

The EU Security Engagement In Afghanistan

A Post-9/11 Analysis

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Abstract: This paper endeavors to explore a complex and multifaceted element of geo-politics, reflecting the evolving dynamics of international security and the EU's aspirations for global stability. It provides an analysis of the EU's security engagement in Afghanistan, examining its objectives, challenges, and overall impact on the country's security landscape.

In the aftermath of the September 11, 2001 terrorist attacks, the EU recognized the need to address the security threats emanating from Afghanistan, particularly concerning terrorism, regional stability, and human rights. The EU's engagement in Afghanistan primarily aimed to support the stabilization and reconstruction efforts, enhance security, promote governance and rule of law, and foster socioeconomic development. These goals were pursued through a comprehensive approach, combining military, diplomatic, and development initiatives. Its security engagement in Afghanistan was marked by a significant military contribution through the deployment of troops as part of the International Security Assistance Force (ISAF) and later the Resolute Support Mission (RSM). This military involvement aimed to provide security, build Afghan security forces' capacity, and assist in counterinsurgency operations. However, the EU's military engagement faced numerous challenges, including the resilience of insurgent groups, the complexity of the Afghan conflict, and the difficulties in achieving sustainable security gains. Furthermore, the EU played a crucial role in supporting political processes, including elections and peace negotiations, as well as advocating for human rights, gender equality, and the empowerment of marginalized groups. The overall impact of the EU's security engagement in Afghanistan remains complex. While progress was made in certain areas, such as capacity building, governance, and education, the country continues to face significant security challenges and socioeconomic disparities. The EU's involvement has contributed to shaping Afghanistan's security landscape, but the task of achieving lasting stability and peace remains elusive.

Index Terms- European Union; 9/11 Attack; Security; Diplomacy; ISAF; EUPOL

Introduction

The European Union and its Member States have made momentous contributions to security sector in Afghanistan. Over the years, it has been managing conflict in providing an all-encompassing security. The 1993 Maastricht Treaty, the European Security Strategy of 2003 and the Lisbon Treaty of 2009 have made the Union an active embodiment of conflict resolution. The EU is present in Afghanistan through the instruments of the EC Delegation, the office of the EU Special Representative (EUSR) and from June 2007 by means of EUPOL Afghanistan. The EU-Afghanistan Joint Declaration of 2005 is the framework for bilateral cooperation and engagements which highlights annual meetings at the ministerial levels to take a regular stock of things. It is mainly concerned to establish a democratic political system, valid government institutions, promoting rule of law, monitoring human rights and developing the civil society. So far the field of governance is concerned the EU and its Member States look forward to build-up national and border police forces as also the domain of justice to implement a legal framework for civilian administration. The European Commission Humanitarian Aid Office (ECHO) and the Instrument for Stability (IfS) are funding these efforts of the EU. In course of time, the EUSR began to connect with the Afghan stakeholders and made regular reports to Political and Security Committee (PSC) to make EU a felt body.

The EU security structure in Afghanistan is shaped up by the 'Compact' of 2006 at London which aimed to provide stability and prosperity in the country. Rule of law is seen as the raw material of establishing good governance and safeguarding human rights in the land. This was broadened through formal bilateral cooperation and commitments. June 2007 saw acceleration in the EU effort toward security through 'EUPOL Afghanistan', a police mission complementing the tasks of the EU Special Representative, the EC Delegation in Kabul and the individual Member States involved in the International Security Assistance Force (ISAF). It is an undeniable fact that the security situation in Afghanistan is volatile and lacks a common strategy due to the differences in approach of the national and international actors. This has undermined much of the conflict management and reconstruction programmes of the EU making the country susceptible to insurgency and fragmentation. In this light, the evolution of the Security Sector Reform (SSR) policies¹ and long-term EU engagement in the area of SSR) in the domain of police and justice reform played a vital role in strengthening governance and rule of law in Afghanistan.

