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National Ownership and the United Nations
Case of Civilian Police

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Abstract:

National ownership is the basic principle in discussing issues related to developing countries. It is also a key to the promotion of peace-building in Afghanistan. In considering national ownership, it is important to distinguish the two elements behind the concept – legitimacy and capacity. These two elements are inter-linked and essential for the promotion of national ownership.

The national police, being a core function of a state and the public face of the government, are considered a key to national ownership. The examination of the police will give us a useful insight into the question of national ownership. A comparison will be made between Afghanistan and Timor-Leste, which, despite differences in their situations, share many issues relating to developing a national police force.

In Timor-Leste, executive police power is being transferred from the United Nations to the Timorese Police. The conditions for such transfer – institutional, operational and administrative readiness – are concerned both with the capacity and the legitimacy of the Timorese police. The case study in Timor-Leste will show the strong linkage between the two elements; the lack of capacity will undermine the legitimacy of the police and the government, while the police will not be able to sustain a credible service if not backed with legitimacy.

The situation is more serious in Afghanistan, where the Afghan police service is suffering from a number of serious issues ranging from the shortage of resources and the lack of adequate training to wide spread corruption. The Afghan police's lack of capacity undermines its legitimacy and public mistrust makes its operation more difficult.

As the police is a key pillar of national ownership, to strengthen the Afghan national police contributes to the promotion of Afghan national ownership. In view of the deteriorating security situation, serious efforts should be made to strengthen the Afghan police service. At the same time, it is imperative to build up trust with local people by promoting institutional integrity and strengthening servicing activities. There is a need to take a balanced strategic approach linking capacity building to legitimacy.

The reform process must be nationally owned. Policy priorities should be set by Afghans and international donors must respect them. The United Nations,

with its distinctive strength - impartiality and broad support from the international community, and the United Nations Assistance Mission in Afghanistan, with its broad mandate and extensive network of field offices, could play a meaningful coordinating role in this area.

1. Introduction

Today, I will discuss the concept of national ownership and the UN's role in promoting such ownership. In pursuing this theme, I will examine the police as a concrete case in national ownership. Before I start, I wish to stress that what I present is strictly my personal view, and in no way represents the views of the UN.

While our main focus of today's workshop is Afghanistan, I will make a comparison of policing issues between Afghanistan and Timor-Leste*. In my view, Afghanistan and Timor-Leste, despite different sizes, histories and geo-political context, share many similar issues with respect to developing a national police force. For example, the following issues are common to the question of policing in the two countries:

- Need for strategic vision – both countries face difficulties in formulating coherent and sustainable policies and operational plans.
- Demarcation of police and military roles – there is a danger of overlapping functions by police and military, which may cause friction between forces, and with the community.
- Resource management – both countries lack resources, and encounter challenges in managing resources efficiently.
- Accountability – while different in degree, there are problems of corruption and politicisation of police.
- Community acceptance – in both cases, community acceptance is a key to credibility of the reform process and producing meaningful results.
- Donor coordination – there is a strong need for coordinating foreign assistance with Government priorities.

* In making the analysis, I use the Secretary-General's reports to the Security Council on the two countries as well as my own experience and knowledge acquired through my service at UNAMA and UNMIT. In the case of the Afghanistan police, the two reports published by the International Crisis Group provide useful information as well.

2. National Ownership

Respect for national ownership

National Ownership is considered the basic principle in discussing issues related to developing countries. The Secretary-General, in his statement at the Security Council public debate on the role of the Security Council in supporting Security Sector Reform (SSR), held on 20 February 2007, stressed that national ownership is the key to sustainable peace. In fact, this is a common understanding among member states, including both developed and developing countries, as well as international organizations.

But a question may be asked - whether such a statement is an expression of true respect for national ownership or simply lip-service? In the context of nation-building, are donors really respecting this concept or are they

just pushing their own agenda, exploiting their favourable balance of power over the comparatively weaker nation they ostensibly are assisting?

When stated by developing countries, is it a legitimate claim or an excuse to avoid interference? Alternatively, will national governments accept the responsibilities inherent in the notion of national ownership, or will they use this concept to refuse certain offers of assistance as ‘interference’ in sovereign matters?

We should keep these questions in mind in discussing the question of national ownership.

