opium value chain, and much of the processing of opium into heroin (a profitable endeavour) now takes place inside

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<sup>2</sup> The classical definition is the one employed by political anthropologist Christopher Clapham (1985): “a form of organization in which relationships of a broadly patrimonial type pervade a political and administrative system which is formally constructed on rational-legal lines”. A neopatrimonial state is, in other words, a opposite type of state to the Weberian ideal state.

Afghanistan. In spite of the attempts of the International Security Assistance Force (ISAF) forces, NATO countries and international donors (as well as the formal government commitment), these economic activities have become increasingly important to local Afghan economies (including government officials) and help sustain political economies surrounding warlord and Taliban rule that have been strengthened over the years (Bojicic-Dzelilovic et al. 2015). A 2018 UNODC report states that opium cultivation reached record levels in recent years.

Poppy cultivation, drug production and trafficking is conducted by not just the Taliban, government officials and warlords but also by private militias who provide security services (a kind of private military contractor). A prominent case is that of the former regional police chief of Uruzgan, Matiullah Khan, who in addition to his official role had his private militia partly operating in integrated fashion with the police and partly outside, conducting various illegal activities, including within the narcotics industry (Bojicic-Dzelilovic et al. 2015). This was possible because the central government and the international forces relied on him as a local security provider and as a connector to political elites (Bojicic-Dzelilovic et al. 2015). Another case is that of General Abdul Raziq who operated up to 700 trucks of narcotics a day while he was police chief of Kandahar (Bojicic-Dzelilovic et al. 2015).

### Petty corruption

In 2018, an estimated 4.6 million Afghan adults paid a bribe (Integrity Watch 2018). Bribes are often part of the process of applying for jobs, interacting with provincial governor's offices, meeting security services (e.g. border guards or the police), using healthcare facilities and even to be admitted into schools and universities (Asia

Foundation 2017). The bulk of bribes in Afghanistan are demanded by authorities, and 63% of respondents in the national corruption survey say that they would pay bribes because "there is no other way" to obtain a specific service (Integrity Watch 2018).

The Afghanistan Public Policy Research Organization (APPRO 2017) finds that methods of extracting bribes by tax officials are becoming more complex, diverse, yet blatant: one method, for example, is to complicate a process until a taxpayer gives up and agrees to pay the bribe. Tax officials have also developed their own bribe-indicating language (such as "my slippers are torn" meaning "pay our transport costs"). Many taxpayers (and others requiring government services) resort to so-called *Komishankars*, fixers or middlemen who broker certain arrangements with corrupt officials (APPRO 2017). *Komishankars* ensure that bribes are paid to the right people at the right amount and thus act as a form of bribe "consultants". APPRO also finds that most people who are being blackmailed for a bribe want to complain, but do not do so. Among the main reasons for this is the fact that the ones to whom you file a complaint are likely corrupt as well or that complaining will lead to persecution or physical threats (APPRO 2017). The World Bank's Ease of Doing Business Index ranks Afghanistan as the lowest regionally on its paying taxes score.

### Sectors at risk

Surveys find that people in Afghanistan perceive public servants, politicians, the judiciary, the police and public service institutions to be most exposed to corruption (Asia Foundation 2017).

#### Judiciary

The judiciary in Afghanistan has the highest rates of bribery, and surveys find that it is also the

institution perceived to be the most corrupt (Integrity Watch 2018). The average bribe stands at US\$347 according to the Asia Foundation (2017).

The use of local judicial institutions and different types of community based dispute mechanisms (e.g. *Shuras*) is widespread among Afghans (particularly in rural areas), and the village-level *Shura* is the most common and most trusted judicial institution (Asia Foundation 2017). State courts, on the other hand, are less trusted, but 63% still believe them to be fair (Asia Foundation 2017).

Integrity Watch Afghanistan (2018b), in a study on the state of justice services in Kunduz, finds that low social acceptance and bureaucratic inefficiency deter people from using state institutions. Conflict and corruption have almost wiped out the state institutions, and those that remain are located in the provincial capital. As a result, in areas controlled by the Taliban, citizens use the Taliban justice services and not the state institutions (Integrity Watch 2018b). While territorial control matters, corruption also shapes the choice of which justice service provider is preferable for different types of disputes and crimes. Generally speaking, community based justice services are preferred over state and Taliban services. With that said, Taliban is also considered less corrupt in its justice services than the state (Integrity Watch 2018b).

## Education

Educational outcomes in Afghanistan are far from satisfactory. It is estimated that around 3.5 million children are out of school, three-quarters of whom are girls (Mashal and Nahim 2018).<sup>3</sup> Violence has been the main reason for school closures, but corruption plays an important role as well.

