

CHROMITE EXTRACTION IN KUNAR, FACTOR OF [IN]STABILITY

Case Study
November 2013

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ABOUT INTEGRITY WATCH AFGHANISTAN

Integrity Watch Afghanistan (Integrity Watch) was created by Lorenzo Delesgues and Yama Torabi in October 2005 and established itself as an independent civil society organization in 2006. Its aim is to evolve into a point of reference and departure for understanding, analyzing and taking action on transparency, accountability and anti-corruption issues.

Integrity Watch Afghanistan's Mission

The mission of Integrity Watch Afghanistan is to put corruption in the spotlight by “increasing transparency, integrity and accountability in Afghanistan through the provision of policy-oriented research, development of training tools and facilitation of policy dialogue”.

Integrity Watch works across Afghanistan and in the following five pillars: Community Based Monitoring, Public Service Monitoring, Extractive Industries Monitoring, Community Trial Monitoring and Budget Tracking.

About Extractive Industries Program

Integrity Watch will monitor extractive industries to assess whether mining companies comply with the international standards of extraction and commercial production of minerals.

The monitoring mechanism aims to limit the adverse impact of mining on the environment and affected local communities.

Integrity Watch organizes different discussion forums with the government of Afghanistan, companies and civil society organizations. The intention of these forums is to generate more interest in the sector and take an early and active approach to discovering problems and implementing steps to deviate from them. It also seeks timely intervention through a deliberative process. This process is believed to strengthen natural resource management and to avoid conflict over resources. Integrity Watch is part of the Extractive Industries Transparency Initiative Multi-stakeholders group.

Acknowledgment

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ACRONYMS

Ahangaran	: Ironsmith
AIHRC	: Afghanistan Independent Human Rights Commission
Arbaki	:Auxiliary security force created out of local population
ALP	: Afghan Local Police
ANA	: Afghan National Army
ANP	: Afghan National Police
COIN	: Counter insurgency
Degan	:Name used for Tajiks in some Pashtun belts.
ISAF	: International Security Assistant Force
Jafa	:Deception
Jolas	: Carpet and rug weavers
MoMP	:Ministry of Mines Petroleum
NATO	: North Atlantic Treaty organization
QumiGhond	:Auxiliary Civilian Security Units created out of local population
Tashkeel	: Structure
TFBSO	: Task Force for Business Stability Operation
Wand	: Is normally a cluster of villages that makes a block
Woloswal	: District Governor

EXECUTIVE SUMMARY

The paper looks at the political economy of the chromite mine in Khas Kunar district of Kunar province of Afghanistan. Khas Kunar has a heterogeneous population and it has a rich tradition of sharing benefits and responsibilities equally among the *wands*.¹ The wand system has been helpful in establishing some sort of social order in the district.

The Task Force for Business Stability Operation (TFBSO) which is a wing of the Department of Defence of the US government has provided one of the commanders of the Afghan Local Police of the Akhonzadagan village in Khas Kunar, a chromite ore crusher to process chromite. Traditionally, small-scale chromite extraction was an activity carried out by the Mohamands who live extensively in mineral rich areas.

The insurgency is increasingly active in rural parts of the country where the majority of the population is living. There is sympathy and support for insurgents and the conditions are conducive for their survival. The local support and conditions are critical to the success of the insurgents operation and the creation of Afghan Local Police (ALP) using the local population was intended to deny the insurgents the local support and space they need to operate.

The ALP was created within the *Tashkeel* (structure) of the Ministry of Interior in November 2010 to provide security to the citizens at the periphery of the country with the primary aim of winning over their loyalty. The Afghan Local Police is a counter-insurgency force specifically designed to erode the operation base of the insurgents.

The assumption that one can transform the conflict through turning pro-state armed men into businessmen is not a sensible strategy nor will it be instrumental to achieving the goal. The rationality of funding ALP in this case is also questioned in the light of the historical facts in the Afghan context. The entry of a state security agency and agents into the mining sector may create a destructive trajectory for the potential new conflict to be fought over natural resources. It may also amount to out-sourcing the “sub-conventional war”² to opportunity seekers garbed in the guise of the Afghan Local Police to defeat the invisible insurgents. The means used in this war will not justify the end achieved because the means will become a threat to the collective goal of stabilizing democracy and rule of law in the country as well as the integration of Afghanistan into the international community as a viable state.

International efforts to stabilize Afghanistan may be undermined by the chromite project in Kunar.

The Afghan Local Police have been alleged to be involved in human rights abuses and extra-judicial coercion, which is explained in greater details later on in the text.³ The mineral law of Afghanistan is clear about the engagement of state agents in business and extraction. Article 14 of the Mineral law of

¹Wand, Tagab, Qabela, Khanagi, Zone, Basta or Manteqa (designates an idea of shared space in which its inhabitants maintain a great degree of cultural uniformity, sections which are comprised of a cluster Qaryas (*Understanding Afghanistan: The Importance of Tribal Culture and Structure in Security and Governance* By Shahmahmood Miakhel USIP 2009).

² Sub-Conventional Warfare is a generic term encompassing all armed conflicts that are above the level of peaceful co-existence amongst states and below the Threshold of war (http://idsa.in/system/files/jds_4_1_kcdixit.pdf).

³Interview with the three local residents who chose not to be named due to sensitivity of the issue, dated Sept. 23, 2012.

Afghanistan prohibits state security agents above grade three from entering into the business of extracting or processing materials from mines in Afghanistan.⁴

The study leads to a major lesson for the international community and the government of Afghanistan regarding the facilitation of mineral activities. By disregarding the provisions of well-established mechanisms such as the Minerals Act and procedures therein, the state is making a mistake with serious long term consequences. It is to be highlighted that the international community has assisted the government in shaping its own policies and mechanisms. However, it is sad to note that the international community has not given similar attention to the implementation of the provisions of the mineral law.

The government may lose its legitimacy if these issues of such grave concern are not acted upon. It is very important to underline that time is limited for effective intervention both to stop illegal mining and work on mechanism to discourage such activities in future. In the light of our findings we call on the government and the international community present in Afghanistan to implement the following recommendations.

⁴ The article dealing with the prohibition of state officials will be dealt with in greater details in the text.