Legitimacy and capacity

In discussing national ownership, I wish to show that there are two essential elements behind the concept, namely, legitimacy and capacity. I will explain that legitimacy and capacity are indispensable for national ownership and, more importantly, are inter-linked.

Three dimensions of National Ownership

I also wish to point out three key dimensions in National Ownership: the owner(s), the subject and the process.

First, it is important to know who owns it. There is no doubt the central government is the main actor. But national ownership should not be a monopoly of the central government. Putting it more accurately, the central government’s claim to legitimacy for national ownership would be strengthened if it obtains support from different actors in the country, in particular local communities. Of course, a challenge exists to bridge the gap between government decision-makers and the wider community. However difficult it may be, buy-in of local community is critical.

Secondly, national ownership should focus on national priorities. Each country has its plan or list of national priorities. If security and law and order are high priorities, as I believe they should be, the Government should take the lead in these efforts as well as in the reform process.

Thirdly, it is important that not only the subject or policy but also the process should be nationally and locally owned. In particular, buy-in of local communities should be ensured through the process of implementation, not just at the time of decision-making.

Police and National Ownership

Police is a key to national ownership, as is clear if we consider the following two elements. First, police provide security and justice, which is a core function of a state. In this sense, police help foster the legitimacy of government. Police maintain a durable presence across the country and thus serve as the public face for government. If police are seen to be performing poorly, by not catching criminals, by abusing human rights of citizens, by being part of the problem, then the government will have difficulty in achieving community acceptance and legitimacy. Credible police is equal to credible government.

3. Policing in Timor-Leste

UN role and resumption of Timorese policing responsibilities

Now I wish to discuss policing in Timor-Leste and identify the critical issues. I will then use them in analyzing the situation related to police in Afghanistan.

In Timor-Leste, the UN is currently in charge of policing. The United Nations Integrated Mission in Timor-Leste - UNMIT - has executive power as mandated by the Security Council to maintain public security and perform tasks of law enforcement. This is a temporary measure as a result of the 2006 crisis, during which the Timorese national police, called "PNTL", became dysfunctional. They failed to calm the civil unrest in the capital and other parts of the country. The Timorese armed forces, the "F-FDTL", were brought in, but the situation worsened. There was also fighting between the police and military, and even among members of each force. Unable to control the situation, the Timor-Leste Government asked Australia, Malaysia, New Zealand and Portugal to send troops, and requested the UN to take over policing as an exceptional measure. As policing is a core function of state administration, and central to a nation's sovereignty, entrusting policing to an outside organization is thus an exceptional measure.

Almost three years have passed since then and the UN is working with the Timorese Government on a plan to return executive police power to the Timorese. The plan is for the PNTL to resume policing responsibilities in a phased manner; on a district by district and unit by unit basis, following assessments to be carried out jointly by the UN and Timorese Government. I wish to stress that the resumption will be conducted in close coordination between the UN and the Timorese Government. Avoiding the imposition of a plan on the Timorese, the UN and the Government are thinking and moving together ; we jointly developed the criteria for resumption, are currently conducting assessments and will decide the best way to implement. I also wish to point out that the process of resumption has been made public; to the international community through the Secretary-General's reports and to Timorese people through a public awareness campaign.

The assessments will examine whether each PNTL district office and unit meets the criteria or conditions for resumption*, which have been mutually agreed upon. It is important for our discussion today to examine what these conditions are.

*The Secretary-General's report to the Security Council on 4 February 2009 (S/2009/72) describes the criteria as: a) the ability of the national police to respond appropriately to the security environment in a given district; b) final certification of at least 80 per cent of eligible national police officers in a given district or unit; c) the availability of initial operational logistical requirements; and, d) institutional stability (para 21). As you will see below, I re-grouped these elements so that they may be applied in the case of Afghanistan.

Conditions required for the resumption

The conditions are grouped into the following categories: institutional readiness, operational readiness and administrative readiness.

Institutional readiness includes the following elements:

- Command and control – PNTL needs clear lines of command, and real control of all levels and units of the police force. There should be work plans to regulate activities and operational plans for specific incidents.

