

EXTERNAL RESEARCH SERIES

OVERVIEW OF POLITICAL ECONOMY, CONTRACTING AND CORRUPTION IN AFGHANISTAN

A case study in Kandahar



Transparency International (TI) is the civil society organisation leading the global fight against corruption. Through more than 90 chapters worldwide and an international secretariat in Berlin, Germany, TI raises awareness of the damaging effects of corruption, and works with partners in government, business and civil society to develop and implement effective measures to tackle it. For more information about TI, please visit www.transparency.org.

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Transparency International UK
Defence and Security Programme
32-36 Loman Street
London
SE1 0EH
United Kingdom

T: +44 (0)20 7922 7969
defence@transparency.org.uk

First published in December 2012.

Authors: Kyle Alexander, Chike Croslin, Joel Moktar, Frederick Weyman
Editors: Saad Mustafa, Maria Gili

Report printed on FSC certified paper.

ISBN: 978-0-9569445-9-7
Publisher: Transparency International UK
Cover illustration: Luisa Rivera

This publication was made possible thanks to generous support from the UK Department for International Development (DFID).



OPENING THE BLACK BOX

Nexus of corruption and contracting in Afghanistan

PREFACE

Transparency UK's International Defence and Security Programme (TI-DSP) is committed to increasing integrity and reducing corruption in defence establishments around the world. We work with governments, the defence industry, and other civil society organisations to develop practical measures to combat corruption.

Officials and senior officers tell us directly why they care so much about corruption risk in defence and security. In their own words, this is because:

- [Corruption wastes scarce resources.](#)
- [Corruption reduces operational effectiveness.](#)
- [Corruption reduces public trust in the armed forces and the security services.](#)
- [International companies shun corrupt economies](#)

This report on the nexus between corrupt contracting practices and a predatory political economy in Afghanistan is a product of our collaboration with four students from the London School of Economics. We are pleased with their efforts and are proud to provide them with a platform to share their work. TI-DSP has a history of engaging with Masters or PhD level students who wish to explore different facets of defence and security corruption and hope to continue this in the future.

Corruption in expeditionary contracting has many negative consequences. Not only is there an obvious monetary consideration, but as this report highlights, it has a serious and negative consequence on mission success as well. In Afghanistan, revenue from contracts has become a source of political patronage for warlords and strongmen in the country.

Whilst TI-DSP is proud to publish this report, it must be noted that the views expressed within are those of the authors and do not necessarily reflect the views of Transparency International UK.

I hope you find the report useful. We welcome your feedback.



A handwritten signature in black ink that reads "Mark Pyman". The signature is fluid and cursive, with a long horizontal stroke at the bottom.

Mark Pyman
Programme Director
International Defence and Security Programme
Transparency International UK
December 2012

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EXECUTIVE SUMMARY

This report illustrates how corrupt contracting practices reinforced a predatory Afghan political economy and thus severely undermined US and ISAF stabilisation and development goals. In this regard, the primary focus is on how foreign contracting money was used by Afghan warlords and strongmen to initially obtain, and ultimately maintain, power and influence. The study also analyses how US contracting practices in the aftermath of the conflict allowed such a predatory political economy to take shape.

First cause of corruption in expeditionary contracting: the nature of the Afghan political economy.

Corruption in expeditionary contracting is partially a product of the Afghan political economy. Due to a range of internal and external threats to the stability of the dominant coalition, the Afghan state can justifiably be characterised as fragile. Within the fragile political economy in the country, corruption is seen as a logical strategy for maintaining political support and credible commitments to peace, rather than a deviant practice.

From this conclusion, one can discern two incentives that threaten contracting integrity: the first is the **necessity of building a support base**, while the second is the desire to **avoid losing support to rivals**.

The international community's lack of sensitivity to the nature of the Afghan political economy has led to expeditionary contracting becoming both a victim of, and contributor to, criminal patronage networks.

Second cause of corruption in expeditionary contracting: the international community's lack of sensitivity to the nature of the Afghan political economy.

The international community's lack of sensitivity to the nature of the Afghan political economy has led

BOX 1: DEFINITION OF CORRUPTION IN EXPEDITIONARY CONTRACTING

Definition of corruption in expeditionary contracting: 'A process by which actors transform the financial and material value of contracts into a source of political patronage or economic revenue in a manner contrary to the original purpose of the contract.'

The severity of corruption can be measured by the:

1. Financial loss incurred by the contracting body.
2. Extent to which the outcome of a contract undermines its original purpose and the purpose of the overall mission.

to expeditionary contracting becoming both a victim of, and contributor to, criminal patronage networks.

This lack of sensitivity has manifested itself in a range of policy failures:

- A **technocratic approach** towards stabilising and rebuilding the Afghan state;
- A **failure to identify and address the real drivers of insecurity** in Afghanistan;
- A **lack of consultation with ‘non-elite’ Afghans** who have been excluded from predatory structures over policies for stabilisation.

Third cause of corruption in expeditionary contracting: structural constraints on government oversight of contractors and deficiencies in contract design.

A lack of official oversight on the part of the international community also plays a part in explaining the prevalence of corruption in expeditionary contracting. Structural constraints on oversight were created by two mutually reinforcing factors:

- A **premium placed on expediency** that foreclosed a good deal of accountability and;
- A **shortage of human capital** in the contracting personnel.

These two factors go a long way in explaining issues raised by the audit community, such as the use of uncompetitive contract types and the deficient vetting, monitoring and debarment of contractors.

RECOMMENDATIONS

1. A shift in mind-set is required, recognising the potential danger of expediency and the extent to which stabilisation objectives can be undermined by corruption.
2. A rigorous analysis of the host nation’s political economy and its incentive structures is needed before expeditionary contracts are awarded.
3. Timing is crucial. Recommendation One must be carried out early on in any expeditionary environment to avoid ‘lock-in’ to predatory networks when contracting.
4. The international community should phase out contracting with Afghan private security firms by means of a DDR (Disarmament, Demobilisation and Reintegration) process.
5. Contracts should be spread across various constituencies in order to stop the empowerment of a few predatory actors and networks.¹ Bottom-up consultative processes with ‘non-elite’ Afghans will be crucial in order to map out these constituencies.
6. A radical human capital strategy is essential if oversight of expeditionary contracting is to improve. One that recognises that government spending and the size of government are decoupled by the rise of contracting, and that a lack of oversight increases costs incurred.
7. Government spending must be fully transparent and accessible, and all audits publicly released.²

¹ Forsberg, 2010a:64

² For this report an FOIA request was submitted for two SIGAR audits on the use of PSCs by an unnamed US. agency; as of 23/04/12 they had not been released.

INTRODUCTION

The Commission on Wartime Contracting concluded in August 2011 that USD 30 to USD 61 billion dollars of US taxpayer money has been lost to corruption and waste in expeditionary contracting since the wars in Afghanistan and Iraq began. While significant, this paper contends that these pecuniary losses are not the most important consequence.

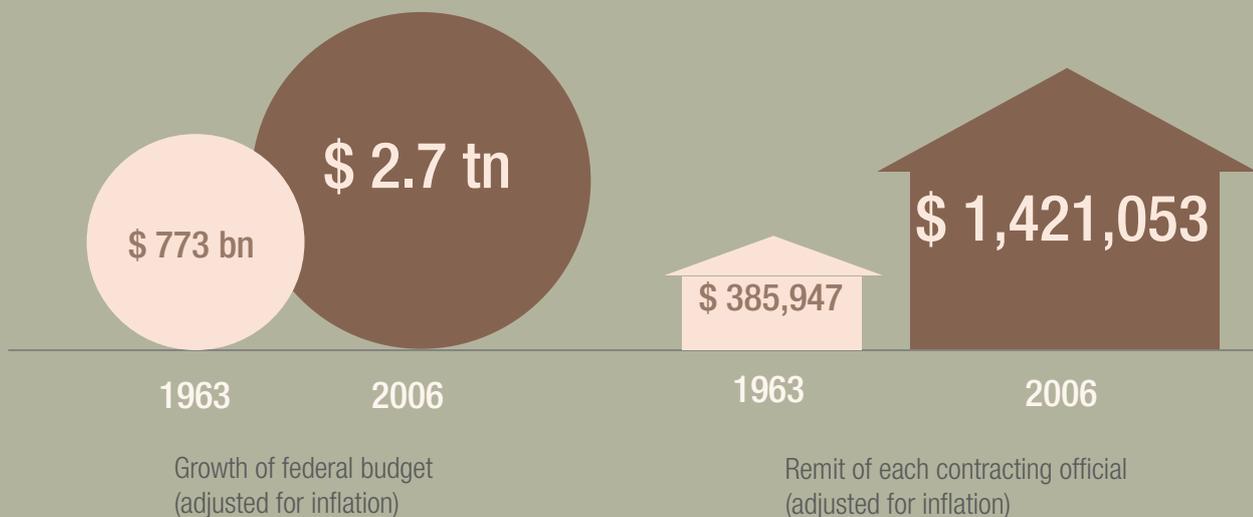
In Afghanistan, corrupt contracting has reinforced a predatory political economy, which has served to substantially undermine the counterinsurgency, stabilisation and development goals of the international community. By strengthening actors who are widely perceived by non-elite Afghans to be oppressive and predatory, expeditionary contracting has delegitimised the international presence and fostered insecurity. Furthermore, the lack of oversight and numerous layers of subcontractors in developmental and operational contracts have resulted in 'roads that crumbled

within months' and schools that 'lacked basic structural integrity'.³

This report constructs a narrative around the relationship between corruption in expeditionary contracting and the predatory political economy in Afghanistan, where the former can be seen as both an outcome of and a contributor to the latter. It also analyses the way in which corrupt practices have equally been a consequence of the methods employed by the international community, and how a combination of all these factors have contributed to insecurity and undermined its goals.

Given the changing nature of war and the increasing reliance on contractors, understanding the dynamics of expeditionary contracting is essential. Given the statutory limit on the US armed forces, contracting has enabled the US to sustain two simultaneous conflicts without introducing a draft.

FIGURE 1: INCREASED REMIT OF CONTRACTING OFFICIALS



3 Theros and Kaldor, 2011

BOX 2: KEY TERMS

International community: the military and development organisations involved in putting contracts out to tender in Afghanistan, such as the US Department of Defence (DoD), International Security Assistance Force (ISAF), and USAID.

Warlords vs. strongmen: Warlords exercise control over the military class within a territory and from this derive military legitimacy. In contrast, while strongmen have armed followers which they may use to coerce the population, they also have a higher degree of political legitimacy as a result of their connections with notable families or traditional roles, and act within their respective social constraints.¹

Predatory: A predatory agent acts with the intention to 'injure or exploit others for personal gain or profit'.² Predatory networks are those which collude to the benefit of actors within the network and to the detriment of those excluded from it.

