



Tribal Jurisdiction and Agreements

The Key to Sub-National Governance in South-eastern Afghanistan

Summary

- Tribal agreements in South-eastern Afghanistan continue to be an important means to establish binding rules within and between tribal groups and to negotiate governance and security issues between tribes and the Afghan government (and supporting international military forces).
- International actors promoting such local security arrangements need to understand existing local institutions, the geographic concepts of tribal jurisdiction (*manteqas/wandas*) and the level of tribal fragmentation.
- Only where tribal institutions are still very much intact, links between formal and informal security institutions can strengthen Afghan government structures.

1 Introduction

In many parts of Afghanistan, non-state institutions remain relevant to security and stability, despite repeated and concerted state-led attempts from the late 19th century onward to expand its administrative influence, including control over the provision of security and the administration of justice. In the East and Southeast, these relatively autonomous structures are very much a present day reality and largely linked to Pashtun tribes and the influence of individual elders. It is important to emphasize that tribal security and governance never was geared toward undermining the state. In contrast, tribes and their elders tried to cooperate with the state whenever possible to improve governance and reduce conflict in their areas, taking on state roles during times of state failure.

The importance of local customary structures has not been lost on



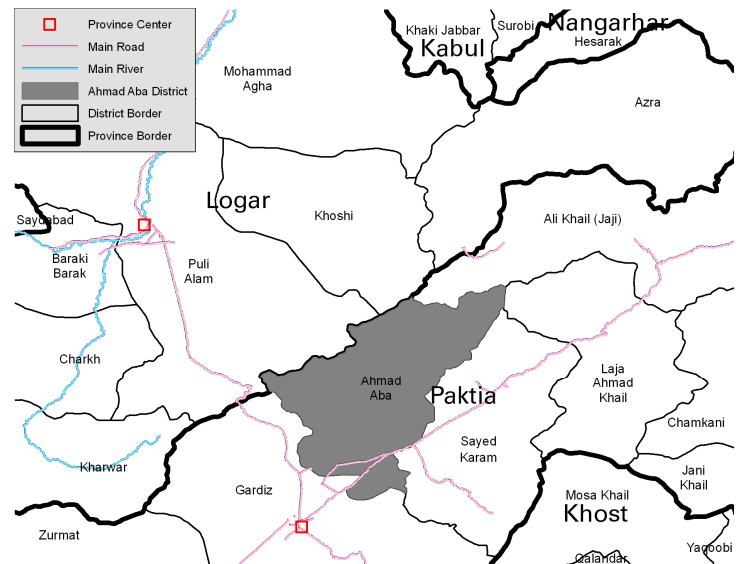
policymakers of late.¹ The “US Government Integrated Civilian-Military Campaign Plan for Support to Afghanistan”, written in August 2009 with the collaboration of United Nations Assistance Mission in Afghanistan (UNAMA) and the International Security Assistance Force (ISAF), acknowledges the Pashtuns’ guarded independence “against the perception of a predatory central government” and the Afghan government’s “inability or perceived unwillingness to ensure security and justice” as “major dynamics” within Afghanistan.

In order to compensate for this latter gap, the report promotes employing “community security arrangements when local conditions necessitate and in association with Afghan National Security Forces (ANSF).”²

Such generalized policy prescriptions to security issues, however, are not without dangers if implemented with ignorance of existing local institution and a lacking understanding of the fragmentation of communal structures in some parts of Afghanistan (especially the North and South).

Many community security arrangements are contiguous to a specific local context such as Eastern and South-eastern Afghanistan, where relationships between state and non-state actors are regulated through so called “tribal contracts or agreements” used by local representatives of the Afghan state to

negotiate local governance and maintain security at the sub-national level.



Map 1: Location of Ahmad Aba District, Paktia

Using the case study of Ahmad Aba district in Paktia, specifically field research among the Ahmadzai tribe in June 2009, this policy brief examines the historical background of tribal contracts, to what extent they still play a role in local governance today, and what implications can be drawn for the current promotion of community governance arrangements.

2 Tribal contracts in brief

Tribal contracts mostly pertain to maintaining security and/or the administration of justice in the specific areas where a tribe or sub-tribe holds jurisdiction. In principle, however, any social and political issue can be regulated through such contracts.

