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INSIDE

Cover photo: An Afghanistan National Police recruit fires his AK-47 rifle at a target at a range near the Regional Training Center for the ANP near Gardez, Afghanistan. U.S. Army photo by Staff Sgt. Michael Bracken

INTRODUCTION

Despite numerous obstacles, most notably the deteriorating security situation, Afghanistan has made progress in various aspects of its state-building agenda. Gains have been made in areas such as institution building, economic growth and human development.[1] However, these positive signs have not stemmed the rising tide of insecurity that threatens Afghanistan's war-to-peace transition. As J. Alexander Thier recently stated, "security is the sine qua non of the stabilization and reconstruction process – the thing without which nothing else can happen" (2009: 7).

SECURITY ENVIRONMENT

While Kabul has seen a decline in the number of security incidents in recent months – whether criminal in nature, such as kidnappings and thefts, or terrorist attacks, such as suicide and roadside bombings – this pattern has not been replicated outside the capital, even in neighboring provinces, where insecurity remains acute.[2] The week of June 12-18 witnessed a record high number of security incidents, with the Taliban

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1 Examples of these gains include: a significant improvement in public health, with 85 percent of Afghans having access to primary healthcare by 2009; the return of more than 6 million students to school; healthy economic growth running at roughly 9 percent per annum from 2006-2008; and the promulgation of a new constitution and the rationalization of the country's legal framework, including the passing of key legislation in the areas of private sector regulation, weapons ownership, and political parties.

2 In Logar Province, located 35 km southeast of Kabul, roughly 3,000 American soldiers were recently deployed due to the rising incidence of insurgent attacks. For instance, in the province's Kharwar District, insurgents attack Afghan National Police Posts 2-3 times per week, murder civilians perceived as collaborating with the government, and distribute night letters or *Shabnamas* (publicly posted letters intended to warn and intimidate the local population). See Afghanistan Government Official, (2009a).

ABOUT THE SSR MONITOR

The *Security Sector Reform Monitor* is a quarterly publication that tracks developments and trends in the ongoing security sector reform (SSR) processes of five countries: Afghanistan, Burundi, East Timor, Haiti and South Sudan. Every quarter, there will be separate editions for each case study country. Adopting a holistic definition of the security sector, the *Monitor* will cover a wide range of actors, topics and themes, from reforms in the rule of law institutions and armed forces to demilitarization activities and the role of non-statutory security and justice actors.

Research for the *Monitor* is field-based: a resident researcher in each case study country leads data collection and analysis, with support from desk-based analysts at The Centre for International Governance Innovation (CIGI). The same research guidelines are employed for each country. All editions of the *Monitor* are subjected to an external peer review process in addition to our internal editorial review.

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carrying out 126 attacks across the country, resulting in 78 deaths, including 30 policemen, and 170 wounded. Several Afghan Members of Parliament have expressed concern over the viability of the August 2009 presidential election[3] if security conditions remain unchanged (Afghan Parliamentarian, 2009).

To address Afghanistan's security crisis, the United States is significantly expanding its troop presence, expected to reach 68,000 in the fall of 2009, almost double what it was a year earlier. While the renewed commitment to Afghanistan by the Obama administration is a welcome sign, the expansion of the war against the Taliban and associated groups, like Gulbuddin Hekmatyar's Hizb-i Islami, could have the effect of increasing violence, at least in the short-term, as contact with insurgents grows and international forces seek to capture insurgent strongholds. This could lead to increased civilian casualties, further straining public support for the Karzai government and the internationally supported state-building project. A common view expressed by both Afghans and internationals engaged in the country's transition is that resources would be more productively invested in expanding economic development, reconstruction and governance assistance. According to this view, the insurgency cannot be won militarily; only through political negotiation and the improvement of the lives of average Afghans can the country be stabilized.

The Taliban and other insurgent groups have utilized a variety of tactics – from conventional guerilla strikes with small arms and light weapons, to bombings with improvised explosive devices – targeting civilians as well as Afghan and international security forces. The Taliban have also stepped up efforts to intimidate and co-opt Afghan civilians at the village level through night letters and targeted acts of violence. Such incidents are particularly prevalent in the southwest and east of Afghanistan, still the centre

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3 The presidential election is planned for August 20, 2009 (29 Asad 1388). The parliamentary election is expected to take place in the summer of 2010.

of gravity for the insurgency. Insecurity, however, is not confined to those areas, with increasing insurgent activity in the northern, central and western regions.[4]