The attacks of 11 September 2001 and the war on terror reinforced the notional link between fragile or failed states and security as well as international terrorism. Since then preventing state-failure and re-building such states became the leading agenda for international crisis management policies. Naturally, the European Security Strategy (ESS) of 2003 projected failure as one of the fundamental detriments facing Europe. The main challenge is to restore legitimacy and give control of the use of force to public authorities within the parameters of rule of law. In this strain, a workable security and justice sector becomes an imperative for improving governance in post-conflict countries. Apart from coalescing defence, police, intelligence and judiciary, the SSR seeks to consolidate democracy, human rights and governance in revamping security institutions, empowering control mechanisms and reorienting the security sector. The EU went on to adopt the Organisation for Economic Cooperation and Development (OECD) security guidelines giving priority to main security actors (i.e. the armed forces, police, intelligence, security services and border guards), to security management and oversight bodies (i.e. the Executive, Ministries of Defence, Internal and Foreign Affairs), Justice and Law Enforcement (i.e. judiciary, justice ministers, prisons, criminal investigation, prosecution services, customary and traditional justice systems) and precedent forces (i.e. liberation and guerilla armies, private security agencies and political party militias). Taking up of joint disarmament operations and support for fighting terrorism became the wider aspect of EU capability in providing security. In the case of Afghanistan these initiatives remain heavily challenged given the strong opposition to restore legitimacy in juxtaposition to organized crime and corruption.

The Disarrayed Trajectory of EUPOL Afghanistan

Police reform has been one of the major challenges in the broader post-conflict stabilization and reconstruction effort in post-Taliban Afghanistan (Chivvis 2010, 18). Initially, in the Bonn Process of 2001 Germany took up the responsibility at the request of the Afghan Transitional Government (ATG) and the United Nations to build-up a proper civilian police force. However, the resources fell far short of what was needed making US to start the Combined Security Transition Command-Afghanistan (CSTC-A) from 2005. This led Germany to Europeanize its police operation in launching the EUPOL in June 2007 for a period of three year. The devising of the EUPOL Afghanistan as one of the key elements of reformation in the security sector remains a weak initiative given the involvement of the locals and the fragmented approach of the international actors. Post-conflict reconstruction has seen too much of international intervention instigating many local groups to rise up in protest. This made the EUPOL mission a *bête noire* of many as it was seen as one of the major impediment in the politico-economic progress of the country. The presence of NATO, USA and the differences between individual EU Member States was another reason which failed to provide any coherent security strategy towards the land and its people. Despite such contradictions, the EU sticks to its military commitments as a path of general reconstruction capable of bringing peace to the nation at large. In doing so it faces domestic constraints but adheres to the civilian rule-of-law approach. The insistence on civilian policing model has been appropriated by an escalating violence disabling EU to show its political viability. The initial effort of providing security through ISAF and subsequent thrust to reform the national army stole away much wind from the police mission. It undermined the re-building of the Afghan state in

paying much less heed to the establishment of the rule of law in neglecting the development of the police force. In fact, the country has always seen the police as a quasi-military force working as a coercive instrument under different authorities. This made the greater section of the populace distrustful of the state security organs. The people working in the police likewise, were also mostly untrained, ill-equipped, illiterate and had allegiance to local warlords and militia commanders rather than to the central government. Hence, the EU sought to train a large number of people in police through volunteers instead of conscripts and improve the ethnic balance within the Ministry of Interiors (MoI), created through the Bonn process and the organizations for enforcing law. Individually, apart from Germany who took the responsibility of reforming national and border police from early 2002 through Afghan National Police (ANP), the European Commission together with Italy sought to revamp the justice sector. There was an increasing feeling among the Member States to coordinate between individual and organizational effort. However, on ground it was diffused with Afghan interest colliding with the international agenda on military and civilian dimension of the peace initiative. The Afghan Government struggled to build up a structure of the national police given the activeness of warlords and insurgent factions having de facto control over most parts of the country. The EU was also feeling the discomfort of a weak police force jeopardizing its political weight over the reconstruction mission and thought of launching an ESDP operation. Accordingly, a Joint EU Assessment Mission report was given to the PSC in 2006 which suggested supporting the police sector through a mission. Based on that a fact-finding mission was sent to Afghanistan and the very next year the Council gave the green signal for the Crisis Management Concept (CMC) for an EU police mission.

Under this programme, the Afghan police will be made capable to tackle law and order situation in accordance with the international standards of maintaining the rule of law and upholding the sanctity of human rights. This entire operation is legitimized through the administration of the land. It focused on building a joint overall strategy of international community in police reforms, work in tandem with the Afghan Government, facilitate cohesion among international actors and connect the police with the wider rule of law. It is primarily a task-oriented programme suggesting, training, mentoring and surveying the possibilities of creating a national police force. It coordinates the advices of the Member States with that of the third countries to develop the mission in every way feasible. Initially, the duration of it was fixed at a minimum of three years with a half-yearly review of its numerical strength and effectiveness. Though based on the German efforts through GPPO yet, the EUPOL Afghanistan had a deeper intention of coming up with a Ministry of Interior and guide the staff, the Deputy Minister and regional chiefs of police in framing and linking policies. This mission reduced the scope of differentiation of vision between the EU Member States and the third states leading to an increased exchange of information on police reform. Frequent changes in the position of the EUPOL Head of Mission and disputes with NATO began to plague this mission. Throughout its existence up to 2016, it dithered on the grounds of security issues, administrative glitches, resources availability and interested personnel. Deployment at the central, regional and provincial levels suffered from logistical shortages which led to EU-NATO/ISAF agreement on providing security to the EUPOL staff. It also encouraged the framing of bilateral technical agreements on the basis of Provincial Reconstruction Teams (PRTs) with the lead nations. However, there was no possibility of making such agreements with USA or Turkey which limited the geographical scope of the mission.