Various external pressures and local complexities influence elders to establish



tribal agreements, such as to fill power vacuums or respond to state requests. From the state's perspective, local government representatives use tribal agreements to negotiate governance and maintain security. The aims and emphases of the agreements change according to the given political environment.

The strength of the state determines its level of involvement in the agreement with a positive correlation between the two. When the state is weak it has a minimal or non-existent role. As a matter of fact, tribes often establish agreements when the formal governance system has failed. By contrast, when the state is strong, it signs agreements with tribes that oblige them to maintain security (or other state policies) within specified areas of tribal jurisdiction in exchange for resources and a degree of local autonomy.

The agreements are established through *jirgas* on the basis of consent by tribal elders and apply to all members of the tribes and sub-tribes represented by the *jirga*.

While elders (the white-bearded *spin giri*) usually negotiate tribal agreements on behalf of their tribes and are held accountable by other tribes, or the state, in case of a breach of contract, the responsibility for implementation of rules spelled out equally lies with all members of the community.

While much of the customary structure in Eastern and Southern Afghanistan relies

on an oral culture, tribal agreements are written documents signed off by responsible elders (e.g., signature or fingerprint). In addition to spelling out rules, the agreements also define sanctions for violations, ranging from monetary fines or burning down the house of the offender up to ostracising him from the tribe.

3 Tribal Agreement prior to 2001

Agreements between tribes and government have a long history in Eastern and South-eastern Afghanistan. Many foreign invaders from Alexander the Great to the British in the 19th century also brokered contracts with local tribes to levy armed tribesmen for the protection of logistical supply routes.

When Afghan rulers started to consolidate the Afghan state and attempted to expand their administrative influence into rural areas in the late 19th century non-state institutions still provided local governance, including the administration of security and justice, in large parts of the country. In order to increase state influence and centralise its policies, Afghan kings began to enter into agreements with local tribes.

One of the older and more renowned ones is the *mawad-e sang* (stone agreement) in the Eastern Nangarhar Province. Negotiated between King Zahir Shah (1963-1973) and Shinwari as well as Mohmand elders, this agreement details the rights and responsibilities of the tribes vis-à-vis the state. In return for



regulatory autonomy and especially the right to resolve disputes according to their own customary practises, the Shinwari and Mohmand tribes were responsible for maintaining security in specified *manteqas* (tribal areas of jurisdiction). For this purpose, they were asked to raise an *arbakai* (tribal police, see box below) or *shilgun* (another form of tribal police) to guard roads and generally enforce *jirga* (ad-hoc decisions-making body) decisions.³ While the agreement was formally written down under Zahir Shah's rule, a witness to the signature ceremony claimed that it had already been in force in verbal form since the reign of Ahmad Shah Abdali (1747-1773), the founder of the Durrani Empire.⁴

The oldest agreements that elders in Ahmad Aba recall were established under the reign of Zahir Shah (1933-1973) during the period when Mohammed Daoud Khan was royal prime minister (1953-1963). In these agreements, the tribal elders pledged to provide security and policing, particularly from robberies. The state, in turn, allowed tribes to govern day-to-day issues with their customary mechanisms.⁵ Similarly to the *mawad-e sang* agreement in the East, the agreements was enforced by an *arbakai*.

This formalisation of tribal governance arrangements came to a temporary halt when Daoud Khan overthrew the monarchy and became the first President of Afghanistan in 1973.⁶

***Arbakai* - The Tribal Police of South-eastern Afghanistan**

The notion of an *arbakai* is an old concept in rural Pashtun Afghanistan best compared to community-based policing. It is important to draw a clear line between the *arbakai* and militias of any sort that are associated with strongman and commanders:

- The *arbakai* are a very temporary body that is only established for solving specific problems, and only for the length of time required to do so.
- The size of the *arbakai* depends on the kind of operation, in many cases it is simply for the purpose of dispute resolution or executing the decision of a *jirga* or *shura*.
- Despite the fact that each *arbakai* has a clear leader (*mir*), the accountability goes back to the tribal council (*jirga* or *shura*) that called upon the *arbakai*, which in turn is accountable to its own community.
- *Arbakai* only function in the very limited realm of the tribe they represent. Their fighters are volunteers from within the community and are paid for by the community. This emphasises again that their loyalty lies with their communities, and not an individual leader.
- Due to the association with customary mechanisms, *arbakai* can only function in areas with strong and cohesive tribal structures.