Civilian casualties caused by NATO and US military operations have provoked anger and resentment among most Afghans and given the Taliban an effective propaganda tool with which to win over supporters.[5] In the first four months of 2009, 416 civilian casualties were reported to the United Nations Assistance Mission for Afghanistan (UNAMA), 144 of which have been attributed to pro-government forces, including international troops (UNOCHA 2009: 3). However, according to a senior Afghan government official, recent improvements in intelligence-sharing between the Afghan government and NATO, coupled with a new commitment of US and NATO forces to minimize collateral damage, has begun to reduce the rate of civilian casualties.[6]

RULE OF LAW INSTITUTIONS

Afghan National Police (ANP)

As of June 2009, the Afghan National Police (ANP) reached a personnel strength of 87,000 (Senior Afghan Government Official, 2009d). This rapid increase can be attributed to the Ministry of Interior's (MoI) announcement in April 2009 that the government would expedite recruitment, including a plan to recruit 15,000 new police officers to provide additional security for the August 2009 presidential

election (Senior Afghan Government Official, 2009d).

Both petty and grand corruption are endemic in the ANP. Such activities range from the theft of gasoline and the illegal sale of surplus weapons (sometimes even to the

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4 In April 2009, NATO and Afghan security forces launched a military operation in the four northern provinces of Sar-e Pul, Jawzjan, Faryab and Balkh. Described by NATO officials as an effort to root out and eliminate militant elements and insurgents operating in the northern region, the operation in this previously stable area highlights the geographic spread of insurgent activity. See Xinhua News, (2009).

5 The most severe recent instance of civilian collateral damage occurred on May 6, 2009 in Bala Boluk district of Farah province where strikes by US forces killed, according to an investigation by the Afghan government, 140 non-combatants. The US military put the civilian death toll at around 30, along with 65 insurgents. An Afghan Human Rights group, the Afghanistan Rights Monitor, found evidence of 117 civilian casualties. See Pajwak Daily News (2009) and Integrated Regional Information Network (2009).

6 Encouragingly, a coordination committee comprising representatives of the Ministry of Defense, Ministry of Interior, National Directorate of Security, NATO and the US Military has been formed at the Bagram US airbase to share intelligence in regard to air operations.

Taliban) by uniform officers, to the auctioning of high-ranking ANP positions, particularly along drug trafficking routes, by MoI officials for as much as US$50,000 (Oppel, 2009). To combat corruption in the ANP, 76,000 police have been formally registered, 47,000 of which have been issued identification cards[7] (Senior Afghan Government Official, 2009d). An electronic payment system, expected to address the problem of police salary misappropriation and skimming, has been established in all 34 provinces of Afghanistan. To date, funds have been electronically transferred to 19 provinces.

Despite the institution of human rights training modules in the curriculums of the National Police Academy and Regional Training Centers, as well as increased scrutiny and oversight – albeit still limited – from executive, legislative and civil society bodies, the ANP could still be characterized as a major human rights violator. The Afghanistan Independent Human Rights Commission (AIHRC), in a recent study that surveyed 92 Afghan law-enforcement officials and 398 alleged victims of torture in detention, found that fewer than 20 percent of law-enforcement officials "are aware that it's illegal to torture someone accused of a crime…" and that "torture and cruel, inhumane and belittling behaviour" is commonplace in police practices.[8]

Under the Focused District Development (FDD) Program, Afghan Uniformed Police are removed from their home districts and transferred to one of the country's five Regional Training Centers to undergo eight weeks of training, after which they are equipped and returned to their districts under the guidance of police mentor teams. In early 2009, 52 districts completed or were undergoing the program, with 3,000 ANP having fully completed the training regimen (Radin, 2009: 6). Although proceeding

at a slower pace than originally envisaged, the program has had good results. Districts that have completed the program show a 60 percent decrease in "local national casualties" (CSTC-A, 2009: 12). By February 2009, 19 percent of FDD-trained units were assessed as being capable of conducting primary operational missions, 25 percent as capable of conducting operational missions with international support and 31 percent as capable of partially conducting primary operational missions with international support (US Government Accountability Office, 2009: 14-15). The principal challenge facing the program has been shortfalls in police mentors with only 37 percent of trainer spots filled by late 2008 (US Government Accountability Office, 2009: 45-46). At its current rate, the program is expected to take up to five years to complete all districts.