From the start of the mission, the EU was mindful of coordinating the police reform internally through the MoI and externally through the training sessions so as to make its presence in Afghanistan politically viable. However, confrontation with the Afghan stakeholders and the difficulty of implementing strategies in an overall unstable situation made this mission a daunting task. It required the participation of such Afghans who are well-aware of the political realities and ready to take up the cudgels against an all-pervading instability. Obviously, this was very hard to come by given the widespread reluctance of the locals to enroll in the service. In spite of the odds there was a general air of willingness among the actors which led US to focus on short-term training of maximum number of officers while EU looked after long-term structural change. This made the entire exercise mutually reinforcing with the US appreciating the expertise of the EU in civilian police practice complementing the Foundation for Defense of Democracies (FDD) programme. All these plans suggested a deeper intervention into the fabric of the Afghan nation suffering from internal contradictions of the Government vis-à-vis the factions. Incompatibility between the local and the international actors put a long shadow over police reform. Under such circumstances, to win the confidence

of the stakeholders, the EU relied more on a formal and institutional approach. At Dubai in 2006, two police coordination conferences were organized funded jointly by the US and German Police Project Office (GPPO) which formed the International Police Coordination Board (IPCB). It sought to fetch more coherence among the international actors, make plans with the Afghan Government and try to connect it within the framework of the rule of law. Despite the formulation of specific objectives the IPCB remained on the large ineffective due to the low level of attention paid to it both by the EU and the US. They preferred to work on their own in detriment of the coordination strategies belittling their political presence in the greater context of state-building. Moreover, the EU suffers from internal dissensions as neither EUPOL nor the EUSR could bring in any financial incentives to enforce the policies and send a strong political message to the Afghan stakeholders. Most of the monetary engagements were conditional and non-negotiable with particular sources for its disbursement like the Law and Order Trust Fund for Afghanistan (LOTFA). This dampened the spirits of the Afghan authorities and made them nonchalant toward the reform framework of the EU. The mission remained scattered with most of the areas under the influence of different factions making the MoI inconsequential and created an air of general apathy toward the policies of the EU. The Afghans began to nurture a feeling of distrust for the Western military presence as an agency of security. In this ambiance, the civilian approach of the EUPOL also suffered engendering a lack of credibility among the Afghan populace for the mission at large. Hence, it had much to do not only with the civilian-military relations, but connecting development with security to make the implementation of policies viable. In this vein, the investigation of the criminal network apart from mere training of personnel is what was expected from the EU mission to minimize high-handedness and nepotism in the administrative echelons. This along with the bilateral agreements on provision of resources and logistics between the Member States and the Afghan Government would have substantiated the operational support and the training initiative of the EU. In practice, the EUPOL did not actually come up with any such strategies to assuage the expectations of the masses and the authorities creating an overall air of despondency.

Much of the work takes place in Kabul, either through training of senior police officers or through direct training of Kabul's own police force. One of the main focuses of EUPOL in 2009 has been to improve security and policing in Kabul. It has initiated the Kabul City Police Project, which aims both to make the city more secure against terrorist attacks and reform the local police. On security, EUPOL trains police in tracking suicide bombers, inspecting vehicles and taking counter-measures to tackle threats. On the police reform side, the goal is to build criminal investigation capability and improve community policing. Another major focus for 2009 has been support for the presidential elections. To this end, EUPOL introduced a train-the-trainer program focused specifically on elections. Operating under the EU's Common Security and Defence Policy (CSDP), the mission aimed at sustainable and effective civilian policing arrangements under the auspices of the Government. In the process, it could not take into account the volatile condition of the country, the anathema of deploying a civilian mission in a situation of war and the state of incompetency of the Afghan National Police (ANP) and Afghan security sector. By the time it was revoked the total expenditure for EUPOL was approximately € 450 million (to which one should add the cost of seconded personnel), i.e. an average of € 45 million per year with a peak at approximately € 70 million in 2014 (annualised budget). By comparison, the EC commitment (under the DCI) to support the rule of law in Afghanistan is € 319 million for the period 2014-2020. Its overall costs made it the second most expensive civilian mission ever after EULEX Kosovo (Tardy 2017: 1). However, to summarise the achievements of EUPOL is very difficult as no fixed data is available and use of police to tackle counter-insurgency do not fall within the ambit of the mission. But it did shape up the ANP and provided substance to the current civilian CSDP programme. In the words of the Head of Mission Ms. Pia Stjernvall, "We have contributed to providing a solid foundation for a civilian and rule of law-oriented professional police service which is increasingly becoming accountable to the people of Afghanistan" (Stjernvall 2016: 3). After nine years of existence December 31, 2016 saw the end of the police mission with the Afghan Government managing the police affairs through the Ministry of Interiors. In the winding-up process, the EU claims to have professionalized the Afghan National Police (ANP), introduced the idea of community policing, increased the capacity of the MoI and streamlined Afghan legislation with human rights standards.