- Leadership and management – PNTL must be accountable to the government and community, and run the service effectively.
- Ethics and values – PNTL must be seen to uphold the law and respect human rights. PNTL members must observe the code of ethics/disciplinary regulations.

Operational readiness is examined against the following items:

- Management of a range of police operations – PNTL should be ready to conduct activities ranging from processing of complaints, traffic control, crime scene management, investigations to special operations.
- Communication and information management – there should be clear lines of command and control as well as clear lines of communication.
- Equipment and resource management – the police service needs to be properly equipped to perform its tasks, with uniforms, weapons, radios, vehicles and office equipment.

Administrative readiness should include the following elements:

- Administrative structure – a functioning administration is required both at headquarters and district/sub-district levels.
- Financial systems – salaries and pension schemes must be in place.
- Procurement and logistics – a resource plan must be thought out so as to procure equipment in a timely manner, not leaving the police without necessary items at any time, in line with operational needs.
- Human resource management including recruitment, training, evaluation, is important for staff morale. Recruitment procedures must be transparent and merit-based, whilst taking into account the history of those who wish to serve in the police. Training is crucial for staff development. Evaluation must be transparent and provide a real chance for promotion for deserving candidates.

While these conditions are basically concerned with the capacity of the Timorese police, many are at the same time closely linked to the legitimacy aspect of PNTL. For example, institutional integrity, including a disciplinary regime, is a necessary element for PNTL to claim its legitimacy as a law enforcement power. Equally, how PNTL provides services to local communities is important for its success as a public police service. The achievement of community acceptance is thus another important element to measure PNTL's readiness. The level of community acceptance should be considered in the following elements:

- Service orientation – PNTL should provide a police service, not just a police force, showing respect for citizens and their dignity.
- Public accountability – recruitment and appointment procedures should be transparent.
- Civilian oversight – police must be answerable to a democratically elected government.

Linkage between legitimacy and capacity

I already pointed out the linkage between legitimacy and capacity in national ownership. The case study in policing in Timor-Leste confirms that capacity and legitimacy are inter-linked and mutually reinforcing. The police cannot carry out their function of securing law and order without capacity. If the police do not have such capacity, it will undermine not just their credibility, but the very legitimacy of government. On the other hand, if not backed with legitimacy, the police will not sustain a credible service even with a large number of personnel and sophisticated equipment. The UN, in planning and implementing the handing over of policing responsibilities, is very sensitive to this linkage. The UN is asking the Timorese Government to address both issues at the same time, as a capable police service can help develop a sense of legitimate government, which will make police operations more effective.

4. Issues in policing in Afghanistan

Turning our eyes to Afghanistan, we find those issues identified in Timor-Leste are equally relevant in discussing policing in this country. Of course, the situation here is totally different and so too the issues surrounding the police. Let's first identify the facts about the police in Afghanistan.

The Afghanistan police service - the Afghan National Police (ANP) – has an authorized strength of 82,000, but the actual number of personnel at service is estimated at 57,000 or 70% of the authorized strength*. Compared to the military, ANP is short of equipment and adequate training. The costs for APP are entirely financed by the international community through “the Law and Order Trust Fund”.

When I was in Afghanistan, payment to the police ranks was increased from \$70 to \$100 per month, but this is still too low**. The police have been suffering a high level of casualties, caused by their involvement in the fight against the insurgency. In 2007, the UN estimated that 1,200 ANP members were killed. Between March and September 2008, 720 ANP members died in insurgency related incidents. Based on the latter figure, the total casualties in 2008 would easily surpass 1,200. The high level of casualties, as well as the low pay, certainly impacts on the morale of police officers.

*The Secretary-General's report to the Security Council (para 24, S/2008/617, 23 September 2008)

**The Secretary-General's report on 10 March 2009 reports “financial incentives for police officers were increased, in the form of both a general pay raise and a pilot programme to provide hazard pay to police serving in volatile areas”. (para 28, S/2009/135) In Timor-Leste, an average agent's salary is \$100 per month but receives additional money such as extraordinary subsidies, transport allowance and position allowance. As a result, his monthly income would be from \$150 to \$250.