Measuring police capability on the basis of its capacity to support counter-insurgency operations – as the term operational effectiveness would imply – rather than on its capacity to engage communities, understand the law and fulfill their investigative function, reveals one of the overarching problems of the police development process: its militarization. In many respects, the ANP is modeled after a paramilitary force rather than a domestic police service versed in community policing techniques. US Military and Afghan Interior Ministry officials would argue that the ANP is the principal target of heavily armed insurgents, thus the police must be given the tools and expertise to defend themselves and fulfill their function of holding territory cleared of anti-government elements. However, when and if the insurgency in Afghanistan is defeated, Afghanistan could be left with a police force better suited for warfare than policing, which inevitably leads to the type of heavy-handedness that alienates populations and threatens democratic transitions. It is important that the reformers of the ANP take this into consideration when planning programming and assessing the effectiveness of the force.

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7 The process is ongoing. For a number of reasons such as insecurity, illiteracy and poor administrative procedures, it has proceeded at a slower pace than initially envisaged. See Senior Government Official (2009c).

8 Article 29 of the Constitution prohibits torture and declares information obtained through it unusable. See Chase (2009).

Building on the FDD model, a Focused Border Development (FBD) program, designed to boost the capacity of the Afghan Border Police (ABP), was launched. The Combined Security Transition Command Afghanistan (CSTC-A), the US Military body mandated to support and oversee Afghan national security force development, has pledged US$70 million for 2009 to train 52 Afghan Border Police Companies (2009: 14). Overall, the program, which will place specific focus on the border area with Pakistan, will train and mentor roughly 4,200 border police (out of a total ABP strength of 11,754).[9]

Although the police reform process has been relatively slow and arduous due to the scale of the challenges it confronts and shortfalls in international assistance, recent initiatives have shown some promise that the process could be turning a corner.

Judiciary

Supreme Court - The Afghan judicial system features 34 provincial courts (one in each province) and 270 functioning district courts (also known as primary courts). While there are 408 district court jurisdictions, 138 of them are non-operational due to adverse security conditions or a lack of appropriate infrastructure (International Aid Organization Official, 2009). The Supreme Court employs roughly 4,800 staff, of which 1,267 are judges. Its official organizational structure provides for a total of 6,542 personnel, including 2,216 judges (Senior Afghan Government Official, 2009b).

The Supreme Court administration is currently being restructured under the Priority Reform and Restructuring (PRR) program, an initiative under the auspices of the Afghanistan Independent Administrative Reform and Civil Service Commission (IARCSC), mandated to rationalize staffing and salary levels for public institutions. Because judges are not categorized as civil servants, they are not

eligible for the PRR process; however, the High Council[10] of the Supreme Court is addressing them through a parallel personnel reform process. The qualifications of sitting judges are assessed utilizing a range of criteria, including: educational background, experience, professionalism, ethics and the quality of past judicial decisions. Judges who do not satisfy these standards are transferred to senior administrative posts (International Aid Organization Official, 2009). As of March 2009, over 1,100 judges have been assessed under this process. New pay and grading structures are currently being applied to both judicial and non-judicial personnel in the Supreme Court.

Office of the Attorney General - The Office of the Attorney General (AGO) is mandated to oversee the investigation and prosecution of criminal offences and is responsible for the administration of offices in 34 provinces and 365 districts. It has a staff of 4,502, of which 2,044 are prosecutors.[11] By the end of 2009, the AGO expects to have finalized a centralized database of all prosecutors that will enable it

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9 The force has an authorized force ceiling of 17,676. See Chase (2009).

10 The High Council is the highest judicial authority.
11 The breakdown of the prosecutorial staff is as follows: 10,707 Civil Prosecutors, 174 Police Prosecutors and 163 National Prosecutors.

to better manage its countrywide operations. Beginning in 2008, the AGO was subjected to the PRR process, with a new pay and grading structure coming online in early 2009.[12]

Judicial infrastructure in Afghanistan remains in a dire state, with the majority of courthouses and judicial offices requiring significant refurbishment or complete rebuilding. By the end of 2008, the United States, the largest provider of aid to the justice system, constructed or renovated 40 provincial courthouses and justice facilities. The next step in this process will be to address the massive infrastructure needs at the district level. As with the rest of the security sector and public administration, corruption is a pressing problem. A January 2009 USAID Assessment of Corruption in Afghanistan reported that 49 judges and court personnel were dismissed in recent months due to evidence of corruption. Such steps are being taken to reverse the erosion of public confidence in the formal judicial system due to the high incidence of corruption. The USAID assessment stated that "many Afghans note that justice is a market commodity to be bought and sold, which is particularly troublesome in a society that values justice and honor" (2009: 7-10). This crisis of confidence has impelled the majority of Afghans, particularly in rural areas, to turn to traditional dispute resolution mechanisms.