RECOMMENDATIONS:

1. The ALP is a security agency that must focus on its mandate and should not be allowed to engage in any resource extraction activities.
2. Mineral resources are a complex natural gift and they should not be turned into a military tool for defeating insurgents.
3. The government must investigate each case, set stringent rules to discourage such activities, and ensure justice is served for those who are involved in illegal mining.
4. The government must create a multi-structure commission to monitor such cases quickly and act upon the recommendations of the commission.
5. All illegal mining must cease across the country.
6. Chromite mines need to be preserved by the government of Afghanistan, for the time being , as a strategic resource to be gradually developed into a highly important source of revenue in the future.
7. The Wolesi Jirga must create an oversight commission to monitor, the mining sector on a quarterly basis for revenues, progress on mining projects, oversight over state institutions involved with the mining sector and publish their reports.
8. Many mining concessions in the past have either gone to members of parliament or their cronies because of political influences. Disclosure of beneficial ownership of the bidding companies must be included in the Mineral Law to make sure that contracts are not awarded to state agents and/or based on political connections. Laws must be made the reference point for awarding concessions.
9. International military presence in Afghanistan must stop interfering in the sovereign decisions of the Afghan state and at the same time build the capacity of the government and provide technical assistance to it in the mining sector. The trend of Special Operation Forces handing over or financing for such projects may be destabilizing. The ALP or other militias have been proven to threaten the citizens as well as the state, the government must not allow this illegal activity.
10. The Mineral law and policy must promote open tenders, transparent and competitive bidding for small, medium and large mines.

INTRODUCTION

Afghanistan's natural resources are drawing the attention of investors especially from emerging economies. The United States Geological Survey which did an aerial survey of Afghanistan geography to assess the mineral potential of the country declares, "there could be as much as \$1 trillion worth of iron, copper, cobalt, gold and lithium in Afghanistan".⁵ Opportunities for exploitation have tempted companies to look at business prospects in the war torn country. Some countries in close proximity to Afghanistan have already been benefitting from its rare natural resources such as; chromite, gem stones, talc rock and gold through illegal extraction.⁶ Afghans have serious concerns about the chances of the country's natural resources in particular as to whether they will turn out to be a resources curse potentially further fuelling conflict.

Minerals have historically fuelled conflicts in the developing world which is the foundation for this report on Khas Kunar. Khas Kunar is chromite rich, historically local communities extracted chromite in small scale operations and sold it to traders who transported it to Pakistan via the insecure Federally Administered tribal agencies of Pakistan. The Local people harmoniously shared the benefits among themselves.

The Task Force for Business Stability Operation, which is a unit of Department of Defence of US embedded in the Ministry of Mines and Petroleum, provided equipment to the Afghan Local Police in Khas Kunar to extract chromite and sell it at the request of NATO Special Forces.

The case merited investigation because of the involvement of the Department of Defence and NATO in funding a state security agent to run a profit making business. It is a clear conflict of interest for a state agent to do business in an area in which it is assigned to secure.

Is funding the ALP to extract minerals in the region for profit, socially acceptable in terms of transparency, accountability and security? This was the main question that guided this report.

It is hypothesised that ALP's involvement in the extraction of chromite in the district may disturb the traditional social order among communities. The communities may be divided and seed a narrative for conflict on clan-lines and thus negate the whole quest for securing the population in rural parts of Afghanistan which has been a national and international concern since the beginning of the military intervention in Afghanistan. It may also encourage armed conflicts to enter the mining industry under the guise of "fighting the insurgents".

The focal location of this research, Khas Kunar, is an insecure district of Kunar province which borders Pakistan along the Durand line. Non-Probability qualitative interviews were used to collect information for this report in addition to referring to secondary data. Snowball sampling was extensively used to capture the information largely because the case involved the ALP and respondents feared retaliation for providing information to the study. Seven categories of people were interviewed to have a comprehensive view of the case; Officials from the MoMP, the TFBSO, local residents, local government officials, the ALP, provincial experts and some employees of NGOs. Most of the interviews in the region were conducted through telephone and several respondents sought anonymity as they feared retaliation that they indicated could threaten their lives.

⁵ UPI, 2012, 'USGS surveys Afghan natural resources', *'UPI.com'*, July, 18th, 2012.

⁶ Author's observation of the mining sector and large amount of data.

The report is underpinned by discussion about the stakeholders and other actors involved in the extraction and governance of the district, description about the geography and population of the region. The report is further pillared by reference to the Mineral Law (2010) of Afghanistan, the security impact of the project, human rights concerns of ALP and their role in the stability of the region. Finally, the report undertakes a prospective analysis of the situation in the region from a key actor's perspective.

The chromite project in Khas Kunar involves the ALP and NATO Special Operation Forces. There was "artisanal mining" happening in Khas Kunar and most of the miners were local citizens. The involvement of ALP has led to strains among local population. Integrity Watch initiated the study to understand the social fallout from the project which was otherwise funded with good intentions.

1. Actors and Stakeholders in the project

The chromite mine that is the subject of this paper is located in the Khas Kunar district of the Kunar province. Kunar is a Province in the east of the country, bordering a Federally Administered Tribal Agency area of Pakistan at Salala, a Pakistani military outpost which was bombed last year by NATO planes and it is one of the infiltration channels for insurgents entering Afghanistan. Three of the six sub-districts; Shaly, Olay and Maya have deposits and are each within 10 Km of the district administration building.

This research topic is critical for the stability of Afghanistan and it was therefore regarded as urgent to uncover points for advocacy with the government and among stakeholders.

The insurgents in the province fight under three banners, namely: The Hizbi-Islami Hekmatyar, Taharik Taliban Pakistan and the Salafi groups. Kunar has been a troubled province that coalition forces so far have not been able to manage security-wise. The sub-conventional nature of warfare here where the enemy is not uniformed and cannot be differentiated from the population has made it difficult for the Afghan Army, Police, and the coalition forces to fight against. Conflict has thus negatively affected civil operations and development efforts in the province.

The rural population of Afghanistan is caught in the crossfire of security forces and insurgents where they are exposed to daily violence and pressure. The support of the rural population is as critical for the survival of the state as it is for Taliban insurgents. In this decade long fight, the Talib insurgents have been able to win the sympathy of the local population. The state has not occupied this critical space and the insurgents have used religion as an instrument to seek a base of support among the locals and thereby exploit the situation to fight against the relatively better equipped NATO forces.

