

E-PAPER

Legacies of conflict:

Local peacebuilding
in now

Taliban-controlled
Afghanistan

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Acronyms and glossary

ALP	Afghan Local Police
ANP	Afghan National Police
IEA	Islamic Emirate of Afghanistan
Muhammad Rasulian	Militia under command of M M Rasul
Mann	A unit of measurement, roughly equal to 4.5 kg (in southern Afghanistan)
NDS	National Directorate of Security
Sangurayan	Militia under NDS
TDR	Traditional dispute resolution

Executive Summary

Seventeen months after the Taliban takeover of Afghanistan on 15 August 2021, little has been done to address local level grievances and disputes that have fuelled decades of conflict. This report, based on field research conducted from October 2021 to March 2022 in Helmand province, strongly argues that these grievances risk erupting into renewed violence and further destabilising the country.

Shortly after taking control of the country in August 2021, the Taliban granted a General Amnesty, hereby they guaranteed the safety of former Republic officials and members of the security forces. Yet that much proclaimed General Amnesty has fallen short of the Taliban's promises. Many former officials and soldiers have been forcibly disappeared or killed, while others face harassment and live in constant fear.

Moreover, the General Amnesty has not addressed the roots of personal and communal grievances that have helped drive the conflict for decades. Nearly everyone has suffered or experienced loss in the twenty years from 2001-2021 during which the Taliban, the Afghan Government and the foreign forces were in conflict, particularly in places like Helmand where the violence was prolonged and the fighting intense. Accurate casualty figures are hard to come by, but our research suggests that between 450,000 and 550,000 individuals were killed and injured in Helmand alone during the two decades of conflict from 2001 to 2021. Further complicating matters is the fact that there are few clear dividing lines between victims and perpetrators. Many of those who have suffered have also played an active role in the conflict, either on the side of the former Republic government forces or when siding with the Taliban insurgency.

Afghans are unlikely to simply forget the harm and pain they have experienced. Unresolved grievances risk fuelling community tensions and erupting into more violence, particularly harassment and revenge killings. More than a half of those interviewed in Helmand – whether they were Taliban, former Republic officials, former Republic security forces or ordinary civilians – said that they wanted to take revenge for the harm done to them.

Beyond the General Amnesty meant to avert immediate reprisals and revenge killing, the Taliban have demonstrated little interest in or understanding for the need for a transitional justice and accountability mechanism that could sustainably address grievances in the long run. Yet also urgent action must be taken to address the already festering tensions.

This paper suggests several elements of a possible approach to addressing the grievances in a practical and holistic manner. Despite the less prominent role of traditional district mechanisms in Helmand and other provinces now, enlisting traditional dispute mechanisms in order to address community disputes and elicit local Taliban buy-in still remain one of the possible important approaches. While the solutions can only be driven by local actors,

the report concludes by outlining important actions that the civil society, NGOs and international donors can take to support local dispute resolution are also needed. Hence the traditional dispute mechanism could work with other bodies such as NGOs, the UN and the de facto authorities in some capacities. Any traditional justice mechanism does not only need to be accepted by the local communities but also needs to have the buy-in from local Taliban authorities who have in the past been reticent to empower tribal elders and the mechanisms associated with them. Given the numbers surrounding the claims related to General Amnesty failures, it might also be a challenge for the Taliban leadership to not only warm up to the concept of transitional justice but to also gain acceptance for it from the Taliban foot-soldiers who are already hardly being convinced to implement the General Amnesty. Acknowledging the increasing tensions as the General Amnesty provisions have been more often violated in 2022; a quick intervention mechanism jointly driven by the Taliban and the local community members could prevent the escalation if any local conflicts and at the same time help reinforce the General Amnesty. Lastly, in addition to sequencing of interventions to ensure trust building and by applying a combination of community and individual focused approaches, even local consultations, voicing of grievances and forgiveness ceremonies akin to truth commissions could be considered.

While the Taliban might have realized the need to go beyond the General Amnesty to address local grievances against them, against Republic era government and security officials and other community members, they are struggling to understand what options there are for mechanisms to contribute to a broad progress addressing the past.

1. Introduction

Over the two decades since 2001 and with the Taliban's return to power, complex grievances exist at every level of Afghan society, and within each side of the conflict, from ordinary residents to Taliban and government officials, both on the civilian and military sides. Decades of conflict have sown seeds of hatred and distrust among local communities. All sides have committed innumerable atrocities, which have fuelled thousands of inter-communal and individual disputes across Afghanistan, hardly sparing any community. For those harmed in the decades of conflict in Afghanistan, justice is an incredibly difficult goal to attain. This is especially true given the diverse set of actors, the plethora of deep-rooted grievances and the lack of both formal and state-affiliated efforts to address these issues, and the absence of empowered accepted traditional or religious mechanisms.

Part of the problem is the intimate and proximate nature of the violence. In the provinces most affected by violence, individuals fighting in the conflict have been neighbours or those with at least shared connections to the same communities or tribes. A not uncommon scenario in Helmand would have, one neighbour joining the Taliban, while another joining the government, and a third one being a contractor or employee of the international security forces in the same location. Conflicts over land, resources or other issues played out through the insurgency, with displacement, retribution and revenge driving the cycle of violence at the local level.