Criminal patronage networks: Organisations comprised of individuals, businesses, and other entities that engage in systematic corruption across the public and private sectors. These networks engage in criminal enterprises that degrade security, weaken governance, hinder economic development, and undermine rule of law.³

1 Giustozzi, 2006:2

2 Merriam-Webster Dictionary, 2012

3 CJIAF-Shafafiyat 101

This is part of a broader trend: as government contracting has expanded in the US and other countries, oversight capacity has diminished.

For instance in the US, the size of the executive branch federal workforce in 2008 was the same as it was in 1963, but the federal budget, adjusted for inflation, was roughly USD733.3 billion in 1963 versus USD 2.7 trillion in 2006. Each contracting official has gone from being responsible for USD 385,947 in 1963 to managing USD 1,421,053 in 2006.⁴ The US has in many ways set a precedent in its use of contractors in Afghanistan and Iraq, and expeditionary contracting in these contexts therefore warrants thorough scrutiny.

4 Stanger, 2009:17

EXPEDITIONARY CONTRACTING

Operational vs. developmental

Expeditionary contracting is commonly divided into two main categories:⁵

- **Operational contracts** include construction and maintenance, base contracting, translating and logistics (which may involve private trucking contractors and security companies). In the US Army, these contracts are funded through Title 10 funds and are intended 'strictly for the supply, support, and sustainment of US Department of Defence (DoD) service members and employees'.

5 US Army, 2006:8-17. Other categorisations include goods (e.g. weapons) versus services (e.g. dining facilities).

- **Developmental contracts** include those intended to win hearts and minds, promote security and/or economic and social development. In the US Army, these contracts are funded through Title 22 funds and are 'appropriated for foreign relations purposes and used solely for the benefit and support of the host-nation government and population'.

Actors involved

The vast majority of expeditionary contracts are issued by the US and ISAF military forces, as well as government aid agencies such as USAID and DfID.

TABLE 1: VARYING GOALS OF EXPEDITIONARY CONTRACTS

OPERATIONAL	DEVELOPMENTAL
Enable the military to focus on core mission	Win hearts and minds of local/host population
Flexibility: rapid contractor mobilisation and demobilisation in response to mission scope changes	Legitimise and extend the reach of the state
Externalise risk (e.g. domestic political risk associated with troop deaths)	Make use of local expertise to ensure developmental contracts are undertaken in a locally appropriate way
Lower economic cost of intervention	
Local content: ability to promote socio-economic development through local sourcing of goods and services	
Obtain intelligence (e.g. for counterinsurgency purposes)	
Support/neutralise strategically important elite groups through award of contracts (e.g. for private security provision)	

As the DoD does not report the breakdown of service provision by contractors in Afghanistan (aside from private security contractors), this report is unable to give specific figures on how many contractors provide each type of service. However, the types of services bear similarities to those in Iraq and include logistics, construction, linguistic services, and transportation.⁶

Varying goals

Table 1 presents some of the potential objectives of expeditionary contracts. It should be noted that the particular goal of each contract will vary, and that some of the goals may be in conflict with each other in certain circumstances (e.g. winning hearts and minds versus supporting/neutralising strategically important elite groups).

The actors and organisations who undertake the contracts can be divided into:

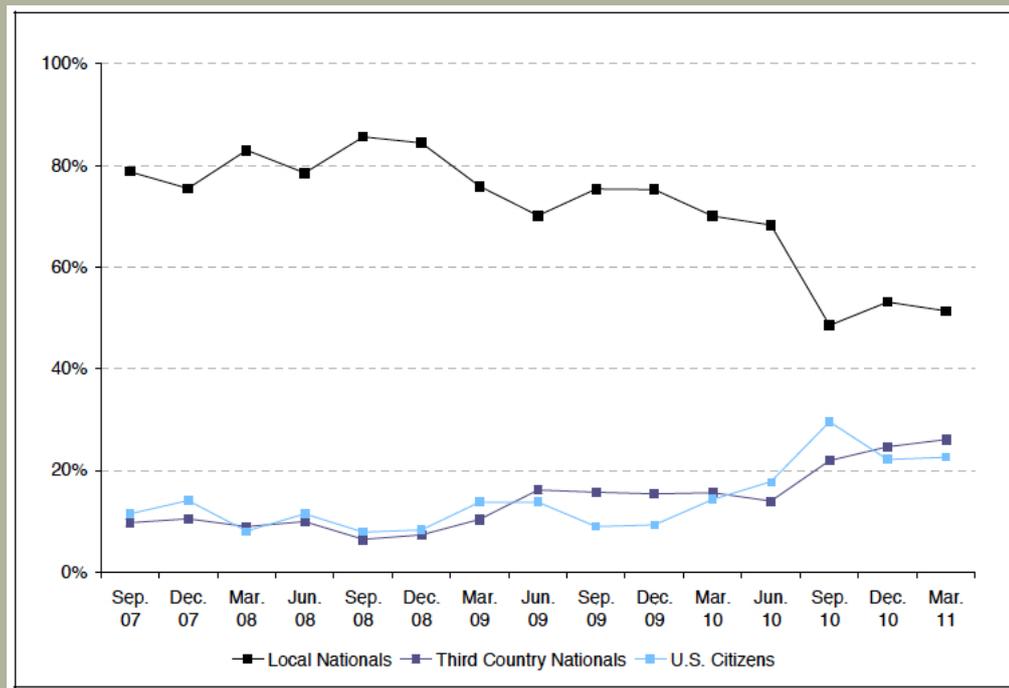
- Those of the same nationality as the issuer;
- Afghan actors;
- Third-country actors.

Finally, Afghan government officials have played a part in distributing contracts and awarding licenses to operators (e.g. in the case of private security firms). COMISAF's COIN Contracting Guidance states that the international community should 'hire Afghans first, buy Afghan products, and build Afghan capacity'.⁷ Despite this, the number of Afghan contractor personnel has declined from 86 per cent in September 2008 to 51 per cent in March 2011.

6 Schwartz and Swain, 2011:10

7 General Petraeus, 2010:1

FIGURE 2: CONTRACTOR PERSONNEL TRENDS IN AFGHANISTAN BY NATIONALITY (BY NUMBER OF CONTRACTS AWARDED)



Source: Congressional Research Service DoD Contractors in Afghanistan and Iraq 2011

Further, whilst the 46,389 Afghan contractors in operation at March 2011 outnumbered US and third-nation contractors combined,⁸ U.S. agencies contracted just over USD 4 billion out of a possible USD 17.3 billion in fiscal year 2011.⁹ This is partially explained by the fact that Afghan contractors mostly won contracts for 'small construction work or the rehabilitation of buildings or other infrastructure'.¹⁰

Corruption in expeditionary contracting

The liberal definition of corruption—'abuse of public office for private gain'—and its distinction from fraud—involving private actors rather than public officials—assumes a solid public-private boundary. While this distinction can be partially sustained—for instance between a contracting officer accepting

a bribe from a contractor, and a contractor purposefully exaggerating its cost—its practical application is complicated by the frequent absence of a clear public-private boundary in the Afghan political economy.

Therefore, this report has developed the following definition of corruption in expeditionary contracting:

'A process by which actors transform the financial and material value of contracts into a source of political patronage or economic revenue in a manner contrary to the original purpose of the contract.'

Consequently, the severity of corruption can be measured by the:

1. **Financial loss incurred** by the contracting body
2. **Extent to which the outcome of a contract undermines** its original purpose and the purpose of the overall mission.

8 Schwartz and Swain, 2011:11

9 Office of the Special Inspector General For Afghanistan Reconstruction, 'Afghan First Initiative has placed work with Afghan companies, but is affected by inconsistent contract solicitation and vetting, and employment data is limited, January 2011, p.1.

10 Peace Dividend Trust, 'Spending the development dollar twice', July 2009, p.16.

This report will illustrate how corrupt contracting practices reinforced a predatory Afghan political economy and thus severely undermined US and ISAF stabilisation and development goals. In this regard, the primary focus will be on how foreign contracting money was used by Afghan warlords and strongmen to initially obtain, and ultimately maintain, power and influence. The study will also analyse how US contracting practices in the aftermath of the conflict allowed such a predatory political economy to take shape.

REPORT STRUCTURE

Chapter I describes the first of three interlocking causes of corruption in expeditionary contracting. This is that given the nature of the Afghan political

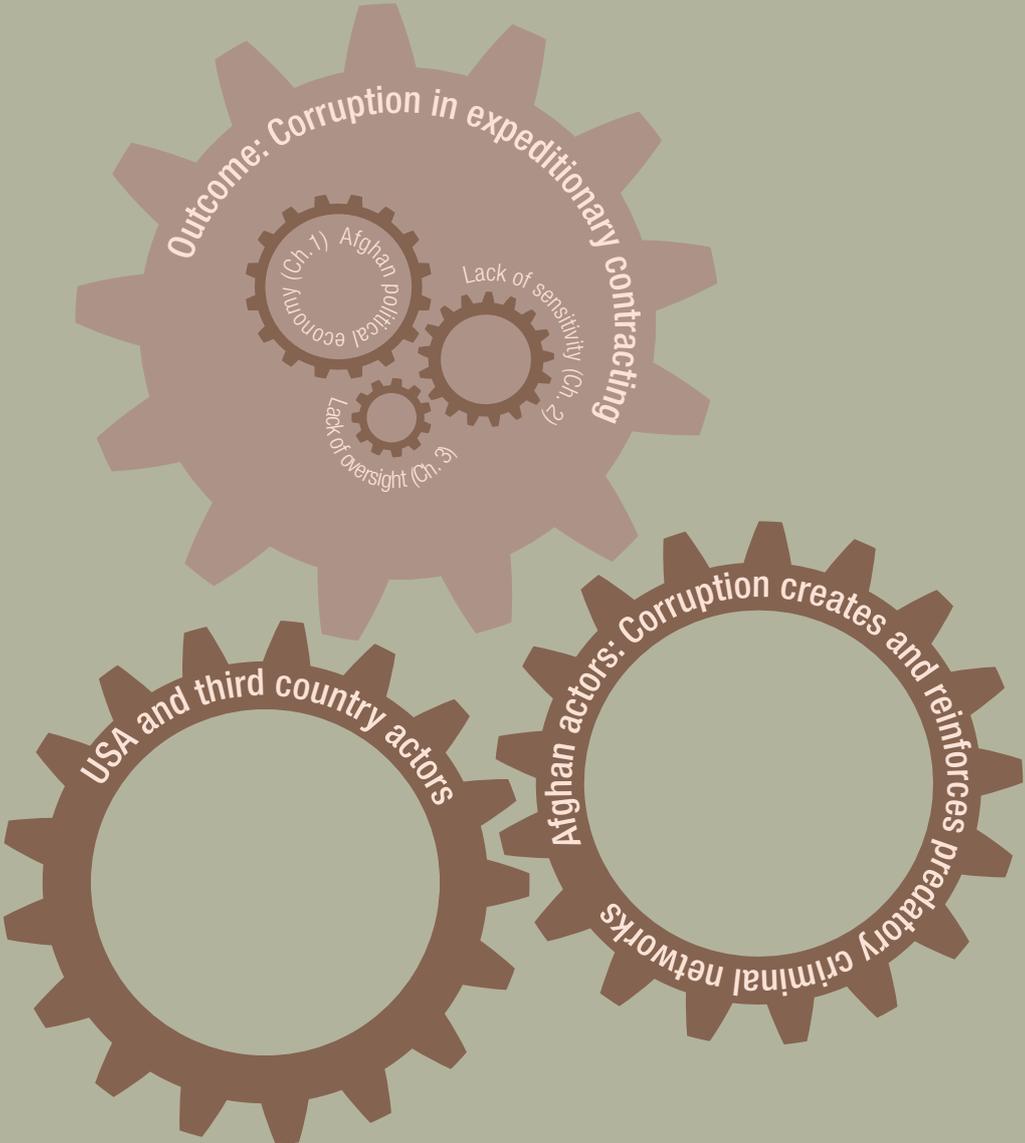
economy, corrupt practices are a logical strategy to be expected rather than be seen as deviant practice.