The Disheveling Scenario of Justice Reform

The demise of the Taliban regime put the reconstruction programme of Afghanistan in the hands of international actors. However, since 2006 given the incidences of myriad hindrances they tried to involve the Government in reform initiatives. Hence, the latter took the direct ownership for the administration of courts and judicial personnel. The EU as one of the major actors tried to synchronise its involvement in the reformative initiative of Afghanistan vis-à-vis the Government through the Commission connecting the sectors of police and justice as a fitting model of establishing the rule of law. It was in line with the *Afghanistan Compact* signed at the London Conference of 2006, which sought to adopt and promulgate new codes and law including working institutions of justice (Tondini 2008: 666). The Commission over time it became the central source of the monetary contribution with € 135 million to LOTFA from 2002 (This made EC the biggest donour to LOTFA) and allocating more than € 10 million to the PRTs. From 2006 onward, the Commission became more engaged in the justice sector. Gradually, EC and EUPOL became institutionally connected with the former contributing to LOTFA (Of the € 200 million committed to rule of law sector during the 2007-2013 funding tenure, over 50% of it was given to the LOTFA) to reform the judicial system and the latter appointing mentors in it. The reform framework of the judiciary was based on *Justice for All* by the Afghan Ministry of Justice (MoJ) stated the lack of resources, reach and training have shaken the confidence of the people on law. Hence, the constitution of the land made provision for a nine-member *Stera Mahkama* (Supreme Court) and subordinate High Courts and Appeals Courts. Simultaneously, the Afghan Independent Human Rights Commission was entrusted to look after human rights abuses and war crimes. The MoJ oversight on prison service and the legislative department went in coordination with the interim Afghanistan National Development Strategy (i-ANDS) procedure. The Supreme Court harboured about 1500 judges, heard appeals and administered court system and the judiciary. The Office of the Attorney General investigated crimes with about 2500 prosecutors. The entire legal exercise remains a blend of civil and Sharia law which belying the expectations of the international actors including the EU fell outside the jurisdiction of the International Court of Justice (ICJ). There has been a wide-scale operation of Islamic and statutory laws in areas outside the purview of the constitution. Apart from this, customary laws are also prevalent in settling disputes among the populace. In addition, there has been no independent authority of the judiciary particularly in the aspect of building institutions in parallel to the executive and legislative organs. The judges remained ill-trained, afraid of the general instability and worked in a retroactive manner.

The strong presence of a personalized system of power continuously corroded the efforts of both the Government and the international actors to make the institution of judiciary an effective catalyst for the rule of law. It also led to corruption and unaccountability with no proper mechanism to address the grievances of the suffering Afghans. Judges, personnel, victims, witnesses and advocates all remain unsafe making the entire process of legality eyewash for the public. Likewise, the December 2006 Afghanistan Rule of Law Coordination Meeting in Dubai noted languish, temporality and splinter approach in reforming the judiciary. In this light, the Rome Conference of 2007 reiterated political commitment to the justice sector and the contributors tried to finalise a Justice Sector Strategy to support high-priority, short-term projects to strengthen institutional capability, legal aid connecting it with the implementation capacity. These efforts put in some life into the reformative endeavour of the EU with the MoJ drafting a law on pays that was at par with the salaries of the ANP and those of the judiciary. Infrastructure developed with the reorganizing the institutions, setting minimum standards of education, counting experience and working to curb corruption. The European Commission was active in culling resources and handling the financial dispensations. In 2007, a judiciary expert team was built under the auspices of the IfS to assist programme definition, management reform and suggest different models of legal aid for the MoJ. Pay reform, merit-based recruitment, equitability, specialization in legal studies, cultivating decorum in court practices, need-base transfer, promotions based on performance and devising a professional code of ethics in settling disputes legally infused some substance in the domain of justice reform. By 2010, it chose to stress on technical support, uphold Afghanistan Reconstruction Trust Fund (ARTF) for justice project, the LOTFA for giving salaries to the personnel of the Central Prison Department of the Ministry of Justice and the United Nations Development Project (UNDP) to infiltrate the legal project at the district level. These interlinks were maintained through representatives in IPCB and EUPOL having frequent meetings to monitor progress.