The ALP are the local force that NATO Special Forces, which are stationed across rural parts of Afghanistan, have raised from among local populations in many provinces to protect villages from insurgents. "The local police are a phased and interim measure to provide security to communities that face actual security threats and dangers. In these communities, the Taliban has greater presence and power".⁷ The ALP are to operate within the framework of the MoI legally, but on the ground they are operating in collaboration with the NATO Special Operation Forces.

The ALP force has won itself notoriety for its brutality. "Based on reports received by the Afghanistan Independent Human Rights Commission(AIHRC), there are cases in which the ALP has been established and has acted in contravention of their legally specified powers and standards. As previously mentioned,

⁷Afghanistan Independent Human Rights Commission, 2012, *"From Arbaki to Local Police Today's Challenges and Tomorrow's Concerns"*, <http://www.aihrc.org.af/en/research-reports/1073/> (accessed on Nov. 21th-2012).

in a number of cases, the US Special Forces have themselves created and armed ALP members, as admitted and criticized by Mol”.⁸ For example the ALP in Kunduz, Kandahar and Paktika has stepped out of their legal mandates and committed atrocities.

Seth Jones one of the senior NATO officials argues that “the goal should be to implement development projects with a counter insurgency, or COIN focus. The primary goal should not necessarily be to improve literacy or infant mortality rates, but to encourage more people to turn against insurgents”.⁹ COIN is a context-specific counter-insurgency tactics to fight the insurgents and keep the conflict on the periphery of the country. The ALP in Khas Kunar is within the Tashkeel (structure) of Mol , but the ALP are more attached to the coalition forces in the province.¹⁰

Task Force for Business Stability Operation

“The project was suggested by the Special Operation Forces (SoF) stationed in Kunar to visiting USGS team to help Farhad the Deputy Head of ALPP, set up a unit to process the ore.

The Task Force for Business Stability Operation (TFBSO) funded the project within its vision for stability at grassroots level. The SoF said if you can provide help to Farhad in 90 days we will help you to conduct your survey. Farhad used to offer storage facility for the local villagers who used to extract and sell it to traders. The local miner used to sell chromite at low price people who would trade across in Pakistan. We thought it could help them earn more and we found out a Swedish businessman to buy the chromite at fair price.

We bought Farhad, the crusher, assembly belt, storage, transportation, helped him set a bank account and register his company. It is a small mine and though not allowed under the current mineral law.

The TFBSO is looking at the chromite mine in Ghanzni too”.

David A Bolger

Director of Strategic Communications

Office of the Secretary of Defence - U.S Department of Defence

There are serious questions raised with regard to the recruitment and composition of ALP as well. “In many cases, influential people such as commanders, and even provincial and district authorities influence the ALP recruitment process and place their favoured persons within this structure”.¹¹ There are cases of foreign troops directly influencing the recruitment of ALP as well. The men recruited into

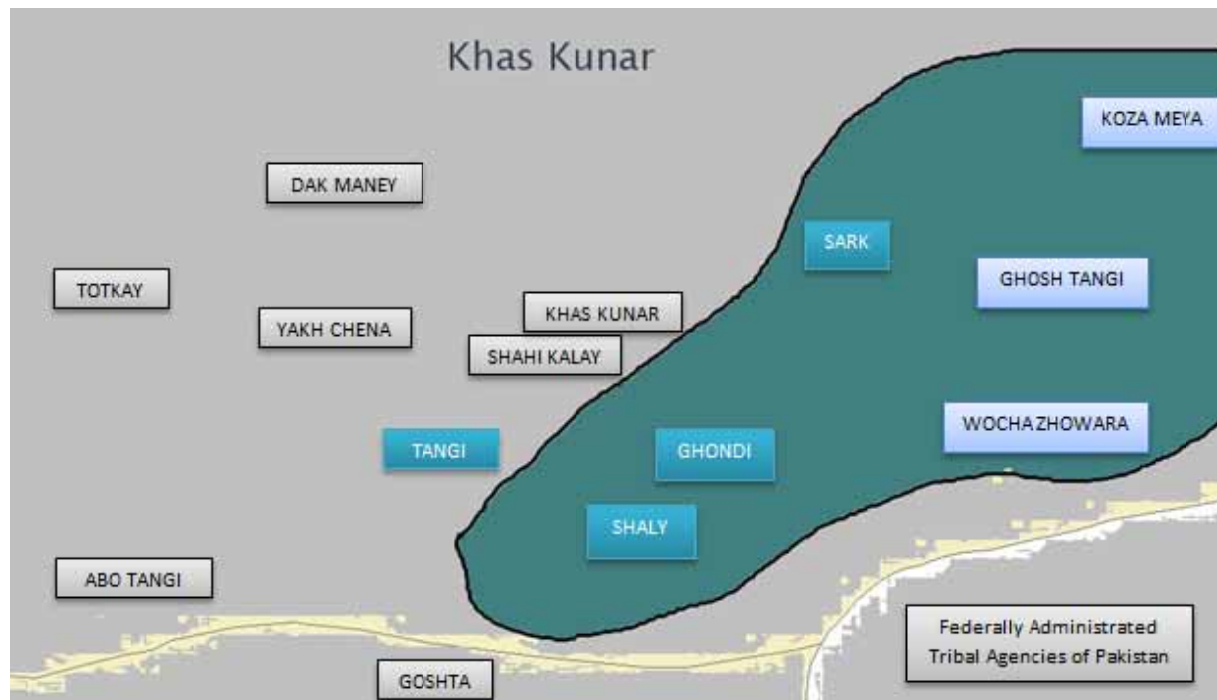
⁸Mol, Islamic Republic of Afghanistan, General Department of Local Police, interview with Gen. Ali Shah Ahmadzai, ALP General Director, date: Dalw 29, 1390 (February 18, 2012).

⁹*Op.cit.* Jones, “Community defense in Afghanistan”.

¹⁰Interview by phone with former senior district government official who requested for anonymity, dated Oct 3rd, 2012.