Chapter II considers the second interlocking cause—the failure of the international community to act with sensitivity to the nature of the Afghan political economy when contracting.

Chapter III examines the third interlocking cause—official personnel limits and an emphasis on expediency, which created structural constraints on the oversight capacity necessary to manage the contracting process in Afghanistan.

Chapter IV uses Kandahar Province as a case study to illustrate many of the insights set out in the proceeding chapters.

FIGURE 3: DRIVERS OF CORRUPTION IN EXPEDITIONARY CONTRACTING IN AFGHANISTAN



I. CONTRACTING AND THE AFGHAN POLITICAL ECONOMY

INTRODUCTION

A crucial part of the international strategy in Afghanistan has been the consolidation of Afghan state institutions and the strengthening of state capacity, with the goal of building a self-sustaining state apparatus that would enable international forces to withdraw. This has been pursued through largely technocratic means, involving the transplantation of western bureaucratic forms into the Afghan context. However, some have raised concerns about the apolitical nature of this approach, arguing that the act of building and reforming state institutions is significantly more than a technocratic process:

*'As the history of development has...amply demonstrated, the key to bringing about change, especially in such conflicted, traumatised and fragmented societies lies not in these bureaucratic forms but rather through shaping the underlying political economy—i.e. the power relations, shadow state, networks of influence and patronage networks (what we often, too superficially, label as corruption)'.*¹¹

Following Rathmell, this report considers it of the utmost importance to understand corruption in expeditionary contracting within the context of the Afghan political economy. Corruption is not just a technocratic problem, but an inherently political one. By considering the political strategies of actors in the context of the political economy in which they are embedded, this report first analyses the broader factors affecting corruption, and then those factors over which the international community has greater control.

This chapter examines the nature of the political economy in Afghanistan and its consequences for corruption in expeditionary contracting.

Part 1 briefly discusses the **politico-economic strategy for obtaining stability** that underlies the working of the Afghan state.

Part 2 justifies the **characterisation of the Afghan state as 'fragile'** by demonstrating internal and external threats to the stability of the dominant coalition.

Part 3 analyses the role of **corruption as a logical strategy** for maintaining political support and credible commitments to peace within the fragile Afghan political economy.

Part 4 examines the **incentives engendered by the logic of this political economy** and the threat these represent to contracting integrity.

1. STABILITY AND THE AFGHAN POLITICAL ECONOMY

The process of obtaining and maintaining stability in Afghanistan (as well as many other countries around the world) can be summed up by the following: as a means of forming a stable dominant coalition, rents are provided to elites according to their potential for violence. If the coalition is sufficiently stable, elites are able to credibly commit to maintaining peace because they have an incentive to avoid the interruption in rent extraction that violence would represent.¹² This process is a specific organisation of politics and economics—a political economy that produces stability.

11 Rathmell, 2011:8

12 North et. al., 2007

This report takes the position that Afghanistan has only been marginally successful in undergoing this process—its political economy remains fragile. Here fragility is defined by a relative lack of stability within the dominant coalition, which inhibits the ability of elites to make credible commitments to peace. Thus, in the words of North, ‘the state can barely sustain itself in the face of internal and external violence’, and is ‘struggling to enforce its own internal rules and has little credibility to do more’.¹³

2. THE ‘FRAGILE’ AFGHAN POLITICAL ECONOMY

In order to justify the description of the Afghan state as ‘fragile’, it must meet the following conditions: a fragile state should be struggling to maintain itself in the face of both internal and external threats to its stability. The next subsections will establish the presence of these conditions.

External threats

The continued external threat to the stability of the Afghan state has its roots in the exogeneity of the political settlement reached in the Bonn Process. A successful political settlement means that all actors with significant recourse to violence are provided with an incentive to credibly commit to peace (i.e. a means of, and protection for, rent extraction). The Bonn Agreement fails to meet this standard because it was reached without the participation of the Taliban or the majority of southern militia leaders, due in large part to the international community’s opposition to these groups.¹⁴ Since these actors did not receive an incentive for peace commensurate with their potential for violence, they use violence to challenge the stability of the ruling coalition.

Internal threats

The Afghan governing coalition is principally composed of three groups: the technocratic intelligentsia, the tribal aristocracy, and the northern

militia leaders and warlords incorporated at the behest of the United States. The former two groups are engaged in a tenuous alliance opposing the latter.¹⁵ This opposition reflects not only a deep ideological divide that has its roots in the history of Afghanistan prior to the War on Terror, but also a source of conflict that lends itself to a politico-economic analysis.

Extracted rents can either be used for personal gain or utilised for corrupt patronage practices (e.g. the provision of economic rents to a key client, or the appointment of clients to lower level positions within a ministry) in order to consolidate or maintain a political support base. These same practices can also be used to entice supporters of an opponent to defect. As a result, ministries are run with little horizontal integration or vertical accountability¹⁶.

In order to maintain their extractive ability, elites and their factions must ensure control over the services in their ministerial mandate. The vague and overlapping mandates given to ministries, plus the active undermining of political opponents through corrupt patronage practices, commonly leads to ‘turf wars’ between factions.¹⁷ Provincial governorships work in a similar manner; only rather than control of a ministry, control is of a given area. However, governors are appointed by the executive according to the same logic as that governing ministerial appointment, and they employ the same strategies as other elites. Thus, governors are subject to the same analysis.

Due to relative instability within the dominant coalition formed between the major factions in the Bonn Agreement, the elites cannot credibly commit to peace or development because their ability to extract rents cannot be guaranteed. As a result, the Afghan state constantly faces threats to its internal stability.

13 [ibid.:11-12](#)
14 [OECD, 2009](#)

15 [Giustozzi, 2004](#)
16 [OECD, 2009](#)
17 [ibid. and Giustozzi, 2004](#)

3. (RE)INTERPRETING CORRUPTION

When considered in the context of Afghanistan's status as a fragile state, it becomes clear that the corrupt patronage practices described above are to be expected on an upper level (rents in the form of ministerial posts) through to a lower level (rents extracted within ministries themselves) in order to maintain power. These are 'logical' strategies to build support for the coalition (upper level) and maintain support and extract rents for elites and their factions (lower level).

As such, a key reason that ministries are not particularly successful at service delivery is the high prevalence of corruption, for example in the form of rent extraction from those to whom a ministry is charged with delivering services, or through the employment of those who are not technically competent due to corrupt patronage practices. A ministry functions less as a mechanism for service delivery than as a cross between an exploitative mechanism and a political party.¹⁸ What is true of the centralised ministries is also true of the provincial governorships. Governors treat their provinces as areas to extract rents for the same reasons as ministries.

The most important point to re-emphasise is that corrupt practices in this context are to be expected: they are the outcome of 'logical' strategies to maintain political support and achieve stability according to the nature of the political economy discussed above.

4. CONTRACTING AND THE AFGHAN POLITICAL ECONOMY

Contracts represent large external revenue flows that cut across multiple provinces. It is to be expected in the context of the political economy that these flows should be threatened by elite co-optation. Ministries and provincial governors, as well as their associates in various lower positions, have at least two important incentives to attempt to co-opt expeditionary contracts, both of which

follow directly from the logic of the political economy. The first is the same incentive for rent extraction discussed above. The second is that if they do not extract rents from contracts, their support base and position to extract rents in the future could become vulnerable to the enticements of an opponent who does. Together, these two incentives ensure widespread attempts to corrupt expeditionary contracts, making up what can be considered a cause of corruption in expeditionary contracting.

To fully understand corruption in expeditionary contracting it is necessary to grasp why contracts are so easily absorbed into corrupt patronage networks.

To say that the nature of the Afghan political economy is a cause is to say that corruption in expeditionary contracting is present for the same reasons we see it in the political economy at large: it is how stability is produced, the glue that holds the governing coalition together. To acknowledge this is not to claim that corruption in expeditionary contracting is inevitable, but rather to appreciate that to understand instances of corruption they must first be placed in the context of the political economy where they are found.

To fully understand corruption in expeditionary contracting it is necessary to grasp why contracts are so easily absorbed into corrupt patronage networks. This is where the report now shifts focus, from the broad political economy of Afghanistan to the specific problems plaguing the actors and processes (especially within the international community) involved in the administration and disbursement of contracts. Unlike the larger political economy, many more of these aspects can be influenced by the international community.

18 OECD, 2009

II. MAKING A ROD FOR ITS OWN BACK: A LACK OF SENSITIVITY TO THE AFGHAN POLITICAL ECONOMY

INTRODUCTION

Chapter One demonstrated how the nature of the Afghan political economy can be termed a cause of corruption in expeditionary contracting. This chapter now turns to the failure of the international community to act appropriately given this nature—the second of the three interlocking causes. The lack of sensitivity to the actors and processes within the Afghan political economy, which manifested itself in a range of policy failures, can be likened to the international community making a rod for its own back—the result of which has been widespread corruption in expeditionary contracting.

Part 1 discusses how expeditionary contracting has been both a victim of, and contributor to, **criminal patronage networks**.

Part 2 analyses how the **technocratic approach of the international community** towards stabilising and rebuilding the Afghan state led them to **overstate the benefits and underestimate the costs of expeditionary contracting**.

Part 3 is closely linked to the second, and examines how the **international community's failure to identify and address the real drivers of insecurity in Afghanistan** has resulted in detrimental effects of expeditionary contracting that outweigh the benefits.