This study explores the need for local peacebuilding and conflict resolution in the post-August 2021 Taliban takeover of Afghanistan era. Based on 42 semi-structured and another 900 structured interviews, this paper examines the nature of these intertwined dynamics in Helmand province, which experienced some of the highest levels of violence during the past two decades of conflict:

- 1.4 million is the total population of Helmand¹
- The number of deaths during the last 20 years for the entire province is approximately equal to the sum of those in 15 other provinces combined, according to Taliban officials².

1 <https://www.nsia.gov.af:8080/wp-content/uploads/2021/06/Estimated-Population-of-Afghanistan1-1400.pdf>

2 Sayed Ahamd Selab interview with Dw tv/Facebook live, Former Member of Afghan parliament, Dw, 4 February 2022

- Locals estimate the total figure of individuals killed and injured to be around 450,000 to 550,000³ across Helmand province.
- The Surgical Centre for War Casualties in Lashkar Gah, alone, has reported that it has treated 195,938 patients⁴ in its outpatient department since 2004.⁵
- Around 90 per cent of those interviewed for this study said they were detained, harassed, or otherwise disrespected/ their dignity violated by members of the former Afghan government security forces, the Taliban, and/or international security forces.

Little has been done to address the suffering of those victimised or deal with the local legacies of the conflict. This has led to festering grievances and the potential for continued violence within and among communities. Of the 942 people interviewed:

- 68 per cent of those who were Taliban members said they would eventually seek justice in the form of revenge or by bringing a person to justice (i.e., filing a claim in a Taliban court).
- 42 per cent of civilians said they wanted revenge for harm done to them.
- 59 per cent of former government officials or their relatives, many who lost family members during the last 20 years, said that they would seek their rights in the form of revenge or seek justice however and whenever they get the chance.

After exploring the Taliban government's efforts to deal with grievances, the study examines what else can be done to address local drivers of conflict. It looks at the role of local Islamic Emirate of Afghanistan (IEA) officials, as well as religious actors and traditional authorities in potentially supporting community dispute resolution. It is apparent that the status quo cannot be sustained, given that unaddressed grievances and resulting tensions are heading to a boiling point in many communities. Attention to the need for local peace-building initiatives is urgently required.

3 Please see methodology for this number

4 <https://en.emergency.it/projects/afghanistan-lashkar-gah-surgical-centre/>

5 This number includes Taliban, Afghan government officials — both in the civilian and military/ security sector — as well as civilians treated there. Overall casualty figures for the province are, however, likely to be even higher given that not all victims were just treated in the outpatient department and that victims were also treated in other private and public medical facilities. The number provided by the Surgical Centre for War Casualties does not, however, account for the thousands of cases involving detention, beatings, and harassment that have also caused grievances — on all sides — over the last 20 years.

1.1 Methodology

These findings are based on fieldwork undertaken in Helmand, where a total of 942 interviews were conducted. This included 42 in-depth semi-structured interviews from Gereshk district of Helmand province. The remaining 900 interviews were structured in form, conducted with the local community members either via telephone or in-person across three districts of Helmand (Gereshk, Marja, and Nadali), primarily to help establish an estimate of the number of people killed or detained in these areas during the last 20 years.

To estimate this figure, the study considered the number of villages in three districts of Helmand province, where people in the larger villages in each district were asked to estimate and recount how many casualties had occurred in these communities in the last 20 years. Based on this information, the study then calculated the estimated number of cases for the entire area. Challenges to this approach included the potential accidental omission of some villages and the associated casualty numbers. It also became noticeable that often community members did not accurately remember who had been lost and injured in the early years of insurgency. In fact, in some cases, interviewees from larger villages also forgot to mention individuals killed or injured even just in the past five years. To minimise these instances, some of the interlocutors were contacted twice, once as a follow-up, to ensure that the study was aware even of victims unaccounted for during the initial interview phase.⁶

6 During the early period of the conflict with the Taliban just re-emerging from around 2001-2007, with Helmand being one of the first placed with Taliban insurgency manifesting, there was no official counting of civilian casualties by the UN or other entities.

2. Multi-dimensional grievances

In Helmand, the nature of grievances is complex and varied. They do not arise simply from the preceding two decades of war post-2001, but some stretched back further in time. Disputes over land and resources comingle with previous experiences of violence, victimisation, harassment, exclusion and frustrated expectations. This has divided local communities and created fragmented perceptions of the war, who has suffered most and who should be held responsible. At some level, nearly everyone has suffered directly or indirectly from the violence. At the same time, many of those who have been harmed have also caused harm to others. There are few neat dividing lines between victims and perpetrators.

Many personal or community-level conflicts are also difficult to judge based on evidence alone. Particularly when it comes to land conflicts or debts, lack of written proof or documentation and evidence further complicates these cases. In some cases, there may be competing documentation (i.e., land deeds issued by different governments). Many are reduced to hearsay. Justice will not be a simple matter of deciding who is right or wrong, but finding a solution that is seen as fair and ultimately supports healing and social harmony.

This chapter looks at some of the grievances and divergent narratives around the conflict that are fueling tensions. In assessing the best way to address these drivers of conflict, it is important to first understand the varied experiences and perspectives of those involved.