In the absence of a functioning and trustworthy state judicial system, upwards of 80 percent of Afghans seek remedy to their disputes through informal structures, such as the village *shura* (council). Recognizing this reality, the Ministry of Justice recently formed a working group to assess the possibility of linking formal and informal justice mechanisms.[13]

Prisons

Afghanistan has 34 provincial prisons and 202 district detention centres. The prison population has swelled to over 13,000 nationwide, creating significant overcrowding problems.[14] Many prisons are now operating at twice their capacity. The Central Prisons Directorate (CPD), which oversees the country's prison system, falls under the Ministry of Justice. The conditions prevalent in most of Afghanistan's prisons do not come close to meeting international standards (Senior Human Rights Official, 2009). According to one UN official that examined the Afghan justice and penal systems:

> Following years of armed conflict, prisons as an essential component of the criminal justice system, are still in a dramatic state and affected by the lack of trained and qualified staff…detainees have been commonly held in overcrowded detention centers, deprived of adequate food, sleeping places, basic hygienic facilities, sanitary installations and efficient medical assistance. Moreover, torture and other forms of ill treatment have been often reported. (Calvani, 2008: 13)

Illustrating the scale of the problem, many prison buildings are rented from private individuals and were never designed for use as detention facilities (International Aid Organization Official, 2009). The main problem lies with district and even village level detention centers, whereas provincial prisons are comparatively well managed and maintained due to the fact that they have been able to attract some donor investment. Despite modest infusions of assistance from several donors, including the United States, Canada, Italy and the United Nations Office on Drugs and Crime (UNODC), prison conditions, in the words of one UN-OHCHR 2009 report, "have not noticeably improved" (15).

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12 Once the PRR is implemented, average salaries for prosecutors and judges could rise to between five and ten times current levels.
13 The United States Institute of Peace (USIP) has undertaken critical and pioneering research on the role and functioning of informal justice mechanisms in Afghanistan, and potential strategies to reconcile formal and informal structures.

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14 This includes both detained and sentenced inmates (all of them male). In January 2009, the number of incarcerated women nationwide was only 340. In 2001, there were approximately 600 inmates in total.

AFGHAN NATIONAL ARMY

The Afghan National Army (ANA) presently stands at 86,000 troops and is expected to reach its 134,000 force target by the end of 2011.[15] Roughly 52,000 ANA troops are currently engaged in combat operations, including all five corps headquarters, one mechanized brigade headquarters, and 13 light brigade headquarters comprising 72 combat, combat support, service support and commando battalions (Radin, 2009: 4). As of March 2009, 59 of the ANA's 95 units were capable of leading operations (Bruno, 2009).

Each ANA combat unit is accompanied by either a US Embedded Training Team (ETT), or an ISAF Operational Mentor and Liaison Team (OMLT). These are 12 to 16-man teams that accompany ANA units in the field providing mentoring, training and coordination assistance. The current budget for the ANA is US$2.75 billion per annum. This includes funds to pay for trainers, equipment, food and housing (Radin, 2009: 4). Serious concerns have been expressed by both Afghan and international stakeholders over the ability of the Afghan state to sustain such expenditures in the future. To address the issue of long-term financial sustainability, some have proposed the creation of an Afghan National Army Trust Fund akin to the Law and Order Trust Fund, that could cover some of the recurrent costs of the ANA (Shanker, 2009). While Afghan Defence Minister Rahim Wardak, like much of the international community and Afghan government, recognizes the financial crunch the ANA will face in the future, he argues that "building, equipping and training the Afghan army is much more economical than the deployment of foreign troops" (The Economist, 2009).

Although recognized as a success story of the Afghan SSR

Afghan journalist Sayed Parwiz Kambakhsh (R) sits in the dock at a Kabul court. An Afghan appeal court overturned the death sentence of the young reporter accused of insulting Islam, but upheld his conviction and sentenced him to 20 years in jail. (AFP PHOTO /Massoud HOSSAIN)

process, the ANA continues to face significant challenges. The rate of AWOL can run as high as 5-10 percent at any one time, despite the implementation of a number of measures to address it over the past five years. Significant strides have been made to provide the ANA with basic equipment to perform its duties, such as assault rifles and pick-up trucks. However, to operate complex operations over large distances in Afghanistan's difficult topography, the ANA requires more sophisticated airlift capacity and better communications equipment.