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<sup>3</sup> There is no official census on the Afghan population, hence all numbers on different groups within the population are estimates

Corruption in the school system takes place at most levels of the educational system – from the ministerial to the school level (MEC 2017). One issue is particularly endemic and serious: the appointment of teachers and staff upon giving a bribe (in other words, teacher jobs are bought, not earned). At the same time, trained teachers are often unable to find work. At higher levels, the Ministry of Education has been characterised by “extreme levels of nepotistic influence” (MEC 2017:4). As a result, bribery, non-competitive procurement practices, embezzlement, data falsification and the “ghost school” phenomenon have been widespread practices in the past (MEC 2017).

Mismanagement in the education sector has detrimental effects on public trust. According to the national corruption survey, the Ministry of Education is perceived by respondents as the second-most corrupt institution in Afghanistan (Integrity Watch 2018). At the same time, however, universities are perceived as the cleanest institutions in Afghan society (Integrity Watch 2018).

The government has taken some steps to curb corruption issues in the education sector by creating more transparent and competitive processes for obtaining government jobs in the sector (OCCRP 2018). The Taliban has also allowed schools to operate in the area that it controls – though this is possibly because they want a share in bribe rents and/or influence on the curriculum and teacher employment (Mashal and Nahim 2018).

## Health

Petty corruption is also widespread in the healthcare sector. The guarantee of access to and adequate treatment often depends on bribes, and many of the issues with mismanagement of human resource departments that plague the education sector are also to be found in the health sector (MEC 2016). In spite of these corruption risks, health outcomes have somewhat improved, according to the World Bank. The numbers of healthcare facilities and trained personnel have been rising (World Bank 2017). The [mortality rate for children under five stood at 67 in 2017](#). While this is a high number, it has been falling despite the turmoil in the country.

## Security

Generally, the army is a trusted institution in Afghanistan, with 74% of the respondents of the national corruption survey reporting that it works to the benefit of the people (Integrity Watch 2018). This, however, stands in contrast to other groups such as the international forces present in Afghanistan, where only 14% reports the same view (Integrity Watch 2018). Although the army enjoys a degree of public trust, corruption is rife in the security sector. One particular issue is that of ghost personnel – soldiers who exist only on paper (and whose salaries remain to be paid, at least for a year after leaving their positions). The number of personnel remain grossly over-reported. In 2016, reports indicate that around half of Afghan soldiers were ghost soldiers (Afzali, Timory 2016), indicating that the Afghan army is a lot smaller than believed to be the case.

The police is also perceived as highly corrupt. In 2018, for example, 30,000 Afghan police officers were denied their salary for months, as donors, frustrated with corrupt police leadership and concerns with corruption in the UNDP

administrated Law and Order Trust Fund (LOTFA), withheld payments (Mashal et al. 2018). This is borne out of a larger frustration with the lack of pace of security sector reform in Afghanistan which, in large part, is lost to corruption. Another concern in the security sector is that nepotism and appointments based on factors unrelated to merit and qualifications (such as ethnicity). Moreover, posts with a potential to generate income from bribes (such as procurement, human resources and command roles) are regularly bought and sold (Afzali 2016). Aside from corruption, the armed forces also suffer from accusations of human rights abuses. For instance, SIGAR (2018c) has noted that child abuse has been practiced by Afghan armed forces.

The role of militias as security providers also remains a major concern with important implications for the future of security sector reform. The Afghan Ministry of Defence has announced that it will allow the formation of new militias to help provide security in areas where state authority is limited and to maintain control of newly pacified territories (Rasmussen 2017). This policy has caused concerns among analysts fearing that (as has been the case in the past) embracing militias is a short-term solution that comes with complicated long-term implications for creating civil control of armed actors in Afghanistan (Rasmussen 2017; Felbab-Brown 2017). There are worries that militias could take on a predatory role towards local communities when external funding is reduced or terminated (Rasmussen 2017).

## Budgeting process and public financial management (PFM)

Afghan state revenue mobilisation efforts have improved in recent years, and revenue grew 7.3% in 2017 when adjusted for inflation (Byrd and Farahi 2018). According to World Bank Data,

Afghanistan's revenues stood at 10% of GDP in 2015<sup>4</sup>. The state, however, remains weak when it comes to budgeting processes (Byrd and Farahi 2018). In particular, individual MPs can pressure the executive for money in return for approving the national budget (Byrd and Farahi 2018, see discussion below for more details), and an unknown amount of money is lost in these bargaining processes. Another issue is the nature of the budgeting processes. Their extremely centralised nature make the roles of the legislature and the provinces marginal, which hinders the development of increased state capacity (de Toledo Gomes 2017).