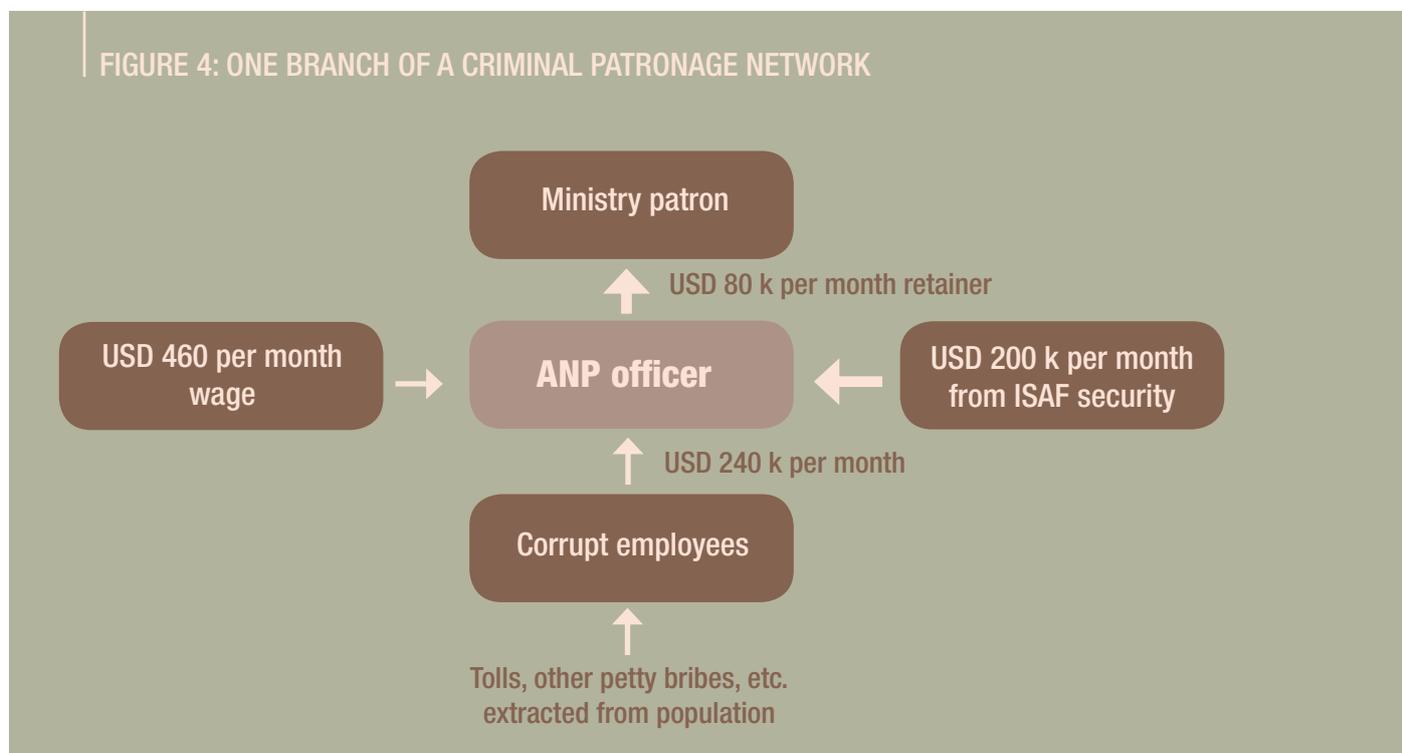
Part 4 highlights the **gap between rhetoric and reality** in terms of consulting with local non-elite Afghans, particularly those alienated from these predatory structures, over policies for stabilisation. This section posits that contracting has been representative of this wider failure and that, amongst other things, **bottom-up consultative processes will be necessary in order to reduce corruption** in expeditionary contracting and make it a useful tool for development.

1. CRIMINAL PATRONAGE NETWORKS

Theros and Kaldor found that Afghans perceive the international community's strategy as perpetuating 'a system of power and profit that has fostered the insecurity and resentment that pervades local lives'.¹⁹ Similarly, Fishstein and Wilder encountered widespread grievances, 'including the perceived injustice that a few corrupt officials and power brokers were benefiting disproportionately from international assistance at the expense of the majority of Afghans'.²⁰ This system of power and profit consists of an array of actors connected through criminal patronage networks. Many Afghans feel squeezed between these actors, and this feeling is exacerbated by the contradictory but simultaneous ISAF campaigns—the stabilisation mission and the quest to defeat the Taliban.²¹ Expeditionary contracting is both a victim of, and a contributor to, Afghan criminal patronage networks. It is a victim because of the criminal nature of the enterprise and the actors which constitute it, even if it is unsurprising that contracts handed out

within this milieu resulted in widespread corruption. However, the international community has unequivocally made a rod for its own back by providing the resources which make these networks sustainable. Central to this process has been the distribution of lucrative contracts to predatory elites, which has alienated many Afghans and consequently encouraged the re-emergence of the Taliban.

Figure 4 illustrates the manner in which an ISAF security contract was absorbed into a criminal patronage network. This represents a node within a larger and more corrosive network.



19 Theros and Kaldor, 2011:8
20 Fishstein and Wilder, 2012:2-3
21 Theros and Kaldor, 2011:3-4,8

2. A TECHNOCRATIC APPROACH

The international community's 'technocratic focus on state-building and reconstruction largely ignored local power dynamics' and favoured discredited warlords over older and more legitimate networks of tribal elders.²² While this applies specifically to developmental contracts, the same accusation can be levelled at how the international community put many operational contracts out to tender. This is not to say that the international community was completely oblivious to the presence of criminal patronage networks, nor of the potentially damaging effects of distributing contracts to corrupt actors within them. Nevertheless, this technocratic approach prioritised efficiency, expediency, and externalising risks over long term governance and addressing the reality of the Afghan political economy. This led the international community to overstate the benefits and underestimate the costs of contracting to (and further empowering) warlords and strongmen.

Contracting to these warlords reinforces the already predatory power structures within the Afghan political economy, since warlords and strongmen derive their power from control over resources such as contracts. The willingness to disburse funds to predatory contractors contributes to an environment of impunity that encourages further corruption. Indeed, one of the most cited aspects of the Warlord, Inc. report was the fact that some of the money from US logistics contracts inadvertently ended up in Taliban hands. However, arguably more significant is that 'providing "protection" services for the U.S. supply chain empowers these warlords with money, legitimacy, and a *raison d'être* for their private armies'.²³ The existence of these 'protection' services is a concrete example of how expeditionary contracting has created a climate of impunity and undermined ISAF's stabilisation goals. Once such an environment has been created it

can be very difficult to reverse. In other words, contracting to corrupt actors resulted in a 'lock-in'—a dependency on predatory actors and their networks.

3. A FOCUS ON SOCIOECONOMIC RATHER THAN POLITICAL DRIVERS OF INSECURITY

The US and the rest of ISAF have been accused of misdiagnosing the key drivers of insecurity in Afghanistan, thereby fuelling corruption in developmental contracting in particular. Fishstein and Wilder emphasise that the key drivers of insecurity in Afghanistan are political, 'especially in terms of competition for power and resources between and among ethnic, tribal and factional groups'.²⁴ While socioeconomic factors such as poverty and unemployment were identified as grievances, these tended to be in the Northern provinces where there has been some degree of stability. In the conflict-torn South and the East of the country however, political drivers such as a lack of governance and tribalism were stressed.²⁵

Despite these variations, the international community's stabilisation projects have focused myopically on the socioeconomic drivers of insecurity by attempting to improve infrastructure, provide services and create jobs. The prioritisation of socioeconomic over political drivers can be traced to two, arguably flawed, considerations on the part of the international community:

1. The technocratic approach described in the previous section.
2. The issue of visibility—'It's easier [to build a school or bridge rather than do a governance project]—you can point to it and qualify it. You can't tell the military not to do something. They have to do something, even if not doing something may be the better course of action'.²⁶

22 *ibid.*:21

23 Subcommittee on National Security and Foreign Affairs, 2010:2

24 Fishstein and Wilder, 2012:3

25 *ibid.*:2

26 Interview with anonymous ISAF staffer based in Kabul, Afghanistan, April 12, 2012

The use of contractors has been central to the stabilisation/development projects indicated in point two above. When coupled with a severe lack of oversight, the fact that this has often led to crumbling roads and unstable schools has been well documented. Yet arguably more significant is the fact that these contracts, often ‘fuelled conflict by distributing resources that rival groups then fought over’.²⁷ Here the causality between corruption in expeditionary contracting and a predatory political economy flows both ways—not only do the predatory power structures within the Afghan political economy encourage corruption in expeditionary contracting, but the lack of conflict-driver sensitivity in contract distribution has reinforced these structures.

BOX 3: THE PROBLEM WITH PRIVATE SECURITY CONTRACTORS (PSCs)

This strategy of focusing spending on insecure provinces has created perverse incentives for Afghan private security contractors (PSCs). In ‘secure’ provinces where aid spending has been low, the awareness that large sums are being spent on PSCs in other provinces has created incentives for actors to foment instability in order to win security contracts.¹ Similarly, there have been reports of PSCs actively fostering insecurity in provinces where they have already won contracts, in order to ensure that these contracts will continue to be awarded. For example, Ahmed Wali Karzai is reported to have allowed violence to surge in Arghandab in order to pressure ISAF into giving his allies contracts for security for the Dahla Dam.²

In Q2 2011, 20,375 PSCs were working for the US DoD in Afghanistan—an increase of 33 per cent from Q1 2011. During this period, the number of Afghan PSC personnel increased by nearly 42 per cent.³ As the aforementioned examples demonstrate, the use of Afghan PSCs has resulted in high levels of financial loss and is highly incompatible with the international community’s stabilisation goals. Contracting to Afghan PSCs has not only fostered instability in some regions, but has given legitimacy to armed militia groups. This is not to say that the use of US and third-country PSC personnel is not problematic, but that the use of Afghan PSCs has led to centrally important instances of corruption. In August 2010, President Karzai declared that all PSCs would be disbanded by the end of the year. However, the Afghan Ministry of Interior announced in December 2010 that PSCs would continue to operate within new restrictions preventing them from conducting actions that fall within the authority of Afghan law enforcement agencies.⁴

- 1 Theros and Kaldor, 2011:26
- 2 Forsberg, 2010a:82
- 3 CENTCOM, 2011
- 4 DoD, 2011 71-72

4. A NEED FOR BOTTOM-UP CONSULTATION

Ex-ISAF commander General McChrystal's statement that the international community 'must get the [Afghan] people involved as active participants in the success of their communities' rings hollow in the face of evidence.²⁸ But why has there been such a substantial gap between rhetoric and reality with regards to consulting with non-elite Afghans on the reconstruction of their country? This question is of particular importance with respect to expeditionary contracting, as the insights and advice of non-elite Afghans had the potential to improve the contracting process in various ways. Forsberg asserts that 'the assignment of contracts [...] should be designed to benefit as many constituencies as possible and with enough equity to alleviate rivalries'.²⁹ Following on from this, Kaldor concludes that an extensive bottom-up consultation process is 'absolutely critical' in order to develop a nuanced understanding of these constituencies and rivalries.³⁰

the international community to take the views, opinions and ideas of Afghans seriously stems from a perception of Afghans as illiterate and unsophisticated, when in reality 'they often are more conscious of international developments than their Western counterparts, because they have had to be'.³¹ If this is the case, a shift in the way the international community views non-elite Afghans will be crucial in reducing the amount of corruption in expeditionary contracting and reversing the detrimental effects that contracting has had on the political economy of Afghanistan.