2.1 Taliban, their families and their communities

Helmand Taliban and their families felt that they were attacked from all sides during the past 20 years. They felt that they had been treated unfairly. Their grievances were typically complicated and varied. Some claimed that their properties were taken over, and people were arrested, disrespected, and harassed or their family members killed and made to disappear as well. While they identified themselves as victims, they also saw themselves as victors – now able to lodge claims against those who had harmed them, because they were on the winning side in the war. Many viewed it as a chance to get what had been taken from them or never given to them by the former Republic government and others.

In one case, a Taliban fighter named Abdul⁷ accused the police force in Nekozo of mistreating his family, kicking them out of their home, beating members of the family, and stealing property, including motorcycles and fruits, from their orchards. One villager familiar with

7 Pseudonym assigned for security reasons

the case said that “Abdul is waiting for his chance to arrest them [the police] to get his revenge.”⁸ Abdul wants not only compensation, but an acknowledgement of the harm done to him and his family. While some smaller grievances might seem trivial in terms of monetary reward, compensation is symbolic in cementing the acknowledgement of wrong done and plays a restorative role.

Some individuals and families have multiple grievances to be settled. Khirullah⁹, said two of his sons and a nephew had been killed by the Afghan security forces. One son was killed taking part in a Taliban assault on a police check-post in Gereshk. His son’s body was left on the battlefield and later the forces dragged his body behind a police vehicle through a bazaar and his eyes were gouged out. Khirullah accused the then chief of police, Haji Khan, of being responsible, or at the very least of tolerating this disrespect. Khirullah also accused Sayed Ahmad, a National Directorate of Security (NDS) officer, and other soldiers of raiding his house multiple times. He said they took 3 Mann [1 Mann is equal to 4.5 kg] of opium and an old English Enfield gun that Khirullah used to protect his family and property. Khirullah is demanding these items be returned. He said he approached Taliban officials several times about these claims but they claimed they could not act because of the General Amnesty.

For Taliban fighters who have grievances, this puts them in the difficult position of respecting the General Amnesty declared by the Taliban post-August 2021, they do not personally feel is right. One Taliban fighter talked about how an Afghan Local Police (ALP) commander looted his house and beat his family members up. “Those policemen are alive, they live in Nikozu village, and I see them from time to time,” he said. “Now that the Emirate announced that none of the Taliban can go after [them], we cannot say anything to them because the Emirate would get upset... if the Emirate doesn’t say anything, I will get them — get my phones, my motorcycle, and my money from them. Yes, I will take my revenge.”¹⁰

There is also a sense that the cumulative harassment and violence that individuals experienced over the past two decades – rather than any one event – drives much of the anger and desire for revenge. Talking about this everyday violence, one Taliban fighter said, “Dad Muhammad’s¹¹ son and Gul’s¹² sons [policemen] had given a lot of difficult times to our [Taliban] families. They twice arrested me, took me to their check-post, they [policemen] beat me up, took my phone. They beat my brother up a couple of times, too.”¹³ A family member of a Taliban fighter listed a catalogue of harmful events: “A bomb exploded close

8 Interview with tribal elder, Helmand Province, 9 December 2021

9 Pseudonym assigned for security reasons

10 Interview with Taliban fighter, Helmand province, 20 December 2021

11 Pseudonym assigned for security reasons

12 Pseudonym assigned for security reasons

13 Interview with Tribal elder, Helmand Province, 21 December 2021

to our house, these policemen searched our house, took even our women's phones, and also took a sheep with them, so how can we forget these things?"¹⁴

14 Interview with Taliban family member, Helmand Province, 20 December 2021

3. Former government officials and security forces

Many commanders and soldiers from the former Republic interviewed also find it difficult to accept the General Amnesty, especially those who lost family members in the fight against the Taliban. Few have brought their claims to the Taliban, likely due to concerns about their security and how they would be treated by Taliban officials. But for many interviewed, their biggest fear is that they will not be safe in the long run.

Some have heard that the Taliban, relatives of the Taliban, or others want to exact revenge upon or to get compensation from them. Rumours and uncertainty fuel fear and suspicion. Former government officials, those who are perceived as working with foreign actors (notably US and UK military forces, and associated contractors as well as some NGOs) and their family members perceive themselves to be trapped: They have neither weapons to protect themselves (as many were forced to surrender them to the Taliban) nor any trustworthy guarantee of protection. They complain that there is no proper system to protect them. The general air of mistrust has increased over time, with tensions within the Taliban and an observable decline in command and control reinforcing these fears. The Taliban's failure to address deep-rooted grievances on a broader scale has also fed suspicion that they have no intention of genuinely allowing former government officials and security forces to live in peace.

Some key ex-government officials and soldiers have left their local areas to avoid problems amidst the new local power dynamics, although hundreds stayed behind. They face varying levels of fear, suspicion and direct threats. Those who left also left families behind. Only a few left with their entire family, taking them either abroad, or elsewhere inside the country. Samad¹⁵, who lost three sons fighting the Taliban in Afghan National Defence and Security Forces (ANDSF) ranks, fled from Gereshk because he feared the Taliban or their relatives might exact revenge. Even though the Taliban did not openly say anything, his relatives¹⁶ said that they received threats from the Taliban.