Judicial independence is sine qua non for the safety and security of the Afghan people. Judiciary would then only be seen as a responsive agency of the state dealing with the atrocities meted out to commoners in day to day life. Hence, a degree of autonomy is required at the individual level to act freely and within the institutions to maintain as much transparency as possible in the administrative domain. Another thing that must be avoided is the politicization of the legal system which would sap out the very vitality of justice exposing civic life to the vagaries of custom. According to Christensen, the current government in Afghanistan is trying to emerge from a history of failed regimes by emphasizing centralization, both in terms of its structure of representation and provision of services, as well as in its approach to law and justice (Christensen 2011: 104). However, for ages, *urf*² and *nass*³ has been the basis of law for the Afghans. Hence, a sound mix of the codified laws with the community practices could be a positive step toward the establishment of the rule of law. Actually, the traditional *jirga*, *shura* or *maraca*⁴ is more reconciliatory in nature rather than the western model of retributive justice. The EU should try to bridge this gap in order to inculcate a sense of awareness among the Afghans in general toward law as the country has more or less functioned through a dialogue between the central authority and local power-operators. The current Constitution is ambiguous on the roles of both Islam and customary law in the formal justice system (Christensen 2011: 104). **Conclusion**

Notwithstanding the challenges, EU did make momentous progress in expanding its *modus vivendi* among other international actors in Afghanistan. Organising the individual efforts of the Member States through the EUPOL, it could target and coordinate the different aspects of the programme in a much nuanced way. The active involvement of the Commission in the field of justice has made the entire project of security sector reform more effective. This has made the EU to act in a more comprehensive manner to formulate, initiate and operate among the Afghans to build their civilian security structure. However, the lingering need for militaristic programme has stolen much of the steam from the EU reform agenda which could be countered only through more dispensation of resources, personnel and precise training. In this regard, the Member States should be more proactive in providing skilled persons, negotiate with the stakeholders and extend monetary support. Moreover, the IPCB could be used as an effective tool to increase the level of cohesion, coordination and completion of the police and justice sector reform as part of a greater dimension of security provider. The EU security policies have also suffered from internal fissures in its instruments. The limited size of the project, failure to include Afghan Official in planning and implementation, risk aversion tactics, EU-NATO deadlock and logistical shortages has plagued the mission from its inception. It could not become an umbrella for all police related reform programme, failed to instill confidence amongst the Afghans and could not attract Afghan police officials to implement the EUPOL Operational Plan.

The judicial sector reform should try to integrate the customary laws into the broader stream of formal legal codes. The EU should frame strategies where the communitarian character of the land gets weaved into the codified laws. The path to preserve human rights lies in recognizing customary legal system. More of Cooperation, providing space for dialogue and involving the civil society would help the EU in linking justice sector reform with the broader mission of nation-building. This would in turn promulgate the rule of law in reducing corruption, improving cooperation between police and judiciary as also develop human rights through gender structure policy for the Ministry of Interior (MoI). Developing *bonhomie* with the local institutions through public consultation is a viable way to involve the people in building up the edifice of law. In this context, the Legal Development Working Group Model is a stolid path to “lay a foundation for cooperation by including all perspectives. *Ulema*, Sufi leaders, *mullahs* and *maliks* could collaborate with officials in the formal justice sector to close the gap between customary and state institutions, both in terms of the law they use and the administration of justice” (Christensen 2012: 148). The EU should negotiate with the Afghan Government in bringing changes to the strong presidential system enshrined in the constitution which helps the incumbent in to exploit the Court’s relative weakness to blunt challenges from rivals and

circumscribe the powers of other branches of government. Encouraging the Supreme Court to publish and translate its decisions would be a start to building more transparency and accountability (Grono 2011: 1). Hence, to make the judicial sector a vehicle of state-building, the EU policies should take into account the traditional modes of law. In addition to it, transparency, cost-efficiency, independence of the judiciary and qualitative involvement of the persons in the legal arena are crucial requirements to implement the dictums of the rule of law.

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