Forsberg contends that completely rooting out corruption in contracting is not realistic in the Afghan theatre, and that contracts should be spread across various constituencies in order to stop the empowerment of a few predatory actors and networks.³² In order to map out these constituencies, bottom-up consultative processes with non-elite Afghans will be crucial. This will require acknowledgement of the fact that non-elite Afghans have knowledge to contribute.

Engaging non-elite Afghans in consultative processes prior to handing out contracts would significantly increase the legitimacy of both the international community and the contractor.

Furthermore, engaging non-elite Afghans in consultative processes prior to handing out contracts would significantly increase the legitimacy of both the international community and the contractor. It can be argued that the failure of

28 General McChrystal, 2009

29 Forsberg, 2010a:64

30 Interview with Prof. Mary Kaldor, London, UK, March 12, 2012

31 Theros and Kaldor, 2011:43

32 Forsberg, 2010a:64

III. STRUCTURAL CONSTRAINTS ON OVERSIGHT

INTRODUCTION

Many have claimed that the official oversight capacity needed to manage the contracting process has been lacking in Afghanistan. This chapter examines this oversight deficit in detail; what does it mean and how has it arisen?

- **Part One** explores how **structural constraints on oversight** were created by:
 - » the **premium placed on expediency**;
 - » the **lack of human capital** in the official workforce.

- **Part Two** considers the **response of the audit community** in light of these two factors, reviewing deficiencies in **contract design** and in the **vetting, monitoring** and **suspension & debarment** of contractors.

While this chapter focuses on the US government, an official from the UK Ministry of Defence who was interviewed for this report confirmed that similar trends can be discerned in the way the UK government has managed its contracting.

BOX 4: UNDERSTANDING CONTRACTS

Cost-plus or cost-reimbursement contracts: pay all of a contractor's permitted expenses to a limit prescribed in the contract, plus additional payment to allow for profit. This contract type requires especially careful design and additional oversight to ensure only allowable costs are paid, and that the contractor exercises sufficient cost controls.

Fixed-price contracts: a firm, or in appropriate cases, an adjustable price.

Firm-fixed-priced contracts: price is not subject to any adjustment on the basis of the contractor's incurred costs. This places maximum risk upon the contractor. It provides maximum incentive for the contractor to control costs and perform effectively and imposes a minimum administrative burden upon contracting parties.

Indefinite delivery/indefinite quantity contracts: provide an indefinite quantity of supplies or services during a fixed time period, e.g. Host Nation Trucking

Sole-source or 'no-bid' contracts: a non-competitive procurement process involving solicitation and negotiations with one source.

1. OVERSIGHT AND EXPEDIENCY IN CONTRACTING

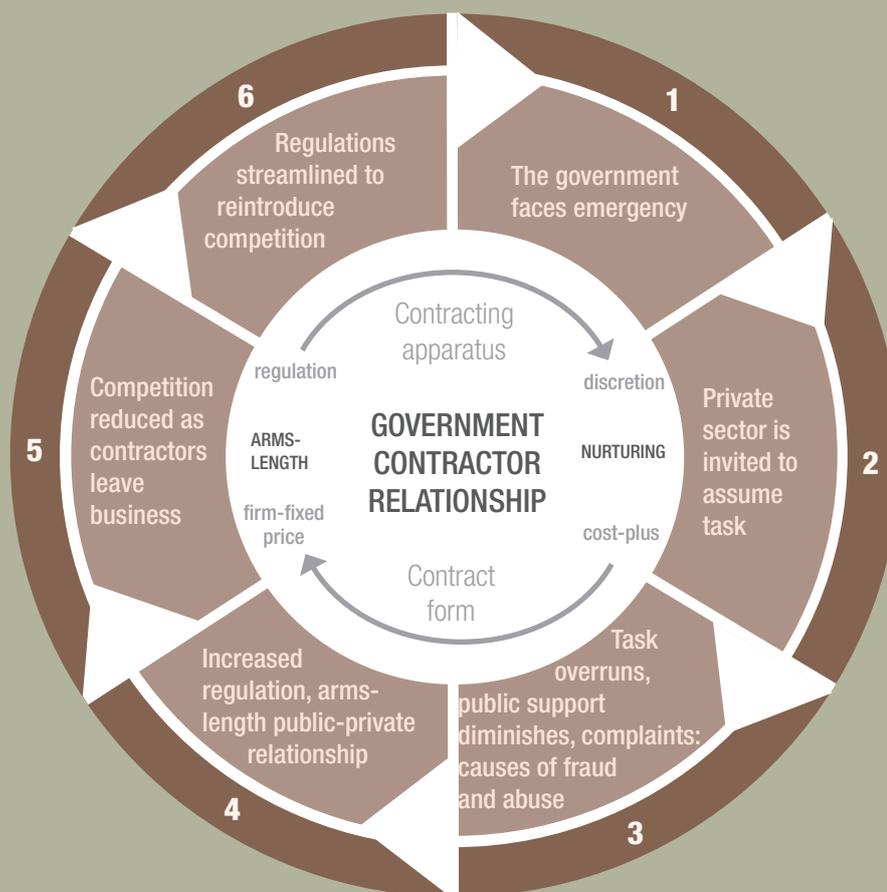
Three questions mark the history of government contracting in the US.³³ Is the appropriate contracting apparatus based on **discretion** or **regulation**? Is the appropriate government-contractor relationship of an **arms-length** or more **nurturing** sort? Lastly, which is the correct contract form—**cost-plus** types, which are held to be more expedient, or forms like **firm-fixed-price** that are usually considered more efficient? These debates can broadly be plotted in a cyclical pattern,³⁴ represented in Figure 5. However, these alternatives all require oversight to ensure that contracts are administered correctly. In

expeditionary contexts, oversight is undermined by a lack of human capital and an undue emphasis on expediency.

A premium on expediency

The premium placed on expediency exacerbates the difficulties already presented by the expeditionary environment in Afghanistan. It risks diminishing incentives to render contracting accountable and transparent, and precludes any sensitive analysis of its long-term, politico-economic effects. This mind-set has been present since the beginning of the conflict, and has likely been reinforced by the US's impending withdrawal.

FIGURE 5: THE CYCLE OF GOVERNMENT CONTRACTING



33 Nagle, 1997:7-8

34 Keeney, 2007:18

Such is apparent in the 'burn rates' that measure the progress of agencies by how quickly they can spend funds,³⁵ and in claims that oversight responsibility is often viewed as a burden by officials in theatre.³⁶

This may be understandable at the outset of a conflict, but that this mind-set still persists after over a decade in Afghanistan is cause for concern. A premium on expediency must cede to a premium on accountability, to avoid lock-in to the predatory networks examined in Chapters One and Two.

The human capital crisis

A second factor affecting oversight capacity is what has been called the US government's 'human capital crisis'.³⁷ Government contracting, although always important in the US, was actively encouraged under several administrations following WWII—the second Bush administration oversaw the most significant increase in recent history.³⁸ Driven by bipartisan limits on the number of official personnel, or 'personnel ceilings', new agencies and programmes were forced to draw on third parties, while the number and experience level of contracting officials decreased. For example, by the end of 2007, USAID had just 109 employees managing over USD 8.9 billion in contracts, roughly USD 81 million per employee. Further, in 2009 only half the military contracting personnel were certified for their positions.³⁹ Thus, as domestic and expeditionary contracting expanded, oversight lagged significantly behind.

Furthermore, as the Bureau of the Budget warned in 1962, the discrepancy between the uncapped salaries of contractors and those of their federal counterparts could lead to human capital flight from the public sector. It called this discrepancy 'one of the most serious obstacles to acquiring and maintaining the managerial competence which the

government needs.'⁴⁰ It is possible that personnel ceilings have been compounded by this cumulative effect of contracting, which, as the impact of private security contractors (PSCs) in Kandahar outlined in Chapter Four shows, is not restricted to the US government.

Although the Office of Management and Budget (OMB)'s long-anticipated final guidance states that the oversight of contractors is indeed an 'inherently governmental' function,⁴¹ this is mitigated by the aforementioned changes in US government. Significant barriers to improving oversight capacity remain, especially given the current fiscal deficit and persistent calls in Congress to reduce the size of government and freeze federal employee salaries.⁴² In March 2012, the US Government Accountability Office (GAO) concluded that, while the DoD has taken measures to improve its training, it still does not provide sufficient, trained personnel to oversee contracts in Afghanistan.⁴³ This may reinforce the premium placed on expediency in expeditionary contracts, since the capacity to assess long-term effects and instil accountability is lacking. For some observers, any attempt to improve oversight through traditional accountability mechanisms, i.e. top-down decrees and large government bureaucracies, will be of limited impact.⁴⁴ Rather, a radical human capital strategy is essential if oversight of expeditionary contracting is to improve—one that recognises that the size of the government and its spending are decoupled by the rise of contracting, and that a lack of oversight increases costs incurred.

35 Taylor and Nissenbaum, 2001
36 Cruz, 2010:15
37 Stanger, 2009
38 Light, 2006:1
39 Stanger, 2009:17,135

40 Bureau of the Budget, 1962:217.
41 Federal Register Volume 76, Number 176 (September 12th, 2011):56237
42 See e.g. House Budget Committee, 2012:32.
43 GAO, 2012
44 Stanger, 2009:178; Goldsmith and Eggers, 2004

2. CONTRACTING IN EXPEDITIONARY CONTEXTS

Contract design

Despite President Obama's 2009 memo limiting non-competitive contracting, little progress has been made. While a lack of competition is associated primarily with wasted funds and lower quality goods and services, it is also linked with influence peddling and fraud. The ultimate question is whether it results from uncontrollable factors such as the inescapable urgency of war, or lack of qualified competitors; or from deficient procedures that can be explained by a human capital deficit and premium on expediency. GAO has determined on multiple occasions that the only 'urgency' resulted from an agency's failure to procure in a timely and competitive fashion. In this light, claims that certain contracting techniques are required by the urgency of the situation, as opposed to the agency's lack of foresight or focus on expediency, must be scrutinised.

