

Controversy Over Afghan-US Deal

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President Karzai's opponents say he should not allow US forces to stay on, while others see this as essential to Afghanistan's future.

President Hamed Karzai returned from his latest trip to Washington with a series of concessions on the timetable for withdrawing international forces from Afghanistan and the transfer of American-held detainees.

But his critics at home were left unsatisfied, with some saying he should have secured a pledge that all foreign troops would be gone by the end of 2014, and other voices raised against granting United States troops immunity from prosecution.

On his return from talks with President Barack Obama in Washington, Karzai set out the agreements they had reached at a Kabul press conference on January 14.

The NATO-led international force will begin pulling troops back from the Afghan countryside in three months' time – earlier than anticipated, although their withdrawal from the country remains scheduled for 2014. Also this spring, US forces will focus on training their Afghan counterparts, an effort that Karzai said would not end until 2017, with a possible extension to 2024.

He also said he had obtained a promise that US-run prisons in Afghanistan and all detained persons in the country would be handed over to Afghan jurisdiction within two weeks. That is one of several issues that has been an irritant in US-Afghan relations, and it is no coincidence that both Obama and Karzai made remarks underlining the importance of Afghan sovereignty.

Another contentious point, and one that Karzai had to concede at his Washington talks, was the issue of US servicemen being immune from prosecution under Afghan law.

For the US, this is a non-negotiable condition if a small contingent of American troops is to remain in Afghanistan beyond 2014. When a similar question arose in Iraq, the Baghdad government's refusal to grant immunity led to the US pulling out all military personnel at the end of 2011.

In Afghanistan, many oppose any exemption from the rule that foreign and local nationals alike are subject to the country's own legal system when they commit offences.

On his return, Karzai distanced himself from a final decision on the immunity question, and said a "loya jirga" or traditional assembly would have to be convened to rule on the matter.

"A decision on judicial immunity for American soldiers, on its nature, extent and terms, and on whether it should happen or not is something the Afghan government cannot take," he said. "A loya jirga of the Afghan people will decide whether to grant immunity and – if it does – under what conditions."

Afghan political analyst Satar Saadat believes the president is shirking his duty to deal with this controversial matter himself.

"Karzai has taken this decision in order to evade responsibility. Yet decisions made at a jirga are advisory only, and do not have legal status," he said.

Saadat said any deal on immunity would need to be carefully crafted.

"We must set limits for them. For instance, they could have immunity while on their bases, but not outside them. Another solution would be to hold joint trials [when Americans are prosecuted]. A third option would involve monitoring – the Afghan government would monitor the process when a foreign suspect went on trial."

Sayed Fazel Hussein Sancharaki, spokesman for the opposition National Coalition, agrees that this was not a matter for a loose assembly of local elders to deal with.

"Decisions about judicial immunity for the Americans, signing security pacts and the like are not a task for people who come in from the districts and villages to gather for a loya jirga. They have no knowledge of such issues," he said. "What's needed is to gather together the political, economic, military, legal and social elites rather than these people."

Assuming a deal is reached and a limited contingent of US forces remains in the country past 2014, they would operate under a new security agreement, which Karzai and Obama also touched on during their

talks. Back in Kabul, Karzai said it would take eight or nine months to nail down the content of this document.

Once again, Karzai's domestic critics wanted more detail on the specifics of the agreement, over and above the framework Enduring Strategic Partnership Agreement which Washington and Kabul signed in 2012. (See **[Afghan Parliament Approves US Partnership](#)**.)

"The president should have consulted with all sides in the country," Sancharaki said. "A security agreement could have as many negative as positive implications for us. We don't know what the conditions of the pact the president will sign are."

Many politicians are opposed to a continued US military presence even in a reduced form.

Member of parliament Nazir Ahmad Hanafi, for example, argues that "the foreigners are the reason for the war and lack of security".

"In areas where they have withdrawn, fighting has receded and security has been established," he continued. "I am certain that if the foreigners leave Afghanistan, the roots of war will dry up."

Former parliamentarian Hajji Farid expressed similar views in stronger terms, saying that NATO commanders had "admitted that most al-Qaeda members in Afghanistan have been eliminated and that the terrorist bases are located outside Afghanistan."

"So what's the purpose of them remaining in Afghanistan?" he asked. "The US has failed to create stability in Afghanistan over the last ten years despite the presence of NATO and ISAF [International Security Assistance Force] troops. It systematised corruption to world-record levels, it breached the constitution and other Afghan laws, it showed no respect for Afghan culture and beliefs, it killed tens of thousands of innocent people. After this experience, do they need to stay?"

Others, however, insist that continued US involvement is essential to Afghanistan's future.

"We need a legalised US presence in order to uphold our national interests, to ensure stability and security and to maintain the achievements of the past ten years," said Asef Ashna of the Truth and Justice Party. "We must not sacrifice these opportunities because of the judicial immunity issue."

Saadat warned that Afghanistan would face a range of geopolitical and economic threats if it cut its security ties with Washington.

"Signing such pacts is an imperative of the times, provided they are based on our national interest, and on respect for Afghans' culture, beliefs and national sovereignty," he said.

As for the specific terms of a deal, Saadat said it should have a clear end date, be monitored by a bilateral committee, and set out explicit obligations for both parties. He recalled that after the strategic partnership agreement was signed last year, eastern border areas of Afghanistan suffered a spate of shell and rocket fire from Pakistan. In his view, the US "ignored" these attacks instead of applying pressure to get them stopped.

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