The Afghan national budget consists of a core and an external budget. The core budget is divided into an operational budget and a development budget. The operating budget is financed by the Afghan governments' own revenue while the development budget is co-financed by international donors. The external budget, consisting almost entirely of official development aid (ODA), is essentially a way of insulating foreign aid from corruption while still tying it to the Afghan national budget. International donors prefer to channel their funding through various trust funds.

Province and district administrations have limited autonomy and are subject to the federal state. The Ministry of Finance has the most say in budget preparation and allocation, can overrule decisions taken at the province and district-levels and does not always have to consult them in their decisions. Revenues collected at sub-national units flow to the centre where budgeting takes place. While there are initiatives in place for improving coordination with the needs of local populations, this system of financial management is associated with significant issues (de Toledo Gomes 2017). Local level service

providers often end up with severe resource constraints at the same time as (very) low rates of budget execution. This low rate of budget execution is a direct outcome of a centralised state lacking capacities to administer the budget for all of Afghanistan combined with low local implementation capacity. As a result, public service delivery suffers from low levels of predictability (de Toledo Gomes 2017).

There is currently an ongoing reform process of the Afghan PFM-system. The goal of these reforms are, among others, to ensure greater transparency and reduce space for corruption (Byrd and Farahi 2018).

## Anti-corruption institutional framework

The government of Afghanistan has multiple anti-corruption bodies tasked with sometimes overlapping, sometimes complementary aspects of the anti-corruption efforts (UNAMA 2017). This makes for an incoherent framework with uncoordinated, and often duplicating, efforts (UNAMA 2017; Arib 2018; see also McDevitt 2016). Mandates are often unclear, and procedures are not outlined (Arib 2018). Moreover, Afghanistan's anti-corruption bodies do not wield the necessary capacity to prevent and combat large-scale corruption in a comprehensive manner as they are poorly staffed and underfunded (Arib 2018). Likewise, a number of key institutions fall directly under the President's authority and therefore cannot be considered independent (Bjelica 2019).

Against this institutional backdrop, the government of Afghanistan has taken some key steps in recent years to strengthen its framework for preventing and countering corruption. Two important

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<sup>4</sup> Data can be viewed at: <https://databank.worldbank.org/data/reports.aspx?source=2&country=AFG>

developments concern the new penal code and the adoption of an Afghan anti-corruption strategy.

### High Council for Rule of Law and Anti-Corruption (High Council)

Established in March 2016, the High Council is the highest ranking anti-corruption body in Afghanistan. It is tasked with coordinating Afghanistan's anti-corruption efforts. Its members are drawn from high levels of the government as well as ministries. President Ghani acts as chair while Abdullah Abdullah, the current chief executive of Afghanistan, and other high-ranking politicians and civil servants are members. The High Council has three committees working on various issues related to developing the Afghan anti-corruption framework as well as two secretariats.

One of these is the Special Secretariat which has a number of experts on selected thematic areas and which is involved in the anti-corruption strategy (UNAMA 2019).

Because it is a politically controlled committee, there are some worries that the High Council does not act as politically independent. A key step in improving the High Council's output, recommended in the 2019 UNAMA report, is to convert the three committees into working groups.

### Major Crimes Task Force and attorney general

The Major Crimes Task Force (MCTF) is the institution mandated with investigating claims of corruption alongside the attorney general, both of which investigate and prosecute smaller cases of corruption (though it is occasionally confusing what constitutes "small").

In 2010, the MCTF ordered the arrest of a senior member of the National Security Council, Muhammad Sia, on the basis of corruption. While this could be taken to mean that the MCTF worked as intended, the arrest was undermined by an executive order to release Sia. Since then the MCTF has produced little output.

One of the issues facing the MCTF is the lack of clarity surrounding its mandate which overlaps with other anti-corruption institutions. The MCTF also lacks resources and has been more or less dependent on external funding to operate (UNAMA 2019). In the past it has taken budget cuts as punishments for undertaking investigations that went against powerful interests. Moreover, the MCTF itself is not always free of corruption, and leaders have in the past resigned from the MCTF on corruption charges (Bjelica 2019)

### Anti-Corruption and Justice Center

The Anti-Corruption and Justice Center (ACJC) was established in 2016 to strengthen efforts to counter corruption within the Afghan government. The ACJC is the most specialised anti-corruption institution, bringing together expert judges and investigators. Major cases of corruption involving senior officials are referred to the Anti-Corruption and Justice Centre from the attorney general. As a rule the ACJC investigate and prosecute cases that involve more than 10 million USD. By April 2018, the ACJC had completed 34 cases and by 2019 it had ruled in 57 cases (UNAMA 2019). A recent concern (personal communication, December 2018) is that cases are stalled or not brought up for the courts when referred to the justice system.