Concerns have also been raised about a general deficit in managerial capacity, which together with a high turnover of personnel has led to contracts with: requirements not clearly set out; costs poorly estimated;⁴⁵ and outputs not easily measurable.⁴⁶ Indeed, it has been argued that it is less the legislation that needs to change than the quality of contract design.⁴⁷ The Special Inspector General for Iraq Reconstruction (SIGIR) has repeatedly called for an abbreviated, contingency-specific Federal Acquisition Regulation to streamline and standardise procurement and termination regulations. Yet SIGIR has also stressed the need for a significantly greater number of contracting personnel capable of carefully drafting a large number of contracts.⁴⁸ It is worth noting that pledges to improve procurement management through the use of new contracting techniques or competitive bidding, without any reform of

management personnel, have been of limited impact in the past.⁴⁹

Subcontracting

Another cause for concern has been the degree of subcontracting which, according to SIGIR's former Deputy Inspector General, involves the highest incidence of waste and abuse.⁵⁰ Indeed, contracts in Afghanistan can pass through up to five layers of subcontracts,⁵¹ rendering lines of accountability and oversight even more opaque (see Box 4). Moreover, funds can undermine the stabilisation mission of the international community by ending up in the wrong hands. The Comprehensive Contingency Contracting Reform Act of 2012 (S.2139) seeks to improve accountability by limiting expeditionary contracts to one tier of subcontractors.⁵² However, this provision can be waived in the interests of the US government. Furthermore, some critics believe that the proliferation of subcontracts is itself the result of a lack of procurement personnel, since the simplest way to expedite contracting when staff are short-handed is to award a large umbrella contract to one company which then subcontracts.⁵³

Vetting

The vetting and subsequent monitoring of contractors have equally come under fire. As of 28 December 2011, the international community had reviewed 1,200 high-value and high-risk contracts worth USD 27 billion,⁵⁴ yet most vendors were not vetted. Contracts worth less than USD 100,000 are not routinely screened by CENTCOM, even though estimates indicate that three-quarters of contracts with non-U.S. vendors in Afghanistan fell below this threshold in FY 2010.⁵⁵

45 Bowen, 2006
46 Cruz, 2010:89
47 *ibid.*: 64
48 SIGIR, 2009:335

49 Guttman, 2003:200
50 *ibid.*: 30
51 Stanger, 2009:2
52 S.2139 § 201.
53 Steven Schooner, cited in Stanger, 2009:91
54 SIGAR, 2012:108
55 GAO, 2011: 2

BOX 5: THE PRINCIPAL-AGENT PROBLEM IN THE CONTEXT OF EXPEDITIONARY CONTRACTING

High levels of information asymmetry, uncertainty and risk are particularly pronounced in expeditionary contracting. The conditions under which most contracts are carried out prohibits effective monitoring, while large and free-flowing volumes of money make designing appropriate incentive mechanisms for agent performance highly challenging.

Critically, the principal-agent problem is compounded by 'the institutional setting of aid itself [which] allows for severe knowledge problems to be ignored and complex principal agent problems to arise' because of multiple principals and agents that are created as funding passes from one organisation to another. The relative power of contractors is further enhanced due to their being in the 'the heart of the game' since they 'interact with all the other actors'.¹

1 Saleh, 2011:11

Given the near-impossibility of screening every non-U.S actor, GAO has suggested a risk-based vetting system, based on service performed and geographic area. However, even this may require a managerial capacity that is lacking. Data integration and accessibility have been improved by systems such as FAPIIS that came online in 2010, but much data is incomplete or inaccurate, and coordination within and between agencies remains a problem.

Monitoring

Investigative capacity was not present from the outset in either Afghanistan or Iraq. The Special Inspector General for Afghanistan Reconstruction (SIGAR), for example, only opened its offices in Afghanistan after nearly seven years and USD 38 billion had been committed to the reconstruction effort. Initiative on oversight was therefore yielded, creating an enabling an environment for corruption. S.2139 requests that one of the three current Inspectors General (IGs) lead oversight of contingency operations in hope of resolving future conflicts of jurisdiction.⁵⁶ This a less ambitious provision than the permanent contingency IG office suggested by the Commission on Wartime Contracting (CWC). Ultimately, this cannot fully resolve the basic problem that inhibits adequate

vetting and monitoring; sufficient data collection and integration requires an official workforce that understands the importance of an audit trail and is capable of enforcing it.

Suspension and debarment

Concerns have been raised that the international community has not been using suspension and debarment as often as it could. This has been attributed to:

1. the uncertain jurisdiction for foreign contractors operating overseas;⁵⁷
2. inadequate personnel in various US government agencies;⁵⁸
3. lack of competitive contracting has created a situation where certain contractors are 'too big to fail'.⁵⁹

It is important not to scapegoat contractors, but it is difficult to deny the moral hazard and increased scope for waste and abuse that such a situation creates.

56 S.2139 § 103

57 Stanger, 2009:106
58 Cruz, 2010
59 *ibid.*:66

S.2139 calls for the automatic suspension of contractors who are charged with criminal or civil contracting fraud, yet given that CWC's recommendation for automatic suspension was met with such strong resistance, this provision seems ambitious.⁶⁰

Although a powerful tool, suspension and debarment cannot in itself be considered a panacea. It relies upon adequate monitoring of contractors, and, given the lack of transparency in subcontracting, is of greater use with prime contractors.

In conclusion, any calls for greater oversight must be assessed in light of these structural and institutional developments. To argue that the enabling environment that contracting created for corruption was solely the result of particular procedures neglects the structural constraints on oversight that need to be addressed.

⁶⁰ Whereas the CWC recommended debarring companies found guilty of fraud and corruption, senior officials have argued for a rehabilitative approach. See Tillipman, 2012.

IV. KANDAHAR PROVINCE

BOX 6: KANDAHAR OVERVIEW



Source: University of Texas map collection, retrieved July 2011, http://www.lib.utexas.edu/maps/middle_east_and_asia/txu-pclmaps-oclc-780443237-afghanistan-pakistan-admin_divisions-2012.jpg

IMPORTANCE OF PROVINCE

- ‘Strategic keystone for Afghanistan’¹
- Where the Taliban movement originated.
- The historic powerbase of President Hamid Karzai’s family.
- Junction for two vital roads: the road from Quetta in Pakistan, and the Herat-Kabul Highway.

SOCIO-ECONOMIC OVERVIEW

- Population: 1,127,000 (65 per cent rural).
- One of the least developed provinces in Afghanistan:
 - » Agriculture primary source of income for 28 per cent of households;
 - » 13 per cent literacy rate;
 - » 2 per cent of households have access to electricity in rural areas.²
- Political economy is dominated by a few commercial and military networks controlled by the Karzai family.

Until his assassination in July 2011, Ahmed Wali Karzai (AWK), the half-brother of the Afghan President, had been at the centre of Kandahar’s political economy, exerting power and influence through a number of real estate, contracting and security firms such as Watan Risk Management.

TRIBAL DIVIDES

- Durrani tribes: most Kandaharis belong to one of the Durrani tribes, which comprise a hierarchy of subtribes, including the:
 - » Popolzai tribe, to which the Karzai family and many other leading politicians belong;
 - » Panjpai Durrani, which are predominantly rural and generally less affluent.
- Ghilzai tribe: the leader of the Quetta Shura Taliban, Mullah Omar, comes from the Ghilzai tribe, which comprises a sizeable minority of Kandaharis and is considered an historical rival to the Durrani tribes.

While tribal divides are important, ‘a more useful distinction [...] is the social divide between rural Kandahar and Kandahar City’.³

KANDAHAR CITY

- Sits in the centre of a wide plain through which the Arghandab River runs.
- Population of 386,000, which has grown dramatically as people have migrated to flee the insurgency.⁴
- Two primary sources of revenue:
 - » opium trade;
 - » contracts from international organisations.

‘No estimate exists of Kandahar’s Gross Domestic Product’, however, ‘the USD 400 million to USD 1 billion that the coalition may spend is almost certainly larger than the rest of the province’s economy’.⁵

ISAF REGIONAL COMMAND SOUTH

- NATO’s largest air base and critical logistics hub for the coalition.⁶

Sources: Forsberg, C. 2009 (particularly) and also Forsberg 2010a. Other sources are referenced.

1 Forsberg, C. 2009:3

2 MRRD, 2007

3 Forsberg, 2009:14

4 Central Statistics Organization, 2012

5 Forsberg, 2010b:44

6 ISAF, 2011

PURPOSE

This chapter uses Kandahar Province to illustrate the arguments set out thus far. It aims to demonstrate how corruption in expeditionary contracting has supported a criminal patronage network in the province, and that purely technocratic approaches will be largely ineffective in overcoming the perverse incentives and permissive environment that has been sustained through expeditionary contracting.

- **Part One** introduces **Kandahar Province** before providing more detailed insights on the province's history.
- **Part Two** provides concrete **examples of the failures of the international community**.
- **Part Three** concludes with the main **lessons that can be learned** from the case.

1. KANDAHAR PROVINCE

History

This section details the key events in recent history that led to the dominance of Kandahar's political economy by the Karzai family network, and the emergence of an exclusionary and predatory political economy.

In the 19th and 20th centuries Durrani tribal aristocracy became increasingly distant from the population of Kandahar and grew closer to the Kabul central government. After the central government was seized by the communist Khalq party in 1978, its influence among its constituents in Kandahar greatly declined and, without the support of Kabul, most of the aristocracy fled Afghanistan.⁶¹

During the Soviet invasion in the 1980s, a group of mujahideen commanders gained control of the province. They remained in power after the defeat of the Soviets, and Kandahari tribes aligned themselves with various mujahideen leaders.

61 Forsberg, 2010a:14

However, the mujahideen commanders regularly extorted their own tribes, and this governance failure led to the Taliban's gaining control of Kandahar in 1994.⁶²

Unlike in the rest of Afghanistan, where the Taliban ruled by force and manipulation, most Kandaharis welcomed the Taliban because they strove to wipe out the corrupt practices of former strongmen by establishing clear and transparent Sharia law, eliminated extortionate road tolls implemented by the mujahideen, and protected the opium trade.⁶³

By 2001, however, Kandaharis had grown tired of the Taliban's conservatism and conscription for the war against the Northern Alliance. After the US invasion, tribalism resurfaced as both militia-backed strongmen and the Durrani aristocracy returned. Nevertheless, none of the aristocracy besides the Karzai family had any real power in Kandahar, and Hamid Karzai was forced to accommodate many of the strongmen. The most notable of these was Gul Agha Sherzai, who was given the position of governor in Kandahar's provincial administration and also had the backing of the CIA and US Special Forces.⁶⁴

Karzai's tribal allies were not given positions within the government but were incorporated into the Afghan National Security Forces (ANSF). Thus rather than serving the interests of the Kandahari people, the ANSF was no more than a group of tribal militias which 'used their power primarily to further the narrow interests of their commanders.'⁶⁵

To deal with this, the UN ran a Disarmament, Demobilisation and Reintegration (DDR) process from 2003 to 2005, in which tribal militia networks were decoupled from the ANSF. However, some militia commanders kept hold of their weapons and integrated their forces into private security companies, who were then awarded lucrative contracts based on ties to the Karzai and Sherzai patronage networks.⁶⁶

62 *ibid.*:14-15

63 *ibid.*:16

64 Forsberg, 2010a:17

65 *ibid.*:18

66 *ibid.*:19

2. FAILURES OF THE INTERNATIONAL COMMUNITY

Contracting with corrupt power brokers

Although aware of the predatory nature of certain actors within the Kandahari politico-economic structure, the international community overstated the benefits of contracting to these actors while understating the costs. The following sections review the logics at work.