Source: Susanne Schmeidl and Masood Karokhail, 2009, "The Role of Non-State Actors in 'Community-Based Policing' - An Exploration of the *Arbakai* (Tribal Police) in South-Eastern Afghanistan," *Contemporary Security Policy*, Vol. 30(2): 318-342.



His regime and the subsequent rule of the People's Democratic Party of Afghanistan (PDPA), which came to power after the *saur* (April) revolution of 1978, brought the Eastern and South-eastern tribes into increasing opposition with the state. With the full onset of the *jihad*, the central government lost most of its ability to intervene by means of force and exercise administrative control outside urban centres. Rural areas became contested between the PDPA and the resisting *mujahideen* groups causing massive forced displacement to Pakistan, especially of traditional leadership.

Especially the South-eastern *Loya* (Greater) Paktia region⁷ witnessed some of the fiercest fighting in Afghanistan during the *jihad*. This led to agreements between tribes in order to keep a minimum of governance and security in their areas.

In Ahmad Aba, for example, an oral agreement among the Machalgho sub-tribes of the Ahmadzai stipulated rules to avoid infighting between different *mujahideen* factions as well as sub-tribes.⁸ In the agreement, *mujahideen* from the area pledged not to fight each other, dismantle checkpoints and reign in abuses of civilians. Blood-feud-related killings were banned for all tribesmen from the Machalgho area. As a result, Machalgho remained relatively peaceful and stable, compared to surrounding areas where fighters of *mujahideen* factions preyed on travellers at illegal checkpoints and countless feuds between sub-tribes erupted in violent clashes.⁹ An

attempt to set up a Paktia-wide agreement to stop factional fighting, however, failed.¹⁰

Such a *shura* was successfully established in the East by long strongmen in order to maintain stability. This *Shura-i-Mashriqi* was commonly referred to as Jalalabad or Eastern *Shura* and lasted until the arrival of the Taliban.¹¹

During the Taliban rule in Paktia (1995-2001), tribal agreements once again fell out of use. Even though civil disputes and minor criminal transgressions were still resolved by traditional *jirgas*, the influence of community leaders declined. The Taliban established a monopoly over the trials of criminals, especially thieves and murderers using *sharia* law.¹² Local *arbakai* were dismantled, with the Taliban to a large extent taking over the provision of security.

4 Tribal Agreements in Ahmad Aba after 2001

The security and governance vacuum that occurred after the ousting of the Taliban regime in late-2001 prompted the entire Ahmadzai tribe to draw up a written agreement specific to Ahmad Aba. It remained in force until the Afghan Transitional Government with Hamid Karzai as Interim President was set up in June 2002. The main provisions were strikingly similar to the post-*jihad* agreement and essentially aimed at stabilisation.

As before, the agreement prohibited revenge-killings, bringing blood feuds to a



temporary halt. Conflicts over land and other resources were equally frozen and competing claimants asked to hold back until the overall political situation stabilised and a new government was announced.

The Ahmadzai elders also vowed to stand united to defend their area against any outsiders. This was crucial as the Taliban insurgency started to regroup quickly. For that purpose in particular and the enforcement of the agreement in general, an *arbakai* was set up, with the names of its members written into the contract.¹³

Once the state re-established its administrative capacity, this more general agreement fell out of use and was superseded by three more specific contracts on a *mantega* (specific geographic territory defining tribal jurisdiction) or *wanda* (smaller area defining jurisdiction at a sub-tribal level),¹⁴ which are still in force today.

These three contracts, focussing overall on an improvement of governance and security, exclusively regulate the relations among the members of the different tribes in Ahmad Aba. In an acknowledgement of the renewed state-building efforts the contracts spell out the responsibilities of each tribal member to the tribe and also the state. In order to cooperate with government actors and ensure transparency, tribes asked either the district or provincial governor to sign off on the agreement.¹⁵

The three written tribal agreements currently in force among the Ahmadzai

sub-tribes in Ahmad Aba district are linked to the jurisdiction of sub-tribes within their respective *mantegas* or area of influence. One has been set up by the elders of the *mantegas* of Gharook and Machalgho, one by the Salamkhel elders of Rood *mantega* and one by the Kamelkhel elders of Rood *mantega*.¹⁶ Jointly the three agreements cover the entire district area and the communities within it.