The work of the ACJC could also be strengthened by a clearer penal code. However, the work of the ACJC is still limited by unclear mandates, and it can only complement regular courts (UNAMA 2018).

The ACJC also lacks capacity, particularly to provide security to witnesses and whistleblowers (who have been subjected to intimidation) (SIGAR 2018b). Moreover, large parts of the (MCTF), where much of ACJC's staff comes from, may be corrupt themselves. According to SIGAR (2018b), out of 139 polygraph tests of ACJC, MCTF and Ministry of Interior staff, 53 failed. There were no follow-ups to these examinations, and in general SIGAR (2018b) is worried that the ACJC could be subject to attempts of capture by various interests.

### The Supreme Auditor

The Supreme Audit Office ([sao.gov.af](http://sao.gov.af)) can audit the financial statements of the various branches of government, including provincial institutions, as well as State Owned Enterprises, municipalities.

The Supreme Audit Office, however, rarely reports on financial issues as it should, and past leadership has held close connections to prominent politicians. The SAO, therefore, does not wield the independence necessary for Afghanistan to meet international auditing institution standards. Recent reform initiatives have not done away with this issue (Bjelica 2019).

### The Joint Monitoring and Evaluation Committee (MEC)

The MEC ([www.mec.af](http://www.mec.af)) was established in 2010 to conduct oversight. In 2016, its mandate became specifically related to activities around monitoring and evaluating anti-corruption initiatives, policies and programmes, assessing the corruption and transparency in governance and recommending solutions.

The board of the MEC is made up of a team of Afghan and international experts. The MEC's assessments of corruption risks in Afghanistan and

other reports are publicly available at the MEC's website.

Because it acts independently of political interests, some consider it to be the anti-corruption body with the highest integrity in Afghanistan. Nonetheless, the government of Afghanistan is not required by law to maintain the MEC. Some analysts (e.g. Bjelica 2019) recommend a new legal basis that requires any government to continue to sustain its funding to the MEC.

### Deputy Attorney General for Anti-Corruption

The Deputy Attorney General has its own office for Anti-Corruption matters. The office has a very broad mandate and is tasked not only with prosecution assignments, but has an investigative mandate as well.

The Deputy Attorney General for Anti-Corruption's office has had little effect in spite of having a staff of approximately 500. One potential reason why is that its mandate is too broad and overlaps with other anti-corruption institutions (for instance, in its investigative capacity with the MCTF). Another reason for its low output is that management structures within the office are unclear.

### Anti-Corruption Commission

Following the changes to Afghanistan's legal framework (presented below), Afghanistan is planned to have a Anti-Corruption Commission (ACC). As is the case with similar ACCs acting in line with UNCAC Article 6, the commission will be carrying out a number of corruption prevention activities (incl. training), will produce research on corruption as well as to receive corruption complaints and ensure correct referral to the relevant authorities (UNAMA 2019). Its mandate will overlap with some of the other Anti-

Corruption institutions named above - but in particular with the The Deputy Attorney General for Anti-Corruption (UNAMA 2019).

## Legal anti-corruption framework

While there are large gaps in Afghan anti-corruption framework, a number of improvements have been made in recent years. Two developments, in particular, deserve some attention. These are the new penal code and the newly adopted anti-corruption strategy.

### The Anti-Corruption Law

The Anti-Corruption Law, passed in September 2018, mainly does two things.

First, it gives the ACJC a more clearly delineated legal basis. The provisions contained in the Law will strengthen the ACJC's capacities to both investigate and prosecute. Second, the law establishes the Anti-Corruption Commission, which, as mentioned, is yet to be implemented.

While it is among the most significant developments in 2019, the Anti-Corruption Law has been introduced via a presidential decree. It is yet to be debated, let alone adopted in the National Assembly (UNAMA 2019). It is therefore not unlikely that the law may be revised.

### New penal code

The new penal code came into force at the beginning of 2018, after roughly six years of drafting. It gives provisions for seven corruption-related charges and defines a number of corrupt acts as crimes. These include acts such as giving false asset declarations, hiring "ghost" employees and discrimination in hiring practices (UNAMA 2018). Corruption charges should lead to imprisonment and sentences cannot be served in other ways.