¹¹Afghanistan Independent Human Rights Commission, 2012, ‘From Arbaki to Local Police Today’s Challenges and Tomorrow’s Concerns’, <http://www.aihrc.org.af/en/research-reports/1073/> (accessed on Nov. 21th-2012).

the ALP more often than not have a criminal record. “Another important issue is that most ALP members, in some areas, have been recruited from among criminal gangs And are later registered as ALP members by the Mol. Contrary to this, the role and influence of former local commanders has increased and ethnic and tribal representation is not taken into account in the ALP composition, because armed groups that are assimilated in the ALP were formerly created on ethnic and tribal lines.”¹²



The map shows the chromite rich parts of Khas Kunar

Khas Kunar district has a unique system that defines the order, the district has five major quams¹³ they are: *Mommand, Akhonzadas, Sahibzadagan, Saidan* and *Miagan*. There are also some professional groups *Jowlas, Ahangaran* and *Nayan*. There is a *degan*¹⁴ (*Tajiks*) population in the settled sector of the district also according to Shah Mahmmod Miakhel the Head of United States Institute of Peace who hails from Khas Kunar.

The district is divided into six sub-districts called *wands*, which are:

1. *Hakeemabad* which is made up of *Shamkar* and *Bandia Hakeemabad*
2. *Koz Arazia* and *Bar Arazia*
3. *Tanarand Kunar*
4. *Chandrawo* and *Lotan*
5. *Mangwal* and *Chamyari*
6. *Shaly* and *Olay*

¹² *Ibid.*

¹³ Quam is a clan within tribes.

¹⁴ Degan is a term referred to Tajiks in some Pashtun belts.

Each wand is similar to a block of sub-districts which share the benefits of development projects among themselves and also contribute men in cases of collective social activity. The *Wand* system according to Shah Mahmmod Miakhel of USIP, was created to protect the interest of communities living within each of the *Wands*. A local elder said that the people who were involved in the extraction of chromite also shared some benefit with the local widows and orphans.¹⁵ The wand system was instrumental in establishing a social order among the diverse population of the district.

The chromite mines are located in five of the Wands, namely, *Shaly*, *Olay*, *Maya* and *Wacha Jawara*. These wands are dominated by the Mommand tribe of the district. The Mommand tribe lives on both sides of the Durand Line.

The Mommand tribe exploited the mines for five years and either sold the chromite to smugglers or smuggled it into Pakistan.¹⁶ Members of local communities extracted chromite illegally and they would share the benefits among themselves. In the past up to 60-70 tons of chromite a day was smuggled from the Shaly area of Khas Kunar.¹⁷

The Mommand clan traditionally laid claim to the chromite mine in Sarki and Shaly. They would not allow anyone come close to the mountains. The people of the Mommand tribe have exclusively benefited from the extraction of chromite mines.

The Task Force for Business Stability and Operation¹⁸ has trained and funded Noor Mohammad and Farhad the commander and deputy commander of the ALP in Khas Kunar to set up a chromite processing unit without consulting government officials during the early stages of the project. The Task Force later made attempts to consult officials of the Ministry of Mines who declared the project to be in conflict with the existing law of the country. In an Interview with a senior member of the Task Force for Business Stability Operation it was said that they funded the project on the advice of the Special Operation Forces stationed in Kunar.¹⁹

Noor Mohammad and Farhad belong to Akhonzadaand, they migrated to Pakistan in the 1980s. They were living as refugees in the Zindia area, close to the famous Shamshato refugee camp in Peshawar. Before they came to Kunar, they led a notorious gang involved in murder, kidnapping for ransom, and dacoit in Peshawar city. Noor Mohammad joined the ALP and eventually became the commander of the

¹⁵ Author's interview with Daud Shah Khan, dated May 25th 2013.

¹⁶ Interview with a resident of KhasKunar who sought anonymity, dated Oct. 18th, 2012.

¹⁷ Interview by phone with Ahamd Shah a local chromite trader from Shaly, dated Nov. 25th, 2012.

¹⁸ The mission of the Task Force for Business and Stability Operations (TFBSO or Task Force) is economic stabilization in order to reduce violence, enhance stability, and restore economic normalcy in areas where unrest and insurgency have created a synchronous downward spiral of economic hardship and violence. TFBSO creates stabilization by developing economic opportunities through a range of efforts, including encouraging investment by U.S. and international businesses, developing a country's natural resources in a way that is economically sound and environmentally responsible, and assisting industrial development and agricultural revitalization. (<http://tfbso.defense.gov/> accessed on Nov. 4th, 2012).

¹⁹ Interview with David A Bolger, Director of Strategic Communication US. Department of Defense, dated April 14th 2013.

ALP in Khas Kunar.²⁰ Farhad was a taxi-driver commuting between Asadabad and Jalalabad before he became deputy of ALP.²¹

Farhad is an illiterate brute who is thought to have close ties to the coalition forces according to local sources with condition of anonymity. The coalition forces offer special privileges to Afghans who fight along with them against the enemy. He was taken to Bagram for treatment the last time he was injured because he is trusted by the International forces stationed in the district.²²

Farhad, the owner of the company, during a telephonic interview said that he received training from the TFBSO experts and they provided US\$ 13000 for the crusher.²³ A source in the International Security Assistant Force (ISAF) who chose not to be named said that the crusher was provided to a company that does not extract mine chromite but instead processes it. However, a local chromite trader on condition of anonymity said that Farhad had a chromite mine also and he extracted and crushed and later sold it to a local resident.²⁴ ALP is mandated to provide security while at the same time provided money to extract mines, process and trade it. A clear role

The Afghan Wafadar company purchases chromite ore from local residents, mostly Mommands who extract it in a small scale, illegally. The company crushes the ore into gravel size pieces and puts them into sacks and sells them to traders who take it to Pakistan. Farhad, the owner of the company said, "We buy chromite ore from local miners who have little knowledge of extraction. Up to now I have purchased 35-40 tons of chromite from the local people for 11500 Pakistani rupees per ton and have processed it".²⁵ The company employs around 11 people who are mostly Akhonzadagan, to crush the chromite ore and each employee gets 300 Afs per day in wages.²⁶ In general extraction activity is ongoing in the mines. Farhad affirms in a telephonic interview that he has been approached by a Chinese businessman who was interested in purchasing chromite.²⁷ However, David Bolgar the director of Strategic Communication of TFBSO said in his interview that they did market for Farhad and they identified a Swedish Business man to purchase chromite from him.

It is highly problematic to have armed groups on the payroll of the state pursuing business interests. "ALP is made of local goons. It is wrong to allow ALP [to] enter the mining sector because the ALP is a security agency".²⁸ The ALP has been involved in crime against the same people they have been mandated to protect. "According to the AIHRC report, the local population and local government officials in various provinces and districts said that ALP members have been accused of perpetrating such acts as public harassment, beatings, murder, robbery, abduction, banditry, extortion, and forcing

²⁰ Interview with resident of KhasKunar who requested his name not to be disclosed because of fear of repercussion, Dated Oct 3rd, 2012.