Afghan National Police

When examining policing issues in Afghanistan, the first thing we notice is the fact that the police is directly involved in fighting against the insurgency. In Kabul and elsewhere, I found policemen and military personnel working together. Some checkpoints were manned by both military and police personnel. From time to time, there were reports about casualties of both military and police members by insurgency attacks, indicating they were conducting operations together. The police were said to perform an

auxiliary military role in the fight against the insurgency. The delineation of responsibilities between the military and police is thus unclear*.

*Even in Timor-Leste, there is an unclear demarcation of roles of the police and military, as seen at the time of the Joint Command. Attempts have been made to delineate their respective roles through legislation and formation of a national security policy.

As a result of their direct involvement in counter-insurgency activities and support to the military, the ANP, in its operation, is more enforcement in nature than service oriented. In conducting operations such as traffic checking, house searches or raids, police members are often criticized for their harsh treatment of locals. Locals complain that police abuses prevail in the country such as demanding bribes. There are reports that police are involved in illegal activities, most popular among them being drug trafficking. I did not eye witness serious misconduct, but police guards at the international airport in Kabul demanded money from me. My drivers also often complained about policemen at check points, who asked for money and harassed them if they refused to do so.

These corruption cases are certainly serious issues in the context of institutional integrity, not to speak of more serious cases of police officers involved in criminal activities. The low quality of police is related to the problems in recruitment. Recruitment is not necessarily based on merit. Lucrative positions are sometimes bought by bribes. Political concerns factor in senior post appointments.

At the previous session, Dr. Ashraf Ghani stated that “the police are universally disgusted”. Misconduct by ANP resulted in mistrust by the people, who consider the police as part of the problem or a problem in of itself. The community perception of ANP is considerably negative.

Figure 1

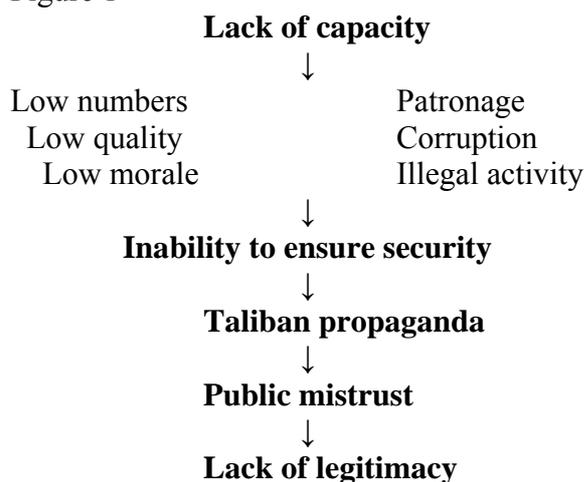


Figure 1 illustrates the relationship between capacity and legitimacy - how ANA’s lack of capacity undermines its legitimacy, and the lack of legitimacy in turn makes its operation more difficult.

The police suffer from low numbers as a result of 30% absenteeism and a high number of casualties. The ANP suffers from low quality as a result

of lack of training, and low morale derived from low pay and fear of dying. These problems are worsened by prevailing patronage, corruption and involvement in illegal activities.

With all these problems, ANP is not able to ensure law and order in the country. This inability makes the ANP susceptible to Taliban propaganda, which makes fun of the police and raises doubt in the mind of the community. As a result, we see public mistrust in ANP, which undermines its credibility as an enforcement organization. The lack of legitimacy then undermines its capacity.

ANP and National Ownership

As the police is a key pillar of national ownership, to strengthen the ANP contributes to promoting Afghanistan's national ownership. The point is how to do it. I wish to draw your attention to the three questions presented at the beginning of my presentation, namely who - actor, what - subject, and how - process. There is no doubt that the central government should be the main actor, taking the lead in strengthening the ANP. But the central government's initiative should be undertaken in close coordination with local communities, as they are the main recipient of police services and become victims if the attempt fails. Second, in devising policy, the central government should seek a balanced strategic approach linking capacity building to legitimacy*. In view of the current security situation, efforts to strengthen ANP's capacity to deal with the problem must continue**. There is an acute need for a well-trained professional enforcer of law. In doing so, the government must pursue demarcation of responsibilities between the police and military. At the same time, it is imperative to build up trust with local communities and people. In this context, police must strengthen its service orientation through community policing and other activities for local populations. Institutional integrity must be pursued with strict disciplinary action against those police members involved in illegal activities. Appointments must be transparent without undue political intervention. All these improvements would require sweeping reforms, which would take time. In view of the upcoming elections, the central government should set short-time priorities in close consultation with local communities to ensure that elections are free and fair.