Many among this group also suffered from Taliban violence and they believe that they know the individuals who are responsible. Despite being surrounded by the Taliban, they still talk of revenge, similar to how the Taliban talk of revenge against many of them.

15 Pseudonym assigned for security reasons

16 Interview with elder, Helmand Province, 4 January 2022

Former ALP commander Dad Muhammad said his son was killed in an IED attack. He believed the attack was orchestrated by the sons of W. Akaa of Gereshk district¹⁷.

Both fathers see each other often. Because W. Akaa's three sons are in the Taliban, Dad Muhammad said he had not yet been able to do anything. "I lost six sons in the government [fighting for the Republic government], these three grandsons will stand against the Taliban and take revenge for their fathers," he said. "When I know that the Talibs are dead, my heart is so cold and happy because they killed my six sons."¹⁸

Many of these accounts are deeply personal, where relatives know and regularly encounter those that had killed their loved ones. Nematullah¹⁹, talked about how one of his sons, a police officer, was killed by the nephew of someone he knew. His other son was killed by a known Taliban commander. Both the accused killers are still with the local Taliban government. "I am now praying that Allah gives me life until I take revenge for my sons," he said. Tahir Khan²⁰, described how the Taliban gunned down his son, then visiting on leave from the security forces, at his home. "I know the killer of my son," he said. "He was a Talib then and he's a Talib now. But right now, we do not have the ability to deal with him. If such a time comes, when there is no Taliban, then I will settle my score with him."²¹

Many have multiple family members killed by the Taliban. Haji Gul Muhammad said five of his sons were killed fighting the Taliban in Helmand with different parts of the Republic security forces. Haji Gul Muhammad now has only two grandchildren left from his eldest son. He fought the Taliban until Gereshk district collapsed to the Taliban in late August 2021, and vowed to take revenge.²²As in Haji Gul Muhammad's case, many of these individuals still fear the Taliban. Gul regularly receives threats from the members of the Taliban who live in the same village. He sees little chance of resolving these issues peacefully. "I really hate them, so much that I do not go to the bazaar because when I see them in the former government's Rangers [vehicles], it hurts me more than someone attacking my honour."²³ He added that "sometimes when I see them, I am reminded of my sons, and then my situation gets really worse."²⁴

Safar Muhammad Aka, a respected tribal elder, fought against the Taliban during the war. He was later killed and much of his family fled to the capital of Lashkargar, the then-government-controlled provincial capital. Safar Muhammad Aka's family have lost many of

17 Interview with Tribal Elder, Helmand Province, 13 October 2021

18 Interview with Dad Muhammad, former ALP commander, Helmand Province, 13 October 2021

19 Pseudonym assigned for security reasons

20 Pseudonym assigned for security reasons

21 Interview with father of ANP killed by Taliban, Helmand Province, 2 October 2021

22 Interview with Haji Gul Muhammad, father of five sons who were killed in fighting with Taliban in Helmand Province, and member of Afghan Security Forces, Helmand Province, 23 October 2021

23 Interview with Haji Gul Muhammad, Helmand Province, 17 November 2021

24 Interview with Haji Gul Muhammad, Helmand Province, 16 November 2021

their loved ones to the Taliban, and he and his men killed many Taliban fighters. Since the Taliban takeover, some of his family members have returned but are afraid of what the Taliban will eventually do to them. They try to avoid the Taliban, but won't be able to do that forever.

Some former security force members are being threatened by both the Taliban and civilians. Kamal Aka, a former ALP commander, fears both. After the fall of the Republic, the Taliban detained him for a couple of hours before releasing him. But many people lost their loved ones to Kamal's forces, or were detained, beaten and harassed by them. "They would not let them [Kamal Aka and his brother, Khaksar] go but they have not done anything practical," said a person in the village.²⁵ Another said that "people from the village next to our village said that Kamal Aka and his brother Khaksar should be stoned to death because he killed our people".²⁶ — 'Our people' refers to the Taliban killed in combat against Kamal Aka. The only option left for Kamal Aka and his family was to try to avoid these people.²⁷

In another case, the sons of a man named Zia²⁸ were well known for committing crimes while serving in the security forces. An elder from the area noted that "the sons of Zia caused a lot of trouble to the people of Malgir during the previous regime and beat the people up. So the people of Malgir hate them because they are very cruel boys."²⁹ Zia's sons cannot move freely in the district or province anymore as they are concerned that their past victims might hurt them, seeking retribution. They do not go to the bazaar or any areas where many people might target them. In such a scenario, it is unlikely that the Taliban would interfere or subsequently punish locals for attacking former members of the Republic security forces. This situation — the Taliban's declaration of an amnesty without a proper system to deal with grievances — has put people like this in a very precarious situation: Not only might they be targeted by the Taliban for their service in the security forces, but also by the local population seeking to take revenge.