²¹ Interview by phone with a local journalist, who sought anonymity, dated August 3rd, 2012.

²² Interview by phone with local elder who sought anonymity, Sept. 13th 2012.

²³ *Op.-cit.* interview with Farhad.

²⁴ Interview by phone with a resident of Shaly in KhasKunar, Nov, 26th 2012.

²⁵ *Ibid.*

²⁶ Author's telephonic interview with Farhad the owner of the chromite processing plant, dated Oct. 6th, 2012.

²⁷ *Ibid.*

²⁸ Interview by phone, with a local businessman who sought anonymity, Sept 20th, 2012.

the populace to pay tithes, poll taxes, and the like.”²⁹ The district governor of Khas Kunar was aware of the project involving some members of Afghan geological Survey, but not everyone at the MoMP.

The ALP in Khas Kunar has been deemed as an unfriendly force that has harassed the local people for being involved in insurgency.³⁰ The ALP force maintains an illegal private jail to keep suspects extra-judicially.³¹ Maintaining jails is a state function, to have the ALP, which are a village level defence unit, operate a private jail is an implement rule of law and violates its own mandate, and the rule of law. The judiciary has procedures to follow before sending a person to jail. The police attorney and finally the court play a role in convicting a suspected criminal before sending him/her to jail. The procedures are mandatory to ensure the sanctity of human life and avoid violations of basic human rights. The ALP is a parallel security unit created along with the National Police and Army but it has been used for dodgy operations. The ALP often do not respect the law. The local government is aware of this but officials express their helplessness against the ALP.

Local residents perceive the chromite processing project as inappropriate. A resident in Khas Kunar said, “I think it is a big *jafa* (deception) with the people of Afghanistan to help the ALP commander turn into businessmen. I think people who are working with government should not buy or extract from mines. These contracts need to be given to professional businessmen who can generate income, employment for the people and pay taxes to the government, and whose interests do not clash with their role as government officials”.³²

What are the assumptions that have been taken into account that underpin support for such a project within the TFBSO. The original mission of TFBSO “is economic stabilization in order to reduce violence, enhance stability, and restore economic normalcy in areas where unrest and insurgency have created a synchronous downward spiral of economic hardship and violence”.³³ How can someone associated with organized crime be instrumental in reducing violence and restore economic normalcy? Who pays the cost for such a venture?

The Akhonzadas to which Farhad and Noor Mommand belong have joined the Afghan Local Police force in Khas Kunar and are now more powerful because they are leading the ALP in the district and the Mommand cannot match them. Besides this, the Akhonzadas are entering the chromite business in order to take over Mommand’s traditional sphere of interest. This may create antagonism among the Mommand against the Akhonzadas. The traditional order that was established by the *wand* system is being disturbed. The Akhonzadas have begun to encroach on the Sarki and Shaly Mountains, which are rich in chromite, in a quest to capture them said a resident of Khas Kunar district.³⁴ This may not be seen as a kind gesture by the Mommand which is a bigger tribe among Pashtuns and may at best counter Akhonzadas through collaborating with other ALP or state security agencies, or at worst may lead to seeking support from the insurgents.

²⁹ *Op-cit* Afghanistan Independent Human Right Commission report on ALP

³⁰ Interview with a local elder who chose not to be named, dated Jan 12th, 2013.

³¹ Author’s interview with a senior resident of the area who knew the ALP in Khas Kunar well, Sept 12, 2012.

³² Interview with a local resident of Khas Kunar who did not want to share his name, dated Oct.3rd, 2012.

³³ *Op-cit* TFBSO.

³⁴ Interview with a local resident of Khas Kunar who chose not to be named, dated, Oct 13th, 2012.

It may be assumed that by giving a share to new Warlords, the insurgency would be defeated. Are the Taliban subjected to economic reductionism? This implies that they are fighting for economic gain and are rational players who understand the tangible cost-benefit of their actions. Is the allocation of mines to the ALP being used as incentive for the insurgent to drop their arms and take to mining? Even if so, this plan does not follow the provisions of the Mineral law of Afghanistan and it does not include the government officials as required in setting up the business as part of the strategy.

Though the presence of the ALP in some districts has brought a semblance of security, the cost paid by the local citizens is very high. ALP may be the ugliest face of counter-insurgency and often are in clear violation of (international humanitarian and human rights law) because ALP as observedAL mentioned and referenced, are involved in kidnapping, murders and the plunder of a vulnerable civilian population Paktika, Kandhar, Kunduz, Kunar.. The ALP in the mentioned provinces and many other provinces have acted beyond their legal limits against civilians. NATO should be well aware of the undesirable implication of such ventures.³⁵ These are clear violations of Afghan law by people who seemingly work for the stability and security of the state. The Afghan legal framework clearly mentions the eligibility of the entities that can apply for mining rights and contracts, however, the current project clearly violates the mineral law of the country.

2. The Legal Framework dealing with mineral license

The Mineral Law of Afghanistan under article 14 sub-section 2 states that: “The following individuals and entities are not eligible to obtain Mineral Rights: 1- High ranking state officials stipulated in Article 151 of the Constitution, members of the parliament, magistrates, attorneys, members of the Ministries of Mines, National Defence, Interior Affairs, Foreign Affairs, and the Security Services above grade three.”³⁶

The Mineral Law of Afghanistan is clear and it stops state officials from entering into mine exploitation, processing, transport and trade. And so it should be, because if state officials enter the realm of business it is in conflict with their official responsibilities and therefore may have negative repercussions for the citizens. Commander Noor Mohammad and his deputy leading a force of over 200 people are ineligible, according to the mineral law, to obtain a contract to upstream, mid-stream or down-stream mining activities so long as he and his team are on the state’s payroll.

It is morally corrupt and criminal to purchase illegally exploited state or individual assets especially when the buyer is a state agent deployed to restore or establish the rule of law. The management of the company (Afghan Wafadar) and MoMP know that those who extract chromite ore are not paying any royalty or taxes to the state. The Ministry of Mines knows about the illegal extraction of chromite from the Kunar province. It is a plunder of collective resources that belong to the many generations yet to come. If illegal extraction becomes commonplace in the country reversing it would be very difficult.