The penal code is now in line with the UN Convention against Corruption, and corruption offences are more clearly defined, giving judges less options to interpret corruption charges creatively. This gives a range of new opportunities to strengthen anti-corruption efforts. It accommodates some of the criticism with the existing asset declaration system and puts in place some mechanisms for verifying these declarations. It can also enable more corruption cases to be prosecuted (UNAMA 2018).

### The anti-corruption strategy

Until recently, the Afghan government lacked a comprehensive strategy for its anti-corruption engagement (see previous Helpdesk Answer). The adoption of a strategy was a promised deliverable in the Self-Reliance through Mutual Accountability Framework (SMAF), agreed upon at the 2016 Brussels donor conference. The strategy is to be implemented within five ministries that each have a seat at the High Council.

The anti-corruption strategy has five priorities:

- 1) political leadership in anti-corruption reforms;
- 2) ending corruption in the security sector;
- 3) replacing patronage with merit;
- 4) prosecuting the corrupt;
- and 5) tracking money flows.

Each of the five priorities have a set of related goals (66 in total) with benchmarks/indicators to be reached in stages until the end of the strategy in 2020. In addition to the five implementing ministries, none others have to formulate an anti-corruption plan. Priority 2 has been implemented, because the High Council and the Afghan government sees the security sector as an underlying and cross-cutting issue, acting as a driver of corruption in other sectors.

The implementation of the anti-corruption strategy is monitored by the High Council's Special

Secretariat who received reports on its implementation

While the adoption of a more comprehensive anti-corruption strategy is an important step for the Afghan anti-corruption agenda, the current strategy has a number of significant weaknesses. It was drafted without adequate civil society engagement and ministry consultation and falls short of calling for major institutional reforms (SIGAR 2018b).

The 2019 UNAMA Corruption report also warns that the strategy has not been consistently implemented

## The role of official development assistance

### Donors and aid modalities

There are a great number of donors funding activities in Afghanistan. Among the largest are many of the “traditional” OECD donors such as the US, the EU commission, the UK, Japan, Germany, the Nordic countries, Switzerland, Canada and Australia. Regional donors also have a significant engagement. Of these India is the largest, having provided more than US\$3 billion in official aid to Afghanistan (Times of India 2019).

At the Brussels conference in 2016, donors committed to spend approximately US\$3.8 billion a year (World Bank 2019). Two years later, however, at the Geneva conference, donors increased this amount promising to spend US\$15 billion between 2018 and 2020.

The biggest donor in the country is the United States, which has directed US\$122 billion in aid since 2002 (out of a total of US\$132 billion allocated in this period). Of this amount, 63% has been directed to the security sector, 28% on

development and 9% on humanitarian assistance (Congressional Research Service 2019).

Additionally, out of the programmes implemented through USAID, the largest sectors covered include governance and health (USAID 2019).

Other donors include the European Commission, which provides budget support through a state and resilience building contract as well as through a number of sector budget support contracts. The current Multiannual Indicative Programme (MIP), running from 2014 through 2020, has a value of €1.4 billion, putting EU ODA at €200 million annually (DEVCO 2019). The World Bank, in addition to managing the before mentioned Afghan Reconstruction Trust Fund, has carried out activities for a total of US\$4.4 billion in Afghanistan. The World Bank portfolio includes a number of budget support programmes and several reconstruction projects. The majority of the World Bank’s (2019b) activities has been financed by grants. The bank’s current country partnership framework (World Bank 2017b) seeks to strengthen institutions, support inclusive growth and deepen inclusion with around US\$250 million in grants annually.

Many of the main donors rely heavily on indirect management modalities, and use the facilities and capacities of UNDP and the World Bank. A significant amount of ODA is therefore managed through multi-donor trust funds. The most significant ones are the Afghan Reconstruction Trust Fund (ARTF) and the Law and Order Trust Fund for Afghanistan (LOTFA). The ARTF is managed by the World Bank and has raised more than US\$11.4 billion since its inception. It runs through two different channels. The first works like a “traditional” budget support mechanism, where funds are disbursed under the monitoring of the World Bank. Most of the funds are used to fund the salaries of teachers and health workers. The second

channel is known as the “investment window”, which funds projects and other investments. The results and financial reports from these programmes are available on the ARTF website.

The second important trust fund, the UNDP managed [Law and Order Trust Fund for Afghanistan \(LOTFA\)](#) is responsible for a large amount of recurrent spending activities. LOTFA manages police force salaries and finances capacity-building programmes with relevant line ministries<sup>5</sup>.

After the 2010 Kabul conference, it has been agreed that at least 50% of ODA should be either through budget support or on-budget aid. However, donors differ significantly on whether or not this is desirable. Some donors remain sceptical of either the Afghan state’s ability to manage these funds or of budget support in general, while others (particularly the pro-budget support EU) agree very much with these developments (Bizhan 2018).