3.1 Civilians and wider communities

This research recorded dozens of cases where civilians went to the Taliban to seek help settling their grievances but were turned away. This leaves yet another group of people, caught up in the war over the past 20 years, without any way to address their grievances satisfactorily. But in many villages, the community is polarised between winners and losers:

25 Interview with villager (from neighbouring village), 12 November 2021

26 Interview with villager, Helmand Province, 12 November 2021

27 Interview with Tribal elder, Helmand Province, 18 November 2021

28 Pseudonym assigned for security reasons

29 Interview with local elder, Helmand Province, 28 October 2021

Those who are seen as being with the Taliban, and those who are seen as being with the former government.

Nekozo-Malgir, a village located between Spin Masjid and Ab Pashak, alongside the Boughra canal in Gereshk district, clearly illustrates these dynamics. During the Republic government era, most of the young men took jobs in the Afghan National Police (ANP), ALP, and the rest in the paramilitary militias such as Sangorian, Muhammad Rasulian and others. A few, however, joined the insurgency.

By the time the Taliban took over last August, some 64 people, who were working for either the former Afghan government or the Taliban, had been killed or injured in Nekozo village alone. There are very few households that have not lost someone in the fighting. Some families lost two or three family members, many of them young men.

In Nekozo, there were three well known families affiliated with the Taliban – Nazar, Shafi and Ahmadullah. Nazar's three sons, who were in the Taliban, were killed; Shafi's two sons in the Taliban were killed; and Ahmadullah's two sons were killed. One of Nazar's sons, Abdul Abdul Khaliq, who is still in the Taliban, said that "we have been harassed by, and suffered a lot from, the Nekozo soldiers [referring to those who joined the police from Nekozo village]; they [the Nekozo police or militia] have searched our houses so many times and arrested us many times. We couldn't have guests because at night they would come and beat us up and the guests, because we are Taliban."³⁰ Members of these three families fled the village at different times, going deep into Taliban-controlled areas until the Taliban takeover. While they acknowledge that "now that the Taliban regime has come, they have pardoned all government soldiers [Republic security forces]," they do not appear to believe that this applies to their personal animosities.

On the other side of these tensions are those who sided or fought with the former government. Haji Ataullah is a village leader and former jihadi commander during the time of the Soviet Union's invasion and the civil war. During the Republic, Haji Ataullah joined the Afghan Local Police. Currently, he has no job and lives in his village. Three of his sons were killed; two were police, and one was with ALP. When asked about his situation under the Taliban government, he said:

They had searched our house, and my house has not been searched by the Americans until this day. And they searched, and, on the day that I surrendered, a Taliban told me that "Haji Sahib [a respected term used for older people] now you are freed from the bondage of infidels" ... it really hurt me. When I came home, the Taliban came to me [again] that evening and told me to hand in my weapons. I told them that I had already submitted them to the commission. The Taliban said "no, we are asking for other weapons you have hidden," so I told them there were no other weapons. One of the Taliban slapped me hard. The Taliban threatened me, to go and get the weapons. I told them even if you want to kill me, there are no more weapons. Then

30 Interview with tribal elder, Helmand Province, 23 November 2021

they left.³¹

Asked about how he will live with the Taliban in power, he laughed and said, „My three sons have been killed by them, so how can an enemy get along with his enemy? So how would I get along with them?“ He added, “If the day comes when they are going, and another government comes, then we will see again.” To summarise: Haji Ataullah is a fierce opponent of the Taliban, and if a time comes, which leads to the fall of the Taliban regime, he will take revenge against the Taliban for his sons’ deaths.

31 Interview with Haji Ataullah, Commander, Helmand Province, 12 November 2021

4. Taliban's Effort

4.1 The Taliban's General Amnesty

The Taliban has done relatively little to address the legacies of conflict at the local level. The only major policy they have announced is the General Amnesty. Declared just after the Taliban took control of the country on 15 August 2021, the General Amnesty theoretically applies to all those who worked with or sided with the Afghan government and international community in a military/ security or a civilian capacity. The Taliban directed members of Afghan security forces to register with them and surrender their weapons to receive a letter guaranteeing their safety. The General Amnesty seemed to be driven by practical concerns, to prevent revenge killing and general disorder. At the same time as announcing the blanket amnesty, IEA authorities urged former government officials to return to work – ostensibly to prevent the government from collapsing.

An amnesty was specifically announced in Helmand on 13 August 2021, before the national General Amnesty was even proclaimed, through social media, mosques and directly to local communities. The General Amnesty had some important impact in Helmand, at least in the short term. Interviewees suggested that the General Amnesty announcement prevented much of the population from immediately seeking revenge. It also sent an important signal to its Taliban commanders and troops on the ground to refrain from taking advantage of their new powers.

There were however several shortcomings. Interviewees talked about how the IEA's statements did not specify which kinds of offences or abuses were pardoned, which created some ambiguity at the local level (i.e., where people who had not committed serious crimes were pardoned, or whether it applied even to alleged war crimes or abuses). People also complained that the General Amnesty did not connect to any local mechanism that would allow it to address grievances more holistically.