³⁵ *Op-cit* Afghanistan Independent Human Right Commission report on ALP.

³⁶ Mineral Law of Afghanistan (2010), Article 14, p. 16.

There are a number of actors involved in the trade of chromite. The actors range from Local traders, to government officials, insurgents and possibly transnational criminal syndicates to facilitate extraction, smuggling, trade and insurgency. In 2005, the Afghan Ministry of Mines and Industries indicated nearly 80% of all Afghan mines remained under the control of rogue commanders or people connected to organized crime, with some of these mines being controlled by non-state actors since 1992.³⁷ The illegal possession of mines has had an impact on conflict since the 1990s. The discovery of new sites bearing minerals across the country may lead to conflict over the possession of the minerals and spike a political debate over sharing the revenues from the sector. The mineral law is being seriously violated which affects the security of the citizens at the grassroots level.

³⁷“The Afghan Government has no Control over Mines,” *Pajhwok Afghan News*, April 14th, 2005.

3. Impact of ALP mining on Security and trade

This project being funded by the TFBSO may have a serious impact on security and trade. There are some important questions that arise as a result of the project. Why didn't the Taliban oppose the smuggling of chromite as long local population was involved? Were the smugglers paying a commission from their revenues to the insurgents earlier? How can ALP involvement in the natural resource business in Khas Kunar can bring stability and avoid violence? Will this case encourage ALP elsewhere to capture mines where they operate?

There are networks of individuals operating around each mine to facilitate smuggling. The final destination for the chromite ore is Karachi where it is refined and exported to China. Unofficial but reliable sources which sought anonymity said that roughly 1000 tons of chromite are smuggled out of different Afghanistan provinces every day. This report was authenticated by the Minister of Mines and Petroleum Mr. Waheedullah Shahrani.³⁸ The smuggling of chromite has been documented in the MoMP through a secret report commissioned by the current MoM leadership one year ago. Interviews with traders have revealed that some people operating outside Afghanistan encouraged the smuggling of chromite from Kunar and other provinces.³⁹

Local residents in Khas Kunar say people of the district living in close proximity to mines resorted to smuggling when the price of wheat increased and they could not afford to sustain themselves.⁴⁰ Local Taliban interrupted the smuggling of chromite by residents and traders from the region, through Mommand Dara which is on the Pakistani side of Durand Line.

It seems the Taliban were benefiting from the smuggling of chromite as long as local people were involved in the trade. Now, the areas which bear chromite ores are insecure and require a large force to secure the area for business.⁴¹ However, sources said extraction by local people continues and the ore is purchased by the Afghan Company Wafadar which belongs to Farhad the Deputy Commander.⁴²

The impact of this contract is not currently measureable because large scale extraction has stopped due to insecurity; however, if large-scale extraction and export resumes, there is a high likelihood of conflict erupting between the Mommand tribe and people from the Akhonzadas family of Kunar Khas. The ALP commander being an Akhonzadas may eventually secure the support of the coalition forces and of the Afghan National Security forces against the Mommand. The Mommand tribe is spread over a large geography both in Afghanistan and Pakistan. They are present both in Ningarhar and Kunar Provinces of Afghanistan in large numbers and in the Bajaur agency of Federal Tribal Agency on the Pakistani side of Durand Line.

³⁸ Wahidullah Shahrani during the EITI, MSG meeting on April 17th 2013 at Ministry of Finance.

³⁹ Author interview with a trader who sought anonymity, dated 10 June, 2012.

⁴⁰ Author's telephonic interview with a resident of Khas Kunar who did not want his name to be disclosed due to security reasons, dated Oct, 4th 2012.

⁴¹ *Ibid.*

⁴² Interview with a local resident who had seen the crusher three days back, dated Sept 4th, 2012.

The Mommand may follow the natural course to balance the power visa vis Noor Mohmmmand and Farhad led ALP or out manoeuvre the Akhonzadas. Or the Mommand may join the other ALP group led by Shams who belongs to the Momman tribe This may shape up as inter-clan conflict and stretch out for generations to come. The Mommand could also form armed opposition groups to oppose the current project in Khas Kunar and thus a new conflict may erupt which may benefit the insurgents and increase the cost of war for the Afghans and their coalition partners. The battle could force the Akhonzadas to organize themselves further or make alliances with other groups in the district or province to counter the threat from the Mommand. The use of dodgy characters imbedded in the ALP by the international military may further destabilize the security in rural areas and increase tensions. It may not only destabilize the region further but also increase for the state financially and in human life. The local population may also be exposed to conflict. This could open entry points for further interference and weaken the state rather than stabilizing the economy and reducing violence. Is this the outcome envisaged by the financier of the project The citizens in Khas Kunar feel more insecure as a result of the project which allows the ALP to get into mining where in the past, poor local artisanal miners extracted small amounts of chromite to survive. The project may see the ALP get richer and new interest groups could emerge and thus enter into a conflict increasing the possibility of greater instability.

Projects such as this one, no matter how well intentioned, may have a highly destabilizing impact if carried out without the consultation and consideration of local dynamics. It may create new fault lines among communities, Tribal systems, and networks which could ignite new conflicts at the district level. The situation may well be used by the Taliban to weaken the state further and thus the whole purpose for the creation of ALP to secure rural population will be seen as an costly mistake resulting in the ALP using force against local communities with impunity. The ALP have been accused of violence against vulnerable populations across the country and the unit in Khas Kunar is considered to be operating in the same brutal fashion.

4. ALP's Human Rights Record and Role in Stability

It is imperative to include the issue of human rights in these discussions as ALP have been accused of violations of human rights. The financiers of the project have been mandated to secure the population on the periphery of the provinces, but one unintended consequence is that their funds are going to violators of peoples' rights.