* While it is not possible to pursue the issue here, a different approach must be applied in accordance with regional differences, and in particular with due consideration to security situations on the ground. In the north and west, where the situation is relatively stable, more attention should be paid to community service. On the other hand, in the south and east, regions which face a serious security deterioration, strengthening police capacity is a priority. In doing so, however, ANP must respect human rights and ensure no abuse of powers. They should at the same time promote a service orientation as much as possible.

** The Government has created a new police called the Afghan National Civil Order Police to deal with situations in difficult areas. The initial assessment on the new force appears positive, in sharp contrast to the failed Afghan National Auxiliary Police.

It is also important that the process should be nationally owned. It requires willingness of donors to put the priorities of Afghanistan ahead of their own national agendas. It requires a sense of benevolence from the bilaterals. The International Policing Coordination Board (IPCB) should be further utilized for such coordination.

5. UN's Role

UN's strength

At this stage, the UN's role in Afghanistan should be examined. First, I wish to consider the UN's strength in general terms. In my view, the UN has advantages in the following areas:

- Impartiality - the UN conducts its activities impartially, free from national agendas.
- Coherence of policy based on universally accepted norms such as human rights. In Afghanistan, the UN has consistently advocated respect for human rights, and criticized all those acts in contravention, irrespective of who committed such violations.
- Broad-based support from international community. In the case of Afghanistan, the UN is able to work with all states in the region, including Iran.

UNAMA's role

UNAMA is an integrated mission, representing the UN in the country. It carries the above advantages as the UN. Moreover, UNAMA has the following strengths:

- Broad mandate given by the Security Council ranging from good offices, political, rule of law and governance, human rights to development assistance.
- Extensive network of field offices. UNAMA has 8 regional offices (Central, Central Highland, North, Northeast, South, Southeast, East and West) and 10 provincial offices. UNAMA is considering opening more provincial offices, security permitting. UNAMA is the only foreign organization except for ISAF that has such an extensive network of field offices throughout the country. While the nature and levels of activities are different from place to place and depend on security conditions, UNAMA conducts outreach to local communities, even those disenfranchised. From time to time, field offices facilitate communications between local authorities and communities and in settling local disputes, which contributes to building trust with these communities.
- Central coordination role, backed with an integrated approach

In view of the above, UNAMA could coordinate policy issues, provide advice based on its close contacts with locals, share experience and knowledge from lessons learned, provide training in areas such as human rights, and coordinate with all interested actors, including Islamic countries such as Iran. Even though UNAMA, unlike UNMIT, is rather a marginal player in this area, these roles to be played by UNAMA could certainly be utilized in police reforms. For example, UNAMA's field offices have police and rule of law experts, who have direct contacts with local authorities and communities. Using information obtained through field offices, UNAMA could play a more active role in the IPBC, providing advice to the Afghan Government and facilitating coordination among other international members.

6. Summary

Let me summarize the discussions made above. First, I wish to stress that police reform should be conducted in such a way to promote Afghan national ownership. From this view point, the Afghan Government should assess and establish national priorities and lead the process. In setting up priorities, consideration should be given to a balanced approach – to strengthen police capacity not only to deal with the security situation but also to build trust with local people. While priorities should be chosen by Afghans, the following are some elements they may wish to consider:

- to strengthen service orientation and community policing
- to promote institutional integrity by implementing a rewards and punishment policy – promoting good cops, and taking actions against corrupt members
- to enhance transparency of appointments
- to delineate responsibilities of police and military.

The Afghan Government should involve local authorities and communities in leading the reform process. The international community should respect both Afghan priorities and an Afghan led process. It should be true respect for national ownership; it should not be just lip-service or an excuse to conceal a national agenda. At the same time, Afghans should show their sincere willingness to take responsibility. They have to show their willingness to take pains if necessary, e.g. taking tough action against corruption.

Finally, the UN – UNAMA could play a more active role in going between Afghanistan and bilateral donors, e.g. providing advice to the government with a view to strengthening its lead role and coordinating with other key member states.