The central component of all three agreements is the provision of security, each dedicating several articles with specific rules to this topic. This includes the prevention of non-state actor activity in general and attacks on foreign troops, government officials and non-governmental (NGO) workers in particular.¹⁷ In order to avoid open confrontation with the Taliban insurgency, the agreements do not explicitly name them.

Other security threats are more specifically targeted to the particular needs of each area. The Salam Khail agreement, for example, explicitly prohibits abductions and bans 'the cultivation, trade and consumption of drugs'.¹⁸ The Kamel Khail agreement regulates 'murder (and incitement to murder)', and the Machalgho-Gharook agreement makes 'the provision of misinformation about other residents to the government out of private interest' a punishable offence.

In terms of crime prevention, the Machalgho agreement emphasizes



punishments for 'robbers or thieves' and the Salam Khail one prohibits 'extortion and robbery'.

The Salam Khail and the Kamel Khail agreements also contain more general rules pertaining to wider social practices, such as limiting the expenses to be made at social occasions (i.e., marriages or funerals).¹⁹

In addition to spelling out rules and regulations, all three agreements also specify punishments for transgressions. This includes, among others, heavy fines of up to Afs. 100,000 (about USD 2,000), burning the house of offenders and banishing offenders and their family from the tribe. The latter is the worst punishment as it essentially strips individuals of their tribal citizenship.

The rules are to be enforced, and punishments implemented, by *arbakai*. For the Salam Khail in Rood, the *arbakai* is established through the agreement itself, which specifies the names of its 18 members and the commanding *mir*. Although the Machalgho-Gharook agreement makes no explicit mention of *arbakai*, the already existing one is as responsible for its enforcement.²⁰

These *arbakai* of 5-10 men per *wanda* were set up in the Machalgho and Gharook *manteqas* after 2001 and never dismantled as these two mountainous areas are riddled with numerous illegal smuggling routes and vulnerable to insurgency and other criminal threats.

The general mandate of this *arbakai* is to prevent security threats "from Al Qaida to fights between cousins".²¹ The Machalgho *arbakai* cooperate particularly closely with the state: 12 men formally work for the district police and wear uniforms, in order to avoid being mistaken for insurgents and attacked by US-forces. A single *mir* for the entire *manteqa* operates as constant liaison point between district administration and *manteqa-shura*.

4.1 Reasons for establishing Tribal Agreements

The establishment of the current three agreements by Ahmad Aba elders reflects a response to a mixture of external pressures and local dynamics. As noted, the core of all agreements is to ensure local security (e.g., crime and blood feuds) and guard against foreign attacks (insurgency, but also international forces). They might also be used as a bargaining chip to attract state and foreign assistance (security and curbing drug cultivation in exchange for projects). Lastly some also address social issues.

Guarding against external 'threats' – insurgency, air strikes, civilian casualties and detention by international forces:

The motivation for preventing insurgent activity in Ahmad Aba neither stems from ideological conviction nor from positive incentives offered by government or international military forces to tribes.²² It is a self-protective measure as tribes fear indiscriminate revenge attacks by US and



Afghan National Security forces, should there be any assaults on government officials, aid workers or foreign troops in their district.²³

This comes from several hard-learned lessons starting with a group of Loya Paktia elders on their way to attend the inauguration ceremony of President Karzai being bombed by US forces as they were misinformed by a close Afghan ally identifying it as an insurgency convoy. Furthermore, there were frequent night raids and detentions of local elders due to misinformation that can be traced back to animosities between clans, individuals and/or opportunistic criminal elements that were trying to take advantage of the post-Taliban power vacuum.

Guarding internal security: The Machalgho area has also been plagued by tensions between the Machalgho (and also neighbouring Mangal) and Tota Khail tribes. This was aggravated in 2002 when young men from the Tota Khail tribe started robbing travellers in an area belonging to Ahmadzai and Mangal tribes. It is alleged that the robbers were backed by a Tota Khail *jihadi* commander with good relations to an infamous regional strongman.