Though officially considered a unit of the police the ALP in reality operate with impunity and are accountable to no one. A senior member of the local administration in Khas Kunar said the ALP does not respect the local Woloswal or police chief.⁴³ The report by the Afghanistan Independent Human Right Council says "a large number of the ALP recruits have been formerly affiliated with civil-war-era commanders, arbitrary armed individuals, and arbakis. According to government authorities and influential community figures and people, arbakis and individuals affiliated with commanders have been recruited within the ALP structure in most areas. In some cases an entire clan or ethnic group forms the ALP with an intention to counter or bully other ethnic groups or clans. They have perpetrated violations of law and abuses of human rights in the past, including armed robbery, harassment of people, banditry, murder, abduction, and civil war, and people do not have a favourable memory of them."⁴⁴

The ALP are accused of treating local people inhumanely, individuals who have no mechanism with which to raise their voices against such treatment.⁴⁵ Some of the interviewees were scared of even talking about the ill-treatment they received from the ALP. One of the residents said, "We are concerned about our security because the last time the ALP in Khas Kunar arrested an innocent man and tortured him, he went to complain to the Woloswal (district governor) of Khas Kunar who simply told him that he is not in a position to help him on the issue because ALP does not listen to him".⁴⁶ Another resident who sought anonymity affirms that ALP men humiliated suspects in public places which he thought was a violation of the individual's dignity. The ALP have brought security to the district by what is deemed brute force. The ALP have also resorted to public beatings and the humiliation of suspected insurgents.⁴⁷

Interviews with local citizens in the Urgun district of Paktika, Kandahar and Kunar show that the ALP were formed out of individuals known to be the thugs. Most of the interviewees invariably said that the ALP are a bad force that is involved in human rights abuses such as arrests, tortures, and humiliation in public places. Respondents in focus group discussion on the role and effectiveness of the ALP commented that the force often resorts to extra-judicial measures to subdue the vulnerable local population.⁴⁸

⁴³ Interview by phone with local resident, who sought anonymity due to fear, dated Sept 20th, 2012.

⁴⁴ *Op-cit*, AIHRC report.

⁴⁵ Interview with local Malik who did not want his name to be mentioned, Oct, 3rd 2012.

⁴⁶ Interview with resident who sought anonymity, dated Oct. 1st, 2012.

⁴⁷ Interview by phone with a resident of Khas Kunar, who sought anonymity, dated Oct, 18th 2012.

⁴⁸ Author's focus group discussion with locals in Urgun and Arghandab dated 10 August, 2012.

5. Possible Scenarios and Analysis

Government officials and TFBSO officials have said that projects like these could help generate economic activity and thus secure the local population through alternative activities. However, Scenario discussions followed by analysis are an imperative exercise in the light of the findings of this report, as local traditions, dynamics and demographic realities may generate negative spin off situations.

It is a known fact that the creation of auxiliary security actors in 1980s parallel to the uniformed state security units to provide security did not work satisfactorily. A quick glimpse at the deeds of the ALP in Urgan district (Paktika province) and Uruzgan province, where innocent people have been harassed and women raped, are apt and sufficient examples that the force may be used for ethnic and political agendas by political figures both locally, and potentially for the central government.

The Soviet Security experts advised the communist regime led by Dr. Najibullah to create a security unit under the name of Qumi Ghond (tribal unit) to secure the periphery of the cities and provincial capital. Some of the units ran away with the weapons and others turned into monsters that devoured the system itself. General Dustam is one of the remaining warlords spawned from the fantasies of communist generals who stepped out of the box to secure the rural population by creating a larger and more violent actor. The move precisely matches an Afghan adage 'Appointing a cat to guard the pigeon'. Dustam is alleged to have violated human rights, committed war crimes and was part of the civil war in 1990s.⁴⁹ NATO and the international community have not learned the lessons of the past.

ALP may capture mines

The creation of Afghan Local Police by the Afghan and Coalition forces is a strategy similar to that used in the pursuit of security by the Communists, designed and implemented with the same tools. The lesson not learned from recent history may see the repeat of carnage and civil war of the 1990s, this time over the control of natural resources. The TFBSO have gone a step further by encouraging the ALP to process natural resources for their survival and sustainability. Certainly a dangerous precedent!

The ALP, is mostly seen as a predatory force, often end up being a source of harassment for the local population in their quest to bring security. Ethnic affiliation has affected the formation and behavior of the ALP. The ethnic makeup of the ALP can also cause ethnic divisions, whereby one ethnic group may capture the resources to make money and, in the process, marginalize others groups. Allowing an armed group to engage in processing minerals could breed resentment among other groups and thus draw more lines that usher in conflict.

The Afghan Local Police, in all probability, will enter into mine exploitation going forward and thus could become a monster just like others in the past. The ALP could expand to other mines and capture them

⁴⁹ McCarthy Rory, 2002, US Afghan ally 'tortured witnesses to his war crimes', The Guardian <http://www.guardian.co.uk/world/2002/nov/18/afghanistan.unitednations> (accessed on Nov. 21th 2012).

for exploitation creating a security hurdle for Afghan National Security Forces to deal with in the long run. The ALP in the mining sector could be a recipe for a new round of protracted social conflict which that manifests in massacres, ethnic cleansing, mass migration, anarchy, and at the least, local populations deprived of the economic benefits the mines can provide.

Mommand Tribe may react

The ALP in Khas Kunar have already been encroaching on the nearby mountains to capture the chromite and thus disturb the social order. The Mommand clan which earlier benefitted from the smuggling of chromite may side with Taliban to promote and protect their interest. They could use all their available options including siding with, or providing logistical support for, insurgent to fight the state and NATO. The Mommand may join hands with the Taliban to regain control of the Chromite mines in the district. The Taliban may offer protection in return for gaining the support of the Mommand. Or the Mommand may create a counter-force to ensure their interests remain intact. The stage is being set for Afghanistan to transition from a fragile state into a state of full blown war for resources among different ethnic and political groups.

TFBSO may continue to encourage such deals

If the TFBSO see the project as a success and fund more such projects in the rural part of Afghanistan, this could effectively nurture new warlords who will secure the rural areas, but in the long run they will likely turn into a corporate force seeking to control more mines. They could play a critical role in the decisions of the state, especially post 2014. Some people from the academic circles within the country have termed the rise of ALP funded mining projects to be very neo-colonial in design.

The arrival of the ALP and members of Parliament and Government officials into the mining sector may not strengthen the state or state institutions at all, especially in remote areas of country. Thus having the ALP engage in mine extraction and processing leads to more questions aimed at the rationale of allowing such an economic activity.

CONCLUSION AND PRESPECTIVE

The Natural Resource of Afghanistan belong to the Afghan citizens. The constitution appoints the state as the custodian to manage them for the larger and all inclusive benefit of Afghan citizens. The highest priority for the Afghan government and the international community is to take control of the mines as an over arching objective of extending the writ of the state beyond the urban centres. The ALP must be strictly prohibited from mining or processing minerals. The citizens who are over-awed by systemic corruption may not consider the state as savior during crisis. In the past 11 years of its presence the International Community has been spending billions of dollars to establish rule of law and extend the presence of the state among its citizens that are living on the margins.