A symptom of the disproportionate degree of attention paid to developing combat capacity to the detriment of supporting structures, oversight and sustainability remains a major gap for the ANA. The US Government Accountability Office (GAO) "found that roughly 17 percent of small arms, mortars, and grenade launchers supplied to the Afghan security services since 2002 are unaccounted for" (Bruno, 2009). This finding has led to the development of more stringent asset management procedures by the CSTC-A, but it will take time to apply them across the force.

15 In September 2008, the Joint Coordination and Monitoring Board (JCMB) approved the expansion of the force ceiling of the Afghan National Army from 80,000 to 122,000 soldiers, to be completed by the fall of 2013. With an additional 12,000 trainee, transient, hospitalized, and student (TTHS) personnel, the final force size will reach 134,000. To meet the target of 134,000 personnel by the end of 2013, the recruitment target is 3,400 per month. See Radin, (2009).

AFGHAN PUBLIC PROTECTION PROGRAM (APPP)

The Afghan Public Protection Program (APPP) involves the creation of a security body akin to community defence forces, mobilized at the district level to fill security gaps and backstop the police. A pilot project for the program, launched in the Sayed Abad District of Wardak Province in January 2009, has entered its final phase. The program has been spearheaded by the Independent Directorate for Local Governance (IDLG), the government agency responsible for overseeing sub-national governance structures, with support from the US. The force is mandated to provide public protection, not law enforcement. It has no legal powers of arrest and can only detain suspects for handover to the uniform police.

Under the APPP, *shuras* created under the auspices of a related program of the IDLG, the Afghan Social Outreach Program (ASOP)[16], select roughly 200 men from each district – the number may vary depending on the size of a particular district – to serve in the force. The members of each *shura*, which vary in size from 25 to 40 members, are involved in the selection of APPP candidates, vouching for them in the process. The chosen candidates are also vetted by the Ministry of Interior, the National Directorate of Security (the intelligence service) and the IDLG. Recruits must be between 25 and 45 years of age with no criminal record or known ties to the Taliban or other illegal armed groups. Once candidates have been vetted, they receive two weeks of training under the auspices of the CSTC-A and are issued a distinct uniform and registered weapon from the MoI. The training includes instruction on ethics, the

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16 The purpose of ASOP is to strengthen linkages between the central government and community leaders at the district level, building trust and more effective lines of communication. It involves the creation of district shuras that liaise with the government on vital security and political issues. The overall purpose of the program is to empower local communities to take ownership of the local security environment.

police law, appropriate measures of force, human rights and first aid. The district police chief exercises command and control over APPP units. Salaries are comparable to that of the police, starting at US$100 per month (Senior Afghan Government Official, 2009d). The pilot phase of the program has been assessed to be successful by the government and CSTC-A, leading to the development of plans to roll it out across the country in a staged fashion with insecure districts targeted first.

Despite positive reviews from the CSTC-A and Afghan government, the program remains heavily controversial, both within the international donor community and among segments of the population. Many see it as the repetition of the failed and destructive policy of the Najibullah regime to mobilize militias. Others see it as directly undermining ongoing demilitarization activities, including one of the most expensive disarmament, demobilization and reintegration (DDR) programs in history. It is widely feared that the program will only empower sub-national armed groups and warlords at a time when the state is struggling to establish its writ across the whole national territory. In the short-term, the APPP may improve security conditions in some communities, but its roll-out throughout the country could have disastrous long-term security and governance implications for the Afghan government.

CONCLUSION

Despite an infusion of resources and an acceleration of programming over the past year, Afghanistan's SSR process continues to face enormous challenges. The most imposing obstacle is the adverse security environment. It is difficult to carry out a process of institutional transformation that demands nothing less than a shift in culture amidst an intensifying insurgency.

Perhaps the most disturbing current trend in Afghanistan is the geographical expansion of the insurgency. While the

south and east of the country, the heartland of the Taliban, continues to be a hotbed of insurgent activity, violence is gradually spreading to heretofore stable areas, including the central provinces adjoining Kabul. Some districts are completely beyond government control and even areas deemed stable by international security forces remain off-limits to civilian actors due to security concerns. Before meaningful reforms can take place in the security sector, a baseline of security must be established across the country.

Insufficient resources also hamper programming in some areas of SSR, notably the judicial sector which has been chronically underfunded. The judicial institutions continue to lack vital equipment, infrastructure, and qualified personnel. Significant headway has been made in establishing an effective training regime for jurists, but the system as a whole remains dysfunctional.