Overstated benefits: expediency

Chaudhuri and Farrell state that 'ISAF often finds it expedient to work with corrupt power brokers',⁶⁷ which can be attributed to the premium placed on expediency as discussed in Chapter Three. In the case of Kandahar, engaging with Ahmed Wali Karzai was considered by some as 'essential for the effectiveness of security operations' because of his ability to control powerful militias.⁶⁸ On the face of it, contracting security operations to Ahmed Wali Karzai and his allies offered the coalition the potential to quickly stabilise parts of the province, while also incentivising Karzai to allow ISAF to freely operate within Kandahar City.⁶⁹ Contracting to Ahmed Wali Karzai's associated security forces also enabled the coalition to externalise many of the risks that would otherwise be posed to coalition forces, including the domestic political risk to the mission associated with coalition troop deaths.

As a result, ISAF sought to engage Ahmed Wali Karzai by awarding 'international contracts worth millions of dollars...to various companies and agencies run by his network'.⁷⁰ Similarly, as noted by Kaldor: 'the networks were [historically] privileged because they were linked to the CIA, and nobody really made an effort to address people outside the networks'.⁷¹

Understated costs: reinforcing corrupt patronage networks and creating incentives to perpetuate insecurity

The coalition also awarded contracts to networks controlled by the Sherzai family. **The Sherzai and Karzai** families have a duopoly on distributing contracts, which represent huge sources of funds.⁷² This gives the families a 'tremendous ability to build patron-client relationships with militia commanders' who have become increasingly motivated by economic profit.⁷³

In turn, the contracts have become part of an incentive structure which perpetuates insecurity and conflict:

- **Contracts have funded local militias**, which have 'undermined security...by operating outside formal Afghan structures [and] which are committed to protecting their own profits and the political interests of their commander'.⁷⁴
- **Contracts have benefited only a narrow range of actors aligned to the Karzai or Sherzai family networks, alienating** other actors who have subsequently resorted to violence or turned to the Taliban.
- **Local power-brokers (many aligned with Ahmed Wali Karzai) have been incentivised to keep state police weak**, and continue ISAF's reliance on private security firms.⁷⁵

Other understated costs:

- **Negative association of ISAF with power-brokers**, caused by a lack of oversight and clear messaging on the part of ISAF.⁷⁶

67 Chaudhuri and Farrell, 2011:287

68 Forsberg, 2010a:51

69 Chaudhuri and Farrell, 2011:286

70 *ibid.*:286

71 Interview with Prof. Mary Kaldor, London, UK, March 12, 2012

72 Forsberg, 2010a:27

73 *ibid.*:28

74 *ibid.*:27

75 *ibid.*:7

76 Forsberg, 2010b:48

- **Mutually reinforcing** nature of corruption:
 - » strengthens the opinion of Kandaharis outside of the predatory networks that the **government is ‘an exclusive oligarchy devoted to its own enrichment...closely tied to the international coalition’**;⁷⁷ which contributes to a
 - » **perception of total corruption.**⁷⁸
- **Inflation** is caused by the large size of contracts relative to the Kandahari economy, and impacts those outside of the contracting network most heavily, creating further resentment against ISAF. The erosion of official salaries by inflation is also noted by Ostrom as one of the factors which make bribery more likely.⁷⁹
- **Enabling private security firms and militias to pay significantly higher wages than the ANSF**, thereby critically undermining efforts to build the capacity of the Afghan state through creating incentives for talented Afghans to leave the government or armed forces.⁸⁰
- **Funding the Taliban**, based on a number of reports that suggest that many security contractors pay off the Taliban.⁸¹

Outcome: corruption and damage to government legitimacy

ISAF’s ‘engagement strategy’ through contracting with Ahmed Wali Karzai ‘has been achieved at a longer-term cost to ISAF’s campaign to combat corruption and improve Afghan government legitimacy’.⁸² This has ‘inadvertently strengthened the forces that undermine legitimate government institutions.’⁸³

77 Forsberg, 2010a:7
 78 Theros and Kaldor, 2011
 79 Ostrom, 1993
 80 Michael Bhatia and Mark Sedra, *Afghanistan, Arms, and Conflict*, 228-229. 236-242 footnote 206 in Forsberg, 2010a:28
 81 Forsberg, 2010a:32; Subcommittee on National Security and Foreign Affairs, 2010:38
 82 Chaudhuri and Farrell, 2011:286
 83 Forsberg, 2010a:6

3. LESSONS LEARNED

The coalition’s method of contracting in the political economy of Kandahar Province, which was initially driven by short-term goals of expediency, has had negative long-term consequences for ISAF’s mission of achieving security and building **state** capacity and legitimacy. The case illustrates how criminal patronage networks quickly configured themselves to **suit their own interests**, effectively capturing large revenue streams from operational and developmental contracts in ways which were unanticipated and difficult to control by the **international community**. Lessons learned from the Kandahar case:

1. Contracting can represent a valid second-best solution—if managed appropriately

Notwithstanding the valid arguments against the use of private security firms (see Box 2), many negative impacts associated with their use in Kandahar could have been largely mitigated, even if not totally avoided: ‘Had these militias been thoroughly reformed, disciplined, and been directed to serve the interests of the people of Kandahar rather than the interests of the strongmen who led them, they could have been an effective way to provide security’.⁸⁴

2. ISAF retains the ability to shape Kandahar’s political economy

Contracting fortunes determine political power in Kandahar.⁸⁵ While ISAF has so far failed to effectively leverage contracting, the size of ISAF contracts enables it to change the structure of the political economy.

84 Forsberg, 2009:18
 85 Forsberg 2010b:44

3. ISAF must spread contracts across constituencies and counter perverse incentives

'Turning off the tap' of expeditionary contracting in Kandahar Province is neither desirable, because of the destabilisation this would cause, nor inherently plausible, because of the extent of ISAF's reliance on private security contractors.

Instead, ISAF should endeavour to change the terrain of Kandahar's political economy by spreading contracts more equitably across wider constituencies of actors, while mitigating the potential for violent conflict amongst competing groups. **This would lessen** the ability of elite groups to compete with or control the provincial government. Accordingly, contracts should particularly be targeted at 'centres of gravity, including groups and powerbrokers sitting on the fence'⁸⁶. It will be necessary to identify ways to gradually change the incentives associated with contracts so that they become compatible with the strengthening of state-based institutions and **official** oversight. To do this will require ISAF to sensitively navigate the informal power networks in the province.

Combining a more equitable approach to contract distribution should also be accompanied with a DDR process to gradually diminish the potential security threat posed by the large number of private militias.

4. ... Although the impending drawdown diminishes ISAF's leverage

'The impending drawdown may actually exacerbate corruption as everyone tries to take as much as they can before the gravy train leaves'.⁸⁷ This will make it necessary for the international community to continue providing longer-term support to bolster the Afghan state, manage the remaining contracts carefully, and effectively communicate with relevant stakeholder groups.

⁸⁶ Forsberg, 2010a:64

⁸⁷ Interview with anonymous ISAF staffer based in Kabul, Afghanistan, April 12, 2012

NOTES AND ANNEXES

NOTES

Interviews

Interview with Prof. Mary Kaldor, London, UK, March 12, 2012

Interview with anonymous ISAF staffer based in Kabul, Afghanistan, April 12, 2012

Interview with anonymous official from Joint Services Command and Staff College, Ministry of Defence, London, UK, April 16, 2012

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APPENDIX A: PROJECT TERMS OF REFERENCE

Project Title: Expeditionary contracting and corruption

Background

Transparency International UK's Defence and Security Programme (TI-DSP), based in London, has become an authoritative actor on empowering civil society, the private sector, and governments to promote greater transparency and reduce corruption in international arms transfers as well as in defence and security establishments. During its time, the programme has constructively worked and built relationships with defence companies, governments, civil society, NATO and other international organisations, academic institutions, and think-tanks to reduce corruption levels in the defence industry.

Expeditionary contracts are in theory designed to provide effective and responsive support to the Army and other governmental organisations at overseas installations. However, such contracts have turned out to be extremely prone to corruption. Due to the secretive nature of defence contracts and the lack of oversight that accompanies them, the Commission on Wartime Contracting has estimated that at least USD 31 billion and as much as USD 60 billion has been lost to contract waste and fraud in Iraq and Afghanistan. There is now a growing realisation that countries that participate in expeditionary contracting, primarily the United States, need to change the way they view and award such contracts. For example, there is one school of thought that suggests that expeditionary contracting be viewed within the larger context of economic reconstruction of post-conflict countries, and therefore demands a shift to local contractors.

Question

1. Why is corruption widespread in expeditionary contracting? Specifically, what are the regulatory deficiencies that facilitate/encourage corruption?
2. What kinds of changes can/should be made to ensure a more efficient allocation of resources and adherence to US development objectives in overseas security operations?

Objective

It is hoped that the results of the findings will enable a better understanding of how expeditionary contracting currently works, how it is designed to work and how it might change in the future. Further, the work will hopefully consolidate a wide range of sources on the issue (military, political, policy) and create a coherent narrative on the subject. It is hoped that the report will help improve future engagements with defence ministries and help clarify the very pernicious effects of poorly regulated expeditionary contracting practices.

Methodology

The majority of the study consists of desk-based research and reviewing secondary source documents. The literature on the subject is quite diverse and the student will find excellent material from the military (declassified ISAF papers), government (The Commission on Wartime Contracting's final report) civil society organisations and research foundations such as the Ewing Marion Kauffman Foundation in the United States. There are also a number of articles available in academic and policy journals such as Foreign Affairs.

REVISED PROJECT SCOPE, AS AGREED WITH CLIENT

Research question

Why is corruption in expeditionary contracting so prevalent in Afghanistan? How have corrupt contracting practices reinforced a predatory Afghan political economy and had a detrimental effect on US/ISAF stabilization and development goals? What lessons are there to be learnt for future contracting in expeditionary environments?

Approach

Take a political economy approach and focus primarily on how expeditionary contracting interacts with power dynamics in order to construct a coherent narrative around the potential two-way causal relationship between corruption being enabled/promoted by:

- The way the US administered and managed its contracts;
- A predatory political economy in the host nation.