Moreover, the General Amnesty was not consistently upheld or enforced. The United Nations Assistance Mission in Afghanistan (UNAMA)'s human rights report recorded at least 160 countrywide extrajudicial killings of former government and security officials by IEA authorities between 15 August 2021 and 15 June 2022.³² In a separate investigation, Human Rights Watch documented the enforced disappearance of 47 former members of

32 <https://unama.unmissions.org/un-releases-report-human-rights-afghanistan-taliban-takeover>

the Afghan security forces.³³ In Helmand, our research uncovered 45 cases of disappearance, detention and arrest through the end of 2021 in Gereshk and Nadali districts alone.

For people interviewed in Helmand, the General Amnesty was viewed as functioning more like a short-term truce, merely pausing the potential violence. While the General Amnesty was aimed at preventing people from acting on their grievances against former officials, it did not address the roots of the grievances on all sides. Of the former government officials, employees of the international actors (US, UK military and contractors) and their families interviewed, over 90 per cent considered themselves to still be in danger. For many, it has been difficult to accept the Taliban's announcement that they will provide amnesty regardless of the nature of disputes existing within communities. This also means that under the General Amnesty, civilians who have grievances and cases against former government officials, or against other civilians who were aligned with the Taliban or government, have not been able to seek redress.

While they may not openly admit it, the national and local Taliban leadership seems to understand that the General Amnesty is little more than a political gesture that does not solve the actual grievances on the ground. The Taliban's numerous statements reiterating the General Amnesty seem to tacitly acknowledge that the General Amnesty would not, or could not, address the deeply rooted and complex nature of grievances.

Those interviewed also seemed to be aware of the problems this would likely create in the future as a Taliban local commander said:

There are many civilians and Taliban that have been hurt by the [former government] soldiers. Now, these former soldiers still live here, walk around, and these civilians and Taliban cannot say anything to them, because the Emirate has forgiven them [meaning the General Amnesty]. Yet these people will not forgive them. Right now, they do not say anything [because of the amnesty], in the end, they [civilians and Taliban] will surround them [the former Republic security forces]. At that time, no one will listen to the order of the Emirate.³⁴

4.2 The Taliban courts and authorities

According to people interviewed, the Taliban have also suggested that people can take some claims – particularly those pertaining to debts – to the Taliban courts. So far, in several large cases, communities have petitioned against former government officials and those who worked for international security forces. However, people said that the Taliban has reportedly not yet cooperated with the petitioners on these claims. While dozens of people

33 <https://www.hrw.org/report/2021/11/30/no-forgiveness-people-you/executions-and-enforced-disappearances-afghanistan>

34 Interview with Taliban Commander, Helmand Province, 17 December 2021

have filed claims in Gereshk, Nadali and elsewhere, the Taliban have not registered most of them yet. This may be because the Taliban courts do not perceive it as their responsibility. It may also be because those in the Taliban courts have other priorities and not enough time or capacity to deal with these claims. The Taliban are struggling to reform the formal justice sector to include their judges, and at the same time to review and reform the laws from the Republic era.

After the fall of the Republic on 15 August 2021, hundreds of people across Helmand registered petitions or approached Taliban officials to act against the former government officials. Local Taliban officials frequently rejected these cases because the IEA had issued a General Amnesty, telling petitioners that the issue needed to be dropped. But plaintiffs, mostly Taliban fighters, commanders or their family members were frustrated with this and many still attempted to press their claims.

One such petitioner was seeking justice for the loss of his son, who, he said, was murdered by the local police chief, Haji Qadus. "I am compelled now to either kill Haji Qadus or his son or Haji Qadus needs to resolve the problem with me because he killed my son who had no contacts with the Taliban," he said, adding, "I want to resolve the dispute with Haji Qadus peacefully, but if people do not intervene, I may react."³⁵

The fact that forces – ALP, militias such as Sangurain and Muhammad Rasulian, and most of the ANP – who were recruited locally has amplified tensions (as opposed to the Afghan army, which was often deployed from elsewhere). The thinking at the time of the Republic was to recruit people from local communities because they could easily recognise locals affiliated with the Taliban or outsiders who might be Taliban. But this also means that they are easily recognisable to their communities now that the Taliban has won. Some of these local actors abused their authority, with harassment and extortion at checkpoints being common.

One notorious militia checkpoint commander, Muti, was later arrested by the Taliban for harassing, extorting and beating civilians during the war. After the Taliban took power, he was then pressured to pay some money to those who had suffered as a form of compensation. The Taliban commanded that no one should harm Muti, but the measures they took to extract compensation from him were seen as insufficient as hundreds of people claimed to have suffered at the hands of this commander but not all received compensation.

Arguably special courts or some other mechanism would be needed to address these issues within the Taliban system, which are however so far not yet envisioned by the Taliban. Nevertheless, the lack of a proper mechanism to address these grievances has created a difficult situation for Taliban officials at the local level. They face pressure from the people to support cases against former Republic officials and soldiers – in violation of the General Amnesty. If they do not support these cases, they fear that they will lose the cooperation

35 Interview with tribal elder, Helmand Province, 27 November 2021

and support of the local population and even their most ardent supporters and fighters. Some fear that people will take the law into their own hands, and the Taliban will then have to deal with the consequences.

In general, there is a sense among those interviewed that the Taliban is not well equipped and possibly also not ready to go beyond the amnesty. It is clear that the de facto government does not have the capacity right now to investigate the myriad local grievances in places like Helmand and undoubtedly elsewhere, nor will they be likely to be in that position in the (near) future. And arguably, the Taliban is not best placed to act neutrally, particularly if their fighters are accused of wrongdoing.