### Aid effectiveness in Afghanistan

Development assistance can fuel corruption through several channels. It faces risks of corruption related to the sector itself (e.g. contextual factors, type of work, etc.) and others related to how the financial resources in the sector are utilised. Efforts to minimise these risks have been made in recent years. The Paris Declaration, for example, calls for donors to eliminate duplication, increase the alignment of aid with the priorities of the recipient country and strengthen coordination, monitoring and evaluation of their programmes. These principles, however, appear to have been inadequately applied in Afghanistan. There are currently over 30 different active donors in the country, who programme according to their

specific interests and thus act in weak coordination (ATR consult 2018).

ODA is particularly fragmented in off-budget development assistance, which accounts for a large proportion of the aid received, and in many cases consists of rather small projects implemented by multiple organisations. This issue with fragmentation of off-budget development assistance could even grow as fear of government corruption leads to a larger proportion of aid given off-budget, which in turn weakens government ownership of aid (ATR 2018).

Besides donor fragmentation, an NGO commissioned report state that large proportion of aid delivered in Afghanistan bypasses national and local institutions, thus creating parallel structures and potentially weakening national or local ownership (ATR consult 2018). In theory, most donors align their priorities with those of the Afghan government, as set out in the National Priority Program (NPP). In practice, the report argue, this alignment is merely a box-ticking exercise as programming still happens mostly with quick results and donors’ national priorities and interests in mind (ATR consult 2018). The report, however, is not analysing if more of the assistance reach intended beneficiaries when it is channelled outside the Afghan government.

The 2019 Special Inspector General for Afghanistan Reconstruction’s (SIGAR) recent high-risk report of areas of the Afghanistan reconstruction effort at risk of waste, fraud and mismanagement paints an even bleaker picture. In particular, the SIGAR report points out that there is a high risk of US assistance efforts being subverted due to corruption and weak oversight mechanisms. In many cases, donors have not had effective systems

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<sup>5</sup> A recent U4 Publication has discussed these trust funds more in depth. See Disch and Natvig (2019)

of oversight, documentation of spending has been poor, monitoring and control mechanisms have failed, and accountability mechanisms have not lived up to the expected standards (SIGAR 2019). Indeed, the security situation can make a physical presence difficult, but there are ways to apply rigorous monitoring, evaluation and learning (MEAL) systems in conflict settings (even without using remote management techniques). SIGAR has investigated and audited “several” instances of fraud involving assistance funds.

Moreover, the Special Inspector (2019) warns against increased on-budget assistance, arguing that internal control mechanisms, and oversight and accountability mechanisms are not currently capable of ensuring that money is channelled into the intended purpose.

Managing assistance through trust funds do not resolve this issue as the trust fund-delivered assistance has suffered from many of the same oversight and management related issues that have plagued aid delivered through other modalities (here, in particular, SIGAR’s findings diverge significantly from those of ATR 2018). SIGAR audits have found, that in spite of mechanisms for ensuring rigid monitoring systems, some of the trust funds (mentioned above) lack transparency, fail to live up to the best practices, face challenges in holding the government accountable and cannot provide reasonable guarantees that aid funds reach their intended targets (SIGAR 2019; SIGAR 2018).

MEAL-processes, according to SIGAR, have been inadequate and, as a result, increase the risk of abuse, fraud and waste<sup>6</sup> (SIGAR 2018; SIGAR 2019). There are a number well-known cases of aid funds administered by trust funds ending up in the

wrong hands and oversight mechanisms not working as intended. LOTFA has been accused of procurement fraud and, in some instances, for losing track of its funding (Donati and Shalizi 2015; Johnsen 2016). In 2015, LOTFA attempted to avoid showing a report that unveiled that government officials had suppressed complaints of corruption (Donati and Shalizi 2015).

Overall, aid delivery in Afghanistan has not lived up to the criteria for aid effectiveness that are set out in the Paris Declaration (ATR Consult 2018). It can anyhow be argued that aid funds have not been managed in a fashion that can guarantee that they have not exacerbated Afghanistan’s corruption challenge.

### Corruption as a low priority

Another relevant point in terms of the impact of development assistance on corruption in Afghanistan is the low priority assigned to anti-corruption efforts in the first decade of donor engagement. At the beginning of the Afghanistan reconstruction efforts, corruption was not considered with the same urgency as today (Johnsen 2016). Stabilisation and defeating terrorism was first priority, and corruption was considered as something that could be prioritised subsequently (Johnsen 2016). There was some awareness at the strategic levels of many donors and agencies of the necessity to include anti-corruption more widely, but these did not materialise into concrete initiatives. Consequently, for a number of years, corruption debates were subdued, were not a priority in policy dialogue with the government of Afghanistan and anti-corruption mainstreaming initiatives were not taken.