APPENDIX B: GLOSSARY

ANP: Afghan National Police

ANSF: Afghan National Security Forces

AWK: Ahmed Wali Karzai, the half-brother of the Afghan President

CENTCOM: U.S. Central Command

CWC: U.S. Commission on Wartime Contracting

DDR: Disarmament, Demobilisation, and Reintegration

DoD: U.S. Department of Defense

DoD-IG: U.S. Department of Defense Inspector General

FAPIS: Federal Awardee Performance and Integrity Information System

GAO: Government Accountability Office

IG: Inspector General

MoD: U.K. Ministry of Defence

OMB: U.S. Office of Management and Budget

SIGAR: Special Inspector General for Afghanistan Reconstruction, <http://www.sigar.mil/>

SIGIR: Special Inspector General for Iraq Reconstruction

USACE: U.S. Army Corps of Engineers

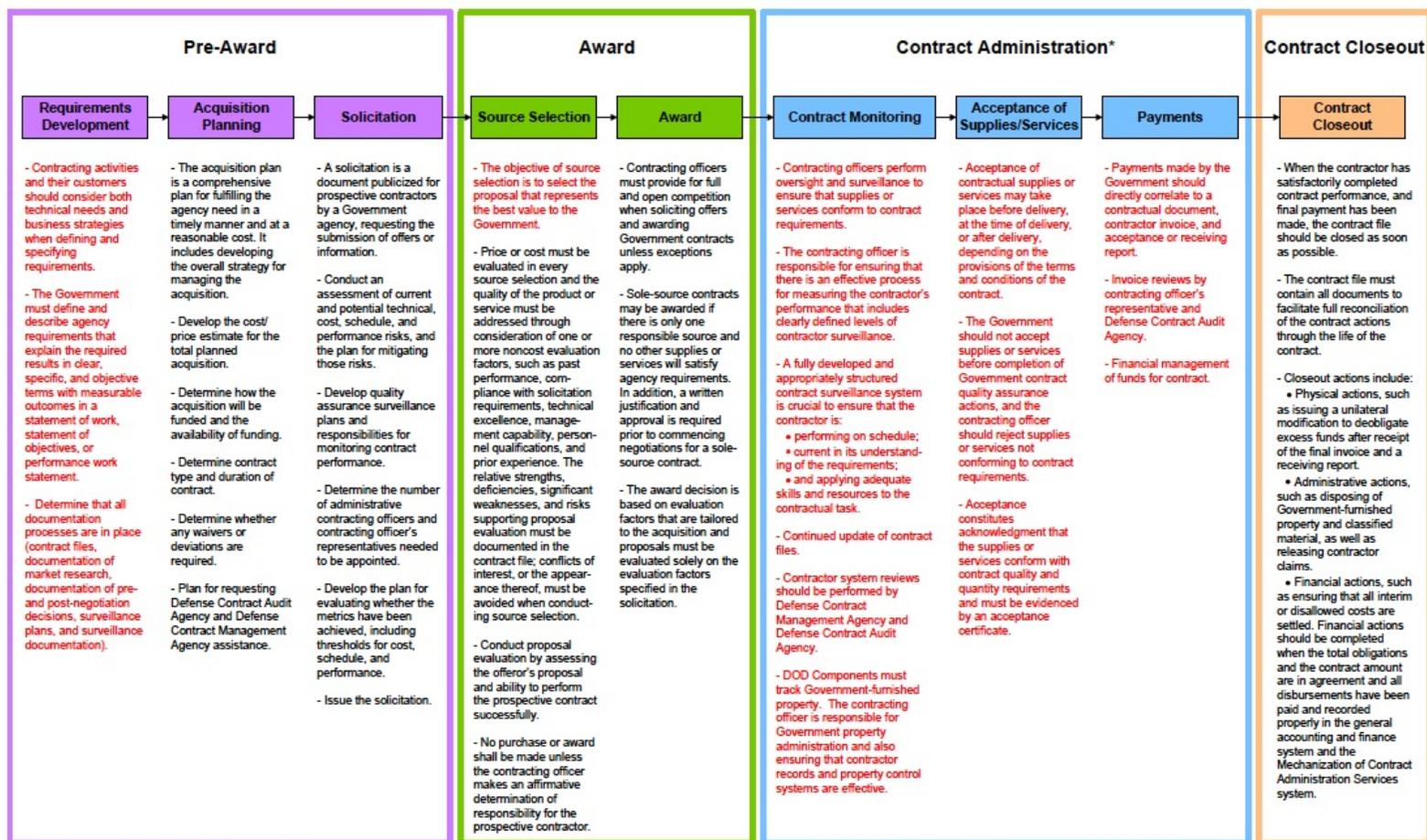
USAID: U.S. Agency for International Development

US-FORA: U.S. Forces - Afghanistan

APPENDIX C: KEY ASPECTS OF CONTRACTING PROCESS

Taken from Department of Defense, Contingency Contracting: A Framework for Reform (Report No. D-2010-059), May 14, 2010

Key Aspects of the Contracting Process



Red Text = Top five recurring contracting issue areas.

* There are 70 contract administration functions in the Federal Acquisition Regulation.

Fraud Indicators and Poor Practices in Relation to the Contracting Process

Pre-Award			Award		Contract Administration				
Requirements	Contract Documentation	Contract Type	Source Selection	Contract Pricing	Oversight and Surveillance	Inherently Governmental	Property Accountability	Award Fee	Financial Management
<ul style="list-style-type: none"> - The Government failing to state requirements functionally to the maximum extent possible. Specifications that are vague make it difficult to reasonably compare estimates. - The Government defining statements of work and specifications to fit products or capabilities of a single contractor, which effectively excludes competition. - The Government splitting requirements to use simplified acquisition procedures in order to avoid review and approval. - The Government modifying the contract shortly after award in order to make material changes in the requirements or statement of work. 	<ul style="list-style-type: none"> - A pattern of missing documents or documentation with outdated information in the contract file. - Contract documents that are altered, backdated, or modified to cover deficiencies. - Contract awards made without adequate documentation of all pre-award and award actions. - Invoices that do not have adequate supporting documentation or supporting documentation is incomplete. 	<ul style="list-style-type: none"> - The high risk to the Government in cost-reimbursement contracts may provide an opportunity for fraud to occur. - The contracting officer extending the duration of a cost-reimbursement or time-and-materials contract after experience provided a basis for firmer or fixed pricing. - Award/use of an illegal cost-plus-percentage-of-cost contract. 	<ul style="list-style-type: none"> - Improper relationships between Government and contractor personnel. - The Government's failure to perform market research to determine evaluation factors, contracting method, or whether commercial items or nondevelopmental items would meet the Government's needs. - The Government restricting procurement to exclude or hamper any qualified contractor. - The Government revealing information about procurements to one contractor that is not revealed to another. - The Government accepting late or nonresponsive proposals, or accepting proposals from nonresponsible offerors. - The Government improperly disqualifying offerors. - The Government exercising favoritism towards a particular contractor during the evaluation process. - The Government awarding contracts to contractors with poor records of performance. - The Government awarding contracts that include items other than those contained in the bid specifications. - The Government's approval of a justification for less than full and open competition based on improper reasons or inaccurate facts. 	<ul style="list-style-type: none"> - The Government not preparing estimates or preparing solicitations after requested. - The Government and contractor utilizing unqualified personnel to develop cost or pricing data used in estimates. - Government estimates and contract award prices are consistently very close. - The Government approves items that are of lesser value but the contract cost is not reduced. - The contractor issuing an engineering change proposal soon after the award of a contract. 	<ul style="list-style-type: none"> - Contractors awarding subcontracts to unsuccessful bidders. - The Government providing materials or services to contractors even though contractors are being paid to provide the materials or services. - The administrative contracting officer approving modifications. - Contractors failing to meet terms but no compliance efforts are undertaken. - The Government certifying receipt of goods without performing inspections. - The user frequently complaining of poor quality of supplies or services provided under a contract. This may indicate that contractors are delivering something less than what you are paying for. - The Government failing to appropriately close out the contracts in a timely manner. 	<ul style="list-style-type: none"> - Increased workloads and responsibilities that prohibit ongoing DOD monitoring of each contractor's work. - Contractors certifying payments for vendor goods, services, or salaries. 	<ul style="list-style-type: none"> - Inadequate management oversight and physical inventory control. - Unreliable property inventory data. - Inventory records disclose unusual patterns when compared to physical inventory reviews that cannot be reasonably explained. - Inventory items marked with incorrect disposal condition codes, such as repairable or scrap when they should be labeled excellent. - Failure to return Government-furnished equipment. 	<ul style="list-style-type: none"> - Failure to properly document contractor performance. - The fee determining official's failure to properly document award fee determinations that differ from Award Fee Review Board recommendations. - Award fee granted is not reflective of the contract oversight and surveillance assessments. 	<ul style="list-style-type: none"> - The contractor submitting false invoices or claims to the Government. - Excess profits on either a specific contract, product line division may be a bid fraud indicator. - Later contractor billings showing a downward adjustment in material costs as labor overhead costs increase. - The Government paying contractors too much for the same items or services without an attempt to recoup the overpayments. - The Government not regularly reconciling contract payments, transactions, and inventory. - Contractors' failure to correct known system deficiencies. - Contractors or suppliers complaining that they are not being paid in a timely manner. This may indicate fraudulent manipulations and diversion of Government resources through supply or finance operations. - The Government's failure to deobligate funds.

APPENDIX D: INSTITUTIONAL HISTORY OF AFGHANISTAN

More than three decades of conflict have drastically altered the institutional landscape of Afghanistan. Prior to this period of conflict, there was a fragile coexistence between the centralised institutions of the state and the decentralised institutions of traditional Afghan society (Theros and Kaldor, 2011: 10) (Lister, 2007: 3). However, years of conflict have gradually shifted local power from 'legitimate traditional leaders accountable to their community to a new generation of strongmen who control military and financial resources' (Theros and Kaldor, 2011: 10). The coexistence first began to break down during the civil war which followed the Soviet invasion, as warlords and strongmen started to form regional alliances in order to oppose or gain control of the central government. This led to a drastic decentralisation of power (Lister, 2007: 3). The ISAF intervention then allowed these actors to extend their power, and many were given formal roles within the new post-Taliban Afghan government (Lister, 2007: 4). This is emblematic of the political economy described in Chapter One, which has resulted in the exclusionary politics and predatory behaviour of an elite few at the expense of the majority of Afghans who are excluded from these structures of power. It is within these power structures that widespread corruption in expeditionary contracting has occurred.

Transparency International UK
International Defence and Security Programme
32-36 Loman Street
London, SE1 0EH
United Kingdom

defence@transparency.org.uk
www.ti-defence.org
www.transparency.org.uk