5. Addressing grievances

There is a clear need to address local tensions before they erupt into widespread violence and human rights violations. Dozens of people have already disappeared, and local level acts of violence are likely to escalate in the absence of any effort to address the problem. The question is what kind of mechanisms and approaches might work amid such complex circumstances.

Before discussing what should be done to address the present situation, there are numerous challenges and constraints to consider:

- Many of these tensions are **deep-rooted and historical**. These disputes, conflicts, tensions and problems have personal, emotional, political, social, and financial drivers and have often been festering over many years. Any grievance or justice framework would therefore need to consider all these aspects, to get them right the first time around – as expectations for a comprehensive approach are high.
- The Taliban government seem, at present, **uninterested** in such efforts, and Taliban officials have played their role in disappearances and retribution (despite the General Amnesty). At the same time, the **IEA would likely insist on controlling any such efforts**, were they to be undertaken. The problem is the Taliban do not acknowledge— and would not want to allow others to acknowledge — their part of the conflict to be put on the table and exposed to equal scrutiny, nor to be open to criticism and treated like all the other actors in the conflict
- The conflict has **undermined social cohesion and trust** in the institutions required to address these grievances. Division and fragmentation have increased on the national and local levels. Grievance mechanisms need to be anchored in society. But with the many changes that have taken place over the years, and how far back grievances reach, it will be a particular challenge to get the scope right and to find actors/processes that are effective and acceptable. Buy-in and trust-building are essential components, and these will take time.
- The repeated trauma and **complex interpersonal and community dynamics cannot simply be addressed on a case-by-case basis**. They appear to only be addressable via a genuine reconciliation mechanism where affected people and perpetrators can face each other, victims can articulate forgiveness on their own terms, and situations can be later monitored by the local communities.
- **Traditional dispute resolution (TDR) mechanisms in Helmand are weak and fractured**. They are unlikely to be able to address these grievances at present. Many of the traditionally skilled elders have either died or been killed. Most of those who are alive no longer have much influence; during the conflict they were seen to side with either the Afghan government or the Taliban, and are not viewed as impartial.

In addition, the Taliban typically do not allow the local traditional systems to be used to resolve disputes unless they expressly delegate them to do so. The very few elders that have maintained neutrality are reluctant to involve themselves in issues that are hard to resolve and could jeopardise their position and safety.

A perfect solution does not exist, but that should not stand in the way of efforts to try to achieve some level of social harmony and a sense of collective security. What is clear is that the approach should be comprehensive and inclusive. Moving ahead with an approach that excludes, either deliberately or unintentionally, parties to the conflict or tensions will only distort the process and deter the involvement of key actors within a community. It also needs to be tailored to local dynamics.

Our research in Helmand underscored how varied the nature of grievances was across different families and communities. This suggests that there is a need to develop a mechanism or mechanisms at the local level to deal with the legacies of the conflict (rather than a blanket policy, as with the General Amnesty). Local drivers of tension and conflict differ widely and so any effort must be adaptable to local dynamics (as opposed to a centralised effort). Local actors might also better understand the challenges and opportunities to address these grievances in more depth compared to any blanket or central level effort.

Ultimately, it is not — and cannot be — about who is wrong and who is right. A grievance or justice system with the right set-up would prevent a one-sided, state-run investigation and punishment to stop people from taking the law into their own hands by attacking or intimidating those who served in the former Republic and yet fail to address the issue all the same.

5.1 Potential approaches and elements to consider

Our research strongly indicates that Afghans need a third party that would and can credibly intervene to resolve the challenges related to animosities in an appropriate and sustainable matter. Any grievance mechanism needs good relations with the Taliban, acceptance by former government actors, and legitimacy with ordinary Afghans. This means equally building trust with all sides, and creating faith that the mechanism is interested in resolving disputes in a way that restores social harmony and stops the cycle of violence.

Incorporating TDR mechanisms

Despite all the challenges, TDR can still play a crucial role in addressing past grievances. Many TDR actors have the experience, access and understanding of local the context. The TDR can play a role when working with other bodies such as NGOs, the UN, and the de facto authorities in various capacities. Depending on the local perceptions of the TDR mechanism, they can play a variety of roles, also depending on the type of conflict and which parties are involved.

This is not to suggest that tribal elders everywhere, or even everywhere in Helmand, will be able to address all of these issues. There are limitations about the degree to which certain TDR actors will be able to resolve disputes or defuse tensions. TDR is particularly weak in Helmand, and not all actors will be accepted by conflicting parties. But it is worth trying. As a first step, an acceptable TDR mechanism can be engaged and piloted. Given the very local context, different kinds of modalities and approaches will have to be determined through trial and error, and community participation.

Obtaining Taliban buy-in

For TDR to play a meaningful role, it must not only be accepted by the population but by the Taliban, who have been reticent to empower tribal elders. Another obstacle is that the Taliban do not see the need for a justice or transitional justice mechanism separate from the ones they have already established. Most of the Taliban leadership are not familiar with the concept of transitional justice. If the General Amnesty is already difficult to implement, it might be too challenging to move on to a transitional justice approach, which is even less likely to be respected.