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<sup>6</sup> The World Bank has provided a response to SIGARs verdict. See <http://www.worldbank.org/en/news/statement/2018/04/25/the-world-bank-statement-on-latest-sigar-report>

Moreover, while there was a lot of development assistance, very little of it went to anti-corruption programming. The first anti-corruption benchmarks came in 2006 after the International Conference on Afghanistan (five years after the invasion) and the first concrete corruption-specific conditionalities for disbursement of on-budget aid came in 2010 (nine years after the invasion) (Johnsøn 2016). It was also around the time of this shift that the first anti-corruption project, the Accountability and Transparency (ACT) project was carried out by UNDP. However, due to a range of issues, including over-reliance on the government and internal resistance in the UNDP, it was not considered a great success (Johnsøn 2016).

Even after these shifts, anti-corruption remained a low priority, and civil society anti-corruption initiatives often faced funding constraints. Hence, when anti-corruption efforts were finally integrated into aid efforts it was after years of engagement (Johnsøn 2016).

In recent years, however, donors have taken a number of steps to mainstream corruption concerns into development assistance more broadly. The US and Afghanistan have signed a bilateral compact that includes benchmarks on governance and several anti-corruption commitments (US Embassy Kabul 2017). USAID has also become more active in funding and supporting civil society anti-corruption initiatives through, for instance, its Afghan Civic Engagement Program. In 2017, USAID spent US\$8.7 million on anti-corruption programmes (USAID 2019).

The EU has also ensured that disbursement in its budget support programme are conditional on progress on indicators of transparency. Moreover, the EU has put anti-corruption high on the agenda in its policy dialogue with the Afghan government through its anti-corruption campaigns and anti-

corruption conferences hosted by the EU delegation to Afghanistan (2018). The EU also aims to engage civil society actors who counter corruption more actively in its programming.

### Has ODA weakened state capacity?

The extent of fragmentation and the substandard coordination and oversight mechanisms that have characterised the aid regime in Afghanistan may have affected the Afghan state capacity in a number of ways.

First, aid inflows enabled and strengthened the presence of a parallel system of service delivery, often through NGOs and the private sector, the size of which is believed to be larger than the actual public sector (Bizhan 2018). This drove significant resources away from efforts to strengthen core state capacity (Bizhan 2018), although it might have increased overall aid delivery. As aid critics have argued for many years, aid rents are associated with the risk of reducing the incentives for implementing a strong taxation regime, and thus also hinder the formation of citizen-state relations. Some analysts worry that this may have happened in Afghanistan, where dependency on aid has weakened incentives for strengthening revenue collection (Byrd and Farahi 2018; Samim 2016).

Another related issue is that of a public sector brain drain. Aid projects, most of which are off-budget, have contributed to a wage gap between employees of international organisations and NGOs to those of government employees, diverting human resources away from the public sector (although possibly still delivering public services) (Bizhan 2018; de Toledo Gomes 2017; ICG 2011).

Large ODA inflows have also created unproductive rent-seeking incentives (Murtazashvili 2015). For instance, Afghanistan has witnessed the emergence

of a class of contract managers who specialise in writing proposals for foreign donors. These professional contractors are often equally professional at channelling money away from their intended purpose with a great sense of sophistication. The procurement process itself is entirely legal, and corruption starts after the award has been granted. In fact, this industry of “legal corruption” has its own lobbyists (Murtazashvili 2015).

### Assistance and armed non-state actors

Not only has the fragmentation and weak coordination of donors affected state-building, the fragmentation of the recipient(s) has played an equally important role. Large amounts of budget support, on- and off-budget aid, went into the loop of Afghan patronage and strongman politics, reproducing the neopatrimonial politics of the new Afghan state (Bizhan 2018). Aid was never truly cut off from those power brokers operating across formal and informal governance structures, and who thereby enable and benefit organised crime and grand corruption (Felbab-Brown 2017).

Moreover, ODA has in many cases financed the same groups who subverted the state-building project, including the Taliban. Insurgents act strategically to the influx of aid programmes. They do so in a range of ways: by sabotaging projects, punishing collaborators, or by finding rent-seeking opportunities (including robbing and taxing) that arise from the inflow of resources (Zürcher 2019). These tactics can be divided into two overall sets of strategies “predation and sabotage” (Zürcher 2019). Acts of sabotage seek to disrupt development efforts and ensure that donors leave. Predation, on the other hand, seeks to redirect development flows to ensure that they fit the interests of the insurgents.