Mangal and Machalgho elders approached Tota Khail elders who agreed to reign in their fellow tribesmen, but ultimately were unable to do so.²⁴ The subsequent killing of four members of the Tota Khail tribe (including the son of said *jihadi* commander) by Machalgho tribesmen

escalated tensions into a blood feud between the leading families of both tribes.²⁵ A district official asserted that the Tota Khail strongman is waiting for a chance to take revenge.²⁶

The Machalgho tribal agreement drawn up several years after the shootout strengthens the commitment of the different sub-tribes to act united in case of outside intrusion, by making references to robbers.²⁷ Some allege that the agreement also serves to protect Machalgho families in their blood feud with Tota Khail families.²⁸

Attracting development aid: Elders in Ahmad Aba also tried to use increased security and the banning of drug cultivation in order to attract development funds, especially alternative livelihood initiatives. The concessions on drug cultivation was clearly used as bargaining chip as, the Machalgho tribes offered the ban on cannabis-cultivation to government officials on their own initiative, requesting development resources and jobs for the area's young men in return.²⁹

So far, however, elders are dissatisfied with the level and quality of assistance and projects provided to their areas. A dam for a hydroelectric plant recently completed by the US-led Provincial Reconstruction Team in the Machalgho area, for instance, does not operate effectively.³⁰ Improved wheat seeds provided by the Department of Agriculture are said to have been provided in insufficient quantities.



Another larger dam financed by USAID and to be implemented by the Ministry of Rehabilitation and Rural Development (MRRD) is yet to be constructed.

Citing the absence of improvement in the employment situation of young men as main factor, an elder claimed that the Machalgho area will soon have no choice but to resume the cultivation and smuggling of Marijuana.³¹ The times it did happen, the Afghan National Police (ANP) went in and destroyed the crop. So far tribes have not reacted to this, fearing that any form of violence could lead to the involvement of US troops.

4.2 The limits of tribal agreement in maintaining security

In the past three years the current Ahmad Aba district governor has been in office, there were no serious incidents involving insurgents in the district; despite the fact that insurgency influence is growing in neighbouring Sayed Karam district.³² Thus, the tribal agreements that signal the allegiance of local elders with the state and provide *arbakai* structures in support represent the sufficient if not the necessary condition for the resilience of Ahmad Aba.

There are three key reasons for the functioning of tribal agreements in Ahmad Aba.

First, even though the elders who are the driving force behind their establishment wield considerable influence in the district, their authority and the rules they enforce only become legitimate if formally

endorsed by all members of the tribe, which they are through the agreement. That the elders are perceived as legitimate, in turn, renders the agreements more effective.

Second, the agreements effectively communicate support of the Afghan government and its allies by endorsing their policies. In turn they demand actions and exemptions that allow the elders to sell the rules of the agreements to their clients.

Third, the agreements help to establish the *arbakai*, which take on policing duties on a day-to-day basis. If needs be they can also be rapidly mobilised as substantial community defence force. Many elders have gained considerable experience as commanders during the civil war, and weapons, including heavy ones, are also available.³³

The relative calm of Ahmad Aba, however, could change if insurgents manage to isolate the district by controlling all surrounding areas. This process has already started, as in many other districts of Paktia the insurgency has been embraced by individual families or sub-tribes to gain an advantage in local conflicts. Ahmad Aba elders, as recently as spring 2009, are periodically approached by insurgents and asked for access and support.³⁴

If this process continues it could marginalize influential elders, who may lose the support of their constituency if they are no longer able to control the district.



5 Can Tribal Agreements Work Elsewhere?

The existence and functioning of tribal contracts rests very much on tribal cohesion and the strength of customary mechanisms. In contrast to other areas (especially the South), the tribal system is still comparatively strong in Afghanistan's East and Southeast in general, and Ahmad Aba in particular. An important contributing factor for this is the relatively equal distribution of land:

"[t]he Ghilzai in Afghanistan have a [...] productive agriculture base [...], but it was a production system that provided little scope for class distinctions. They maintained an egalitarian political order that was as opposed to the power of its own leaders as it was to attempts by governments to centralize power in Kabul."³⁵

This setting has produced the specific mix of dependency and accountability that allows tribal leaders to acquire authority but not hegemonic power over other tribesmen. In many other regions of Afghanistan power is much more centralised and local leaders less dependent on the approval of the local population.³⁶

In comparison to other tribes in Paktia, the authority of Ahmadzai elders is particularly strong and for the most part goes uncontested. In many other tribes, the influence of elders was severely curtailed during the *jihad*. During this time, the classical patronage-role of managing relations with the central government became substantially less

important compared to access to the *mujahideen* parties in Pakistan, arms and ammunition, and the ability to fight. This played into the hands of younger commanders and in many places shifted village level power relations in their favour.