High levels of corruption and clientelism across the security sector expose one of the gaps in the process, the establishment of robust oversight and accountability structures. If an accountable and rights-respecting security service is to be created, this must be a priority moving forward.

Coordination is another persistent problem that shows no sign of disappearing. Significant differences in interests and approaches of stakeholders, whether national or international, have fostered reform confusion, aid waste and overlap. The endless stream of coordination structures and meetings has only made a minor contribution to untying this Gordian knot; what has been missing is leadership, particularly from the heavyweight donors like the United States, the European Commission, the United Kingdom and Japan. President Obama's new strategy for Afghanistan emphasizes coordination and may be capable of overcoming what has been one of the missing links in the Afghan SSR process, unity of vision and purpose.

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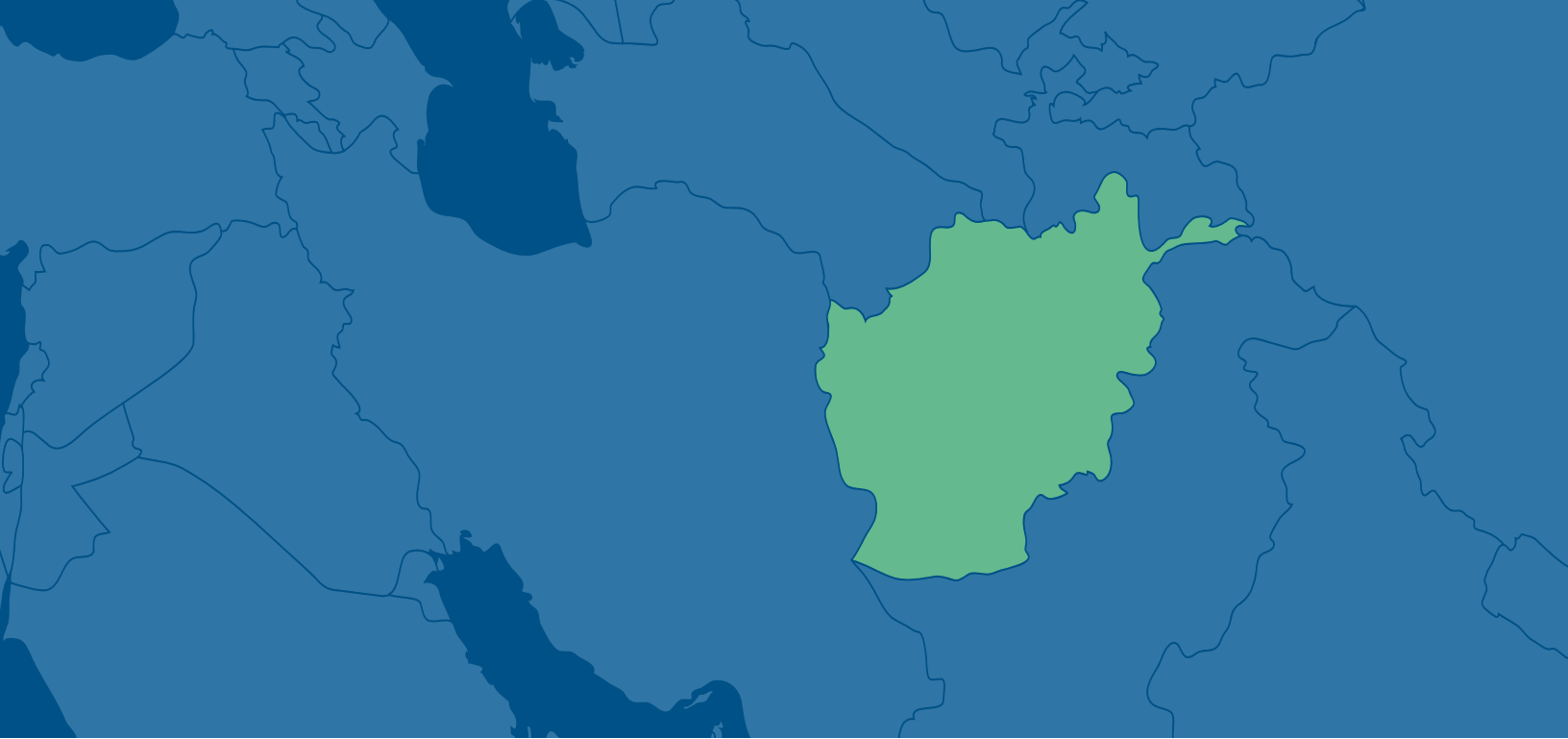
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