However, the use of a local TDR mechanism, if impartial enough, could provide the Taliban with a local institution to manage the headache of local grievances. The Taliban have neither much capacity nor, it seems, interest to do this themselves. TDR can allow them to outsource these problems. But for TDR to be seen as legitimate by communities, the Taliban will have to allow these processes to be at least somewhat independent. A balance will have to be struck between getting Taliban buy-in and maintaining perceptions of independence and fairness.

Responding to heightened tensions

Another approach might be to include a quick intervention function, activated when tensions threaten to erupt into violence. As repeatedly noted in the research, those with grievances on all sides of the conflict have stressed that they are waiting for an opportunity to exercise revenge in light of the restrictions of the General Amnesty that does not allow them to address grievances. Thus, a quick intervention mechanism should be established to be dispatched whenever a conflict is breaking out within communities and between communities of conflict parties. This mechanism would not only serve to enforce the General Amnesty but work with the local community to address the underlying grievances and tensions.

Sequencing

There are several possible approaches to supplementing and reinforcing the General Amnesty and steps beyond. The sequencing of the engagement with the Taliban and also of those community members that are aggrieved is important. The key to this are confidence building, local buy-in and willingness to face the reality and to set aside ideas of victor's justice. Hence the sequencing of the engagement, especially beyond the already announced General Amnesty is very important.

Local consultations, voicing of grievances and efforts akin to a truth commission could be options to address the grievances and revenge efforts by local communities. To resolve disputes, the reliance on local dispute mechanisms should not be discounted, especially in areas where most, if not all, communities have suffered. Collective, as well as individual, approaches are required.

Conclusion

After 15 August 2021, the Taliban took a significant step with the proclamation of the General Amnesty to address what has been considered to be Afghanistan's "avenge philosophy" and associated practices. While in the short run, just the General Amnesty might have prevented revenge acts, the findings of the research clearly indicate the level of frustration among all parties to the conflict as well as members of the civilian population who have suffered under the harassment of the two main conflict parties, the Republic era government supported by foreign forces and the Taliban. With the formal Taliban justice mechanism and courts hardly able to and willing to address many grievances and with the traditional dispute mechanism from within the communities often not trusted by the Taliban, new approaches need to be taken to ensure both a locally acceptable and Taliban-endorsed mechanism to start addressing grievances at the local level in a sustainable way. In order for these mechanisms to be effective, it is important to recognize that given decades of conflict, even those preceding 2001, traditional dispute resolution mechanisms have been weakened with tribal elders and religious actors often being forced to choose a side or to withdraw from these kinds of dispute resolution processes out of the fear of their reputation or safety.

The research also indicated that all parties to the conflict have sought to manipulate these often already fragile dispute resolution mechanisms in their favour – this means that the mechanisms have become weaker but also the reputation and trust in these institutions and practices have eroded over time. Hence it is also not possible for the Taliban to immediately effectively enlist these mechanisms to address grievances including those involving the Taliban or for community disputes among civilians. Thus, the Taliban might have underestimated not only the need to go beyond the General Amnesty but also has shown itself to be reluctant to investigate what kinds of mechanisms are available and viable to assist with any broader process beyond the General Amnesty.

Given the dilemma the Taliban is facing with regards the need to move beyond the General Amnesty, yet not having in place suitable mechanisms at the national and subnational level to address grievances in a culturally acceptable manner, the Taliban needs to carefully consider its next steps. There are high expectations from all sides about addressing grievances, yet each side is hoping that they will be favoured in any process, especially the Taliban, their relatives and associates. Thus, in order for any mechanism to be considered as acceptable, it needs to be recognized by all parties to the conflict. For the Taliban, both giving up its direct control over a process and by transferring any authority related to reconciliation to a traditional dispute mechanism, trust building and buy-in from at least the local Taliban officials would be needed. Possibly, a third party or actors could also assist in creating confidence between all parties to the conflict and also allow for greater integration of any efforts into other programs with NGOs, UN agencies and other actors. Understanding that

this could be a long process and also considering the increasing tensions in some provinces as the General Amnesty has weakened in some areas, it is important that also short-term quick reaction mechanism can be deployed to prevent immediate tensions escalating. Furthermore, in the long run, even voicing of grievances, forgiveness practices and other activities akin to a truth commission should be seriously considered to address the challenges around grievances. Given related relevant traditions in Afghanistan, the Taliban could tap into these community practices to help address grievances.

The results from the research show that these recommendations for possible future mechanism are born out of the frustration over a lack of mechanisms to address tensions and grievances peacefully. Both the Taliban and the Republic-era constituencies have also concerned about how to overcome a possible further deterioration of the implementation of the General Amnesty while the long-term approach is not yet in place. As noted in Chapter 5, there are various options on the table for addressing grievances in the first place, yet also concerns about how to best implement suggested options with the Taliban acutely aware of the need but also the difficulties with these efforts. Hence the international community but also influential actors with the Taliban and non-Taliban communities need to jointly create new mechanism and approaches that fulfil these functions effectively and contribute to peace and reconciliation in Afghanistan in the long-term.

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