The Tota Khail elders of the area neighbouring Ahmad Aba, for example, lost much of their influence during the *jihad*. The family of a particular *jihadi* commander profited greatly from their alliance with a regional strongman. As a result, as noted earlier, Tota Khail elders are now unable to exert influence over the young men of the tribe, e.g. for reigning in robberies.

This does not mean that tribal agreements cannot work elsewhere, but that any effort to engage tribal actors through them needs to be based on a thorough analysis of district-level politics.

Despite the vagueness of the 2004 Afghan constitution on the matter of governmental-tribal interactions, there is clear evidence that such contracts are also being reactivated in Afghanistan's Eastern region.

As in the past, these agreements regulate the geographical areas where local governance is provided by the tribes, granting a degree of autonomy from state intervention to the tribes in exchange for the provision of security.

A recent agreement signed by Shinwar elders and the governors of the five Shinwari districts in Nangarhar is a good



example. The tribe is held accountable through fines if criminal offences occur in areas controlled by them. A murder, for example, 'costs' Afs. 180,000 (about USD 3,600).³⁷ Furthermore, Article 16 (of 20 stipulated) binds the entire tribe to 'support all policies of the government', and to support the government against all those 'who oppose government policies', i.e. insurgents.

In exchange, the state is willing to support governance provided by local elders.

Article 20 of the agreement allows the state to intervene in disputes, if one or both of the disputants do not agree to an informal settlement procedure endorsed by local elders within four months. In this case, the government is permitted to imprison the defiant party. This is a 'stick' used by government actors and tribal elders to keep communities in check, and helps to strengthen elders who are party to the agreement.

6 CONCLUSION

The weakness of the Afghan government, especially at a sub-national level, and the strength of tribal structures and mechanisms in South-eastern Afghanistan are realities that are not going to change any time soon. Tribal agreements continue to be an important means to establish general and binding rules within and between tribal groups and to negotiate governance and security issues between the Afghan government (and currently also its allies) and local

non-state actors in terms acceptable to the local population. Acknowledging this calls for a constructive engagement with tribal actors.

This has certainly drawn the attention of policy makers interested in stabilisation policies to confront the continuing deterioration of the security situation in Afghanistan in general, for example through the very recently promoted Community Defence Initiative (CDI). If actors promoting such initiatives, however, want to ensure the buy-in of tribes (and not *jihadi* networks) they need to properly understand and utilize the geographic concepts of tribal jurisdiction: *manteqas* and *wandas*.

Wanda basically represents the share in loss and profit of a community within the jurisdiction of the sub-tribe that inhabits a specific region. It also reflects the population size of a tribe and its' overall input/output into the social fabric of the district. For this reason, any *shura* at a district level allocates the number of representatives per tribe based on its population. The same formula is used when a tribe raises its *arbakai*. Government assistance or development funds are distributed on the same ratio. *Manteqas* are usually comprised of several *wandas* – hence several elders may share jurisdiction of a *manteqa*, while each holds power in their respective *wanda*.

The Ahmad Aba case shows that each *wanda* enjoys its own autonomy in decision-making and tends to develop an



internal agreement before signing anything at the *manteqa* or district level.

Usually the strength of a tribe or sub-tribe is judged by other tribes as to how it can enforce a decision in its own *wanda*. If elders are unable to yield influence in their own *wanda*, they are likely also weak at a *manteqa* and district level. Thus before any agreements are made, the responsibility of sub-tribes and in their specific area of jurisdiction needs to be clarified if agreements are not to backfire.

Since 2003 several agreements were signed in Paktia under the auspices of the provincial government and backed by the local PRT and the regional office of the United Nations Assistance Mission to Afghanistan (UNAMA). The Zadran-stability pact is likely the most known one.³⁸ There are four key reasons why none of these agreements really worked.

First, they were seen as driven by external (international) actors rather than local communities themselves.

Second, the agreements focused on a general level, failed to first broker sub-tribal agreements at the *wanda* and *manteqa* level.

Third, there was a failure to ascertain the cohesion and strength of local leadership, and how to deal with fragmentation. In some areas, such as Zurmat district in Paktia for examples, tribal leadership is quite weak and mullah network yield more power and influence.