The Mineral Law of Afghanistan in article 14 is clear about the eligibility of a person to extract or process natural resources and it prohibits state security actors among other agents from this business as it is predisposed to create room for a conflict of interests. It is a clear violation of the law by the TFBSO to enable local security agencies to extract from and process these mines. There is no formal agreement between the state and the processing company about royalties, taxes, surface rent or a social and environment impact assessment.⁵⁰

The coalition force may carry more such projects in insecure areas and thus seriously jeopardize the little semblance of order brought through human and financial cost in the last 11 years. Allowing the ALP to process mines amounts to outsourcing the war to ragtag opportunists who are extremely prone to insurgent and terrorist infiltration thus endangering the lives of both coalition and uniformed Afghan National Security forces in the battle ground.

“The ALP can be effective in providing security in a number of areas in the short run, but there is concern that in the long run the ALP can itself turn into a challenge for the rule of law and the authority of the government, causing further insecurity and human rights violations in communities”.⁵¹

If a military solution is pursued to put an end to insurgency then uniformed, recognized and accountable national security forces must fight the insurgents and they need to be paid from the national budget and not paid in kind. The TFBSO’s efforts and support are critical but they need to be careful about who they fund because it is Afghans who will bear the cost of their decision once they (International Military) wrap up their mission. The current ALP involvement in mine processing may reverse the state building process while making the resource curse irreversible. The project under study is in binary opposition to the international civilian efforts made to stabilize Afghanistan through political means.

Integrity Watch Afghanistan carried out advocacy with stakeholders in the government, especially within Ministries and Parliament. Subsequently the President of Afghanistan in the Cabinet meeting of the Ministers dated Feb 23rd 2013 instructed the Ministers of Interior and Mines to investigate ALP’s involvement in the chromite extraction in Khas Kunar. He asked them and their advisors to examine the situation and produce a report in the follow-up meeting.⁵² Integrity Watch monitored the events around the mining site and found out that the equipment that has been provided to ALP by the Task Force to process the extracted chromite was confiscated by the Afghan government. Farhad, the deputy ALP was also clearly told to stop his mining activities.

⁵⁰The list of contracts maintained by the Ministry of Mines in their website, Sept 2012 (www.mom.gov.af).

⁵¹*Op-cit* Afghanistan Independent Human Rights Commission report, 2012.

⁵²See in the annex 1: Minutes of the Cabinet Meeting of the Ministers of Islamic Republic of Afghanistan, Office of Administrative Affairs, Council of Ministers dated Feb, 23rd 2013.

ANNEXES

ANNEX 1: Minutes of the Cabinet Meetings of the Ministers of Islamic Republic of Afghanistan, 23rd February 2013.

Office of the Information and Public Relations Director

Islamic Republic of Afghanistan

Office of Administrative Affairs &

Council of Ministers Secretariat



Council of Ministers News

Session # 48, Saturday, February 23, 2013

Office of Administrative Affairs and Council of Ministers Secretariat reports that the extraordinary session of the Council of Ministers chaired by President of the Islamic Republic of Afghanistan Hamid Karzai was convened this morning at the Gul Khana Palace, Presidential Palace, and was commenced with the recitation of verses from the holy Quran.

Initially, the Council of Ministers discussed about the illegal mining activity in different provinces, particularly illegal extraction of chromite ores in Kunar. Given the significance and sensitivity of the issue, the ministers of mines and interior affairs were instructed to prepare a detailed report on illegal chromite mining in Kunar as soon as possible and to present it at the next meeting of the Council of Ministers.

According to the agenda, amendments to the draft mining legislation were proposed by the ministers of justice and mines, which were thoroughly reviewed based on the decision taken at the February 18, 2013 meeting of the Council of Ministers.

The Minister of Mines said that the initial amendments were added to the bill based on the instructions issued at the February 18, 2013 meeting of the Council of Ministers. However, due to urgency of the issue other additions will also be reviewed in the light of the discussions at the afore-mentioned session and a complete amendment package will be presented at the meeting as follows: this draft legislation which is comprised of 19 chapters and 112 provisions includes general provisions, duties and authorities, reserved and prohibited areas, awarding of contracts and operating licenses, regulation of fees, taxes and royalties, environmental protection, investment, infrastructures and miscellaneous provisions. This legislation has been drafted considering the objectives such as regulation of affairs pertaining to

development and efficient use of mineral resources, regulation and management in specialized exploration activities and exploitation of mineral resources, economic self-sufficiency of the country through development of the mining sector, sustainable development of mineral resources, ensuring development and management of mineral resources in accordance with the best international practices, creation of an investment-friendly environment and support for peace and stability efforts through the development of socio-economic activities in the country.

In continuation of the previous week's meeting, the council of ministers termed 'the Minerals Law' one of the valuable and important laws in the economic, social and political life of the country and approved it in principle.

The Council of ministers directed the ministries of justice and mines to ensure that there were serious and necessary guarantees in the law to prevent misuse of the country's mineral resources, that the law should be drafted based on the principle of allowing general bidding in all forms of contracts and giving importance to only licenses and legal documents. The ministerial council also instructed that restricted bidding, impractical reforms and unnecessary deadlines should be removed from the law and that the final reformed draft should be submitted to them for approval after thorough discussion and consultation on the distinction between exploration and exploitation licenses, conditions for the transfer of mining rights, secondary evaluation of the findings of exploration process, essential definitions for determining the mine's size, reserved sites and their authority to sign contracts and particularly on the provisions 16, 19 and 54 of the Minerals Law.

At the end of the meeting, the Justice Minister presented a draft recommendation for modification and increment in some of the provisions of the regulation related to the salaries and benefits of cadres of medical experts based on the decision taken at the 31/12/2012 meeting of the ministerial council. The minister added that this regulation had been approved for implementation in the year 2001 but due to some shortcomings and flaws some amendments have been made to it and after the approval of the Cabinet Legislation Committee it will be sent forward for the cabinet's approval.

After a detailed discussion the draft for amendments to the regulations governing salaries and benefits of the cadres of medical experts was approved by the council of ministers.

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