The Taliban seems to prefer predation strategies as these allow them to maintain legitimacy. The Taliban has been known to sabotage aid projects mostly when they have strategic implications (an example being a bridge that can be used by rival militias or the military). Aid inflows allow the Taliban to profit if Taliban-related groups can obtain positions where they can regulate these flows. Indeed, in many provinces, the Taliban has a shadow official in charge of dealing with and providing security for contractors and NGOs working in Taliban-controlled territories.

By being able to direct humanitarian and development flows the Taliban can benefit from development assistance by propping up its legitimacy, tax (overtly or covertly) aid flows or sell services as security providers. These extra charges are not always reported explicitly by international contractors or NGOs and often are reported as overhead costs (Zürcher 2019). Consequently, an unknown but significant amount of ODA is going into funding the same insurgents that ISAF and Afghan forces have fought against (Zürcher 2019; de Toledo Gomes 2017).

Pro-government militias have also managed to obtain funding through ODA. Abdul Raziq, the aforementioned general and private security provider with warlord ties (who also operated as a drug trafficker) admitted in an interview: “I have 647 men as part of the Ministry of Interior, but more than 3,000 men have picked up their weapons from their houses and are working with me. I get their salaries and other benefits from the foreigners’ convoys and each of them is paid \$240 per month” (Quoted in Bojicic-Dzelilovic et al. 2015: 1897).

These are examples of the contradictory and potentially violence-fuelling effects that have happened in the context of fractured aid systems,

overwhelming contributions that exceeded Afghan absorption capacities and monitoring and evaluation systems/practices that were not in line with the global best practices.

Whether as a result of these issues or not, there is a low level of trust among Afghan citizens towards donors and implementing partners. In the 2013 Global Corruption Barometer, 34% of respondents felt that NGOs were either corrupt or extremely corrupt. These numbers remain unchanged, and in the latest surveys 34% responded that NGO workers work for their own benefits (Integrity Watch 2018). Mistrust is also directed at international donors as 52% of Afghans do not believe that the international community seeks to combat Afghan corruption, and 53% do not believe that the international community is supportive of honest government officials (Integrity Watch 2018).

### Responding to corruption risks in fragile and conflict-affected countries

The OECD Recommendations on Managing the Risk of Corruption provide a comprehensive framework for agencies to address corruption risks (OECD 2016). These recommendations relate to the following 10 points:

- create clear and comprehensive codes of conduct that are endorsed by the senior leadership
- install anti-corruption advisory or assistance services equipped with adequate resources so that they can ensure high-quality guidance and training
- provide training on ethics and anti-corruption for staff in roles where there is a risk of corruption
- ensure that there are thorough and systematic external and internal auditing and investigation mechanisms in place
- integrate systematic and continually updated analyses of corruption risks into the various stages of the project cycle as well as at the strategic level
- take measures to detect corruption and ensure that corruption is enshrined in contracts with implementing partners
- install channels for reporting, such as whistleblowers, that are visible, provide the necessary protection and ensure follow up on reports of corruption, mismanagement and misconduct
- create a sanctioning regime that covers all cases of corruption and can lead, when relevant, to the immediate termination of contracts
- ensure joint and coordinated responses to corruption with the government, other donors and agencies
- perform the necessary analyses of the operating environment and build an understanding of corruption risks through e.g. political economy analysis

At the same time, like any other development intervention, anti-corruption programmes also run the risk of having either no effect or doing harm. This can, in particular, be the case when anti-corruption efforts are captured by political interests or when anti-corruption efforts place a significant amount of stress on current systems and thus fuel various uncertainties (Johnston and Johnsen 2014).

In other cases anti-corruption efforts simply displace corruption, and flows within patronage networks are merely redirected. Interventions can also cause existing systems of patronage to be disrupted and may provoke a response from those that benefit from the status quo (Johnston and Johnsen 2014). For instance, in Afghanistan, there may still be a (well-founded) resistance to disrupting warlords' patronage networks out of a

fear that doing so may distort their incentives to foster peace.

Anti-corruption efforts should therefore start from an understanding of the political economy and be tailor-made to the context in question. Well-planned anti-corruption and governance programming can be gradual and careful in its approach (Johnston and Johnsen 2014).

Donors and implementing partners should also be mindful of the role of corruption when conducting conflict analyses to inform their programming decisions (Garred 2017). Corruption may act as a permissive condition, a root cause, a proximate cause, a driver of conflict or all of these. In Afghanistan's case, at least, corruption sensitivity is central to conflict sensitivity.

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