Finally, the failure of the Afghan government and international actors to reign in on the expanding insurgency put local leaders under too much pressure for keeping up an agreement involving the Afghan government and foreign entities (UNAMA, PRT).

In Ahmad Aba district, in contrast, tribal agreements are local, self-driven initiatives embedded in a relatively cohesive tribal structure with rigorous accountability mechanisms. The relatively intact tribal structures of Ahmad Aba in particular have allowed local leaders to create communal consensus and security within their respective areas of influence (*manteqa* or *wanda*) and to jointly prevent insurgency activity in the district. The strong leadership in turn makes the tribe confident to provide *arbakai* as deemed necessary by the *shura* of a given *wanda* or *manteqa*.

This illustrates the willingness and ability of each individual sub-tribe to take responsibility and to join forces in the form of an Ahmadzai district-level tribal *shura* that can sign further agreements with the Afghan state. As long as such cohesion remains, it is difficult for insurgents or criminal gang to find in-roads. Knowing this, insurgents tend to target community leaders in an attempt to fragment tribes and subdue them.

In light of the above, the tribal agreements of Ahmad Aba are not necessarily replicable in other, especially more fragmented, areas. Endorsing them as a matter of general policy would be



ineffective at best and harmful at the worst. Policy-makers should rather establish a legal basis with general guidelines for formal agreements with tribal actors and leave the specific implementation to provincial and district administrations.

Overall, however, the Afghan state, as well as external actors, needs to understand that constructive engagement with Pashtun tribes aimed at achieving a proper, long-term buy-in into the current Afghan state-building effort, require less stick and more carrot.

In the short-term this means more development aid, importantly aimed at creating employment and providing valued services like electricity. After all, in traditional Pashtun culture the relationship between the traditional patrons (*khans*) and their clients is complex, with leaders needing to deliver services to their communities to remain in power. The Ahmad Aba case illustrates that tribal agreements are a good way to support such leaders and ensure security.

7 Recommendations

In order to improve understanding of the link between tribal areas of jurisdiction and representation and local security and governance in Loya Paktia, we propose to conduct an in-depth study of *manteqas* and *wandas*:

- Identify existing *manteqas* and *wandas* and associated tribal leadership.

- Classify *manteqas* and *wandas* as to their level of tribal cohesion and strength of communal structures.
- Explore ways on how to engage with key actors and local communities in such areas in order to strengthen cohesion and community-lead security mechanisms.
- Explore ways of how to strengthen peace-oriented elders in their mission to contribute to local community-based governance in collaboration with the state. This may include the increase of service delivery and development projects in exchange for security provision.
- Develop general guidelines for brokering formal agreements with tribal actors and rules for specific implementation at the provincial and district administrations.

Endnotes

¹ Embassy of the United States in Afghanistan and U.S. Forces Afghanistan, 2009, *United States Government Integrated Civilian-Military Campaign Plan for Support to Afghanistan*. 10 August 2009, p. 2.

http://www.politico.com/static/PPM130_civ-mil_plan_afghanistan_090907.html (accessed 12 November 2009)

² Ibid, p. 1, 2, 22

³ Interview with Shinwar Senator and head of the Shinwari *qawmi shura*, Kabul, 29 April 2009.

⁴ Ibid

⁵ Interview with Mangal elder, Gardez, 18 June 2009.

⁶ Interview with Shinwar Senator and head of the Shinwari *qawmi shura*, Kabul, 29 April 2009.

⁷ Including Khost, Paktia, Paktika and parts of Ghazni

⁸ A similar agreement among Mangal tribe as well as between Mangal and Ahmadzai tribes also existed in other areas of Paktia.

⁹ Interview with Rood elder, Gardez, 18 June 2009.

¹⁰ Interview with Machalgho elder, Gardez, 16 June 2009.

¹¹ After the collapse of Taliban many of the Eastern *shura* members individually assisted the Coalition Forces to



capture and kill Al Qaeda remnants in eastern Afghanistan.

¹² They meted out their typical severe punishments and as a result, elders say, the incidence of robberies and murders dropped dramatically during this period. Interview with Machalgho elder, Gardez, 18 June 2009.

¹³ Interview with Machalgho (Rood) elder, Gardez, 18 June 2009. The generally cooperative atmosphere early after 2001 is also illustrated by the fact that all tribes of Paktia were able to agree on an interim governor, Saifullah. He remained in office until the interim government had been set up in Kabul and had appointed a provincial governor of its own.

¹⁴ A *mantega* is made up of several *wandas*.

¹⁵ The elders deny that suggestions of the district administration were taken into account, but the district governor himself claims to have been shown the agreement before its official endorsement for his approval.

¹⁶ All three written agreements were established recently. The current, *mantega*-level agreement for Machalgho was signed by representatives of all sub-tribes in late 2008. According to Salam Khail and Kamel Khail elders, the other subtribes in Rood follow their agreements in all central points. Interview with Kamel Khail elder, 23 June 2009, Kabul.

¹⁷ Interviews with Machalgho-elders, Gardez 16 and 18 June 2009; Rood-elder, Gardez, 18 June 2009.

¹⁸ Interview with Machalgho elder, 18 June 2009, Gardez.

¹⁹ Handing out expensive gifts at ritual occasions is an important way of demonstrating hospitality and enhancing one's status. Wealthier individuals thus set a very high bar that are difficult for poorer families to reach. Thus, in order to avoid the shame of being considered less hospitable, often with ruinous results, the tribal agreements impose spending limits on funerals and weddings in order to curb this mutual outbidding that can lead to internal tensions; Interview with Kamel Khail elder, Kabul 23 June 2009.

²⁰ Interview with Machalgho elder, Gardez, 16 June 2009.

²¹ Ibid

²² Interview with Rood elder, Gardez, 18 June 2009.

²³ American soldiers have a fearful reputation in Paktia. The Special Operation Forces (SOF) who comprised the main presence of the US in the early months of the invasion often beat up prisoners severely, killing at least one in custody. Cf. Farah Stockman, 2007. "US behind warlord's rise, fall", *Boston Globe*, 12 August 2007. http://www.boston.com/news/nation/articles/2007/08/12/us_behind_afghan_warlords_rise_fall/ (accessed 5 February 2010)

²⁴ Interviews with Machalgho and Mangal elders Gardez, 18 June 2009 and Tota Khail elder, Gardez, 19 June 2009.

²⁵ In 2004, a similar incident led to a full-scale war between the Mangal and Tota Khail tribes. That was finally stopped due to the intervention of the provincial government and a *jirga* was called to settle the opposing claims.

²⁶ Interview with Ahmad Aba district official, Gardez, 17 June 2009.

²⁷ Ibid

²⁸ Ibid, Interview with Machalgho elder, Gardez, 18 June 2009.

²⁹ Interview with Machalgho elder, Gardez, 18 June 2009.

³⁰ Interview with Machalgho elder, Gardez 18 June 2009.

³¹ Interview with Machalgho-elder, 18 June 2009, Gardez.

³² Interview with Ahmad Aba government official, Gardez, 17 June 2009. An incident in early June 2009 which the governor classified as an insurgency attack was attributed to feuding families by Ahmadzai elders.

³³ Heavy weapons including RPGs and machine guns were fired frequently at wedding parties or other festive occasions in Ahmad Aba until 2008, when elders promised to the provincial governor to stop this practice. However, TLO staff still witnessed the firing of a heavy machine gun from a compound after a son had been born to the family living there.

³⁴ Interview with Machalgho elder, Gardez, 16 June 2009.

³⁵ Thomas J Barfield, 2007, "Pashtun Agrarian Structure and Tribal Organization for Times of War & Peace", Paper presented at the Boston University, for Agrarian Studies Colloquium Series *Hinterlands, Frontiers, Cities and States: Transactions and Identities* at Yale University, 23 February, p.3.

<http://www.yale.edu/agrarianstudies/papers/19weapons.pdf> (accessed 5 February 2010)

³⁶ Past state-building exercises have fragmented tribes in the South far more than in the Southeast and East, furthermore the impact of the Afghan wars has been far more damaging with new (religious) leaders being able to supersede traditional elders in South.

³⁷ Some of the provisions clearly contradict international human rights obligations of the Afghan government. Adultery, for instance, is punishable by death and the agreement specifies that in this case no fine for murder will have to be paid.

³⁸ Another one was meant to settle a land conflict between the Sabari and Balkahil on the border of Paktia and Khost.