

# **Afghanistan: Italian Rules of engagement caught between operational requirements and political will**

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This paper analyzes the political and legal framework that govern the actions of the Italian Armed Forces operating in the International Security Assistance Force (ISAF) in Afghanistan. Particular emphasis will be given to the role played by the Italian media in informing the general public on peacekeeping operations.

I will investigate the political decisions that have originated the current rules of engagement (ROE) and their adaptation to the current security scenario in Afghanistan. At the end of this analysis I will recommend that the government start a media campaign aimed at informing the public on the strategic objectives of sending troops to Afghanistan. For security reasons I will not be able to consider the single rules of engagement, they will therefore be considered as a whole.

## **1.) The Afghan scenario: from 2001 to today**

By the end of November 2001 the war waged against the Taliban regime in Afghanistan had been won by the Northern Alliance with the help of US and British troops. A conference for reconstruction was held in December of the same year in Petersberg (Bonn). The Bonn Conference established the International Security and Assistance Force (ISAF), an International peacekeeping force aimed at maintaining a stable and peaceful environment that would secure the nation building process.

ISAF had a difficult task from the start; the country was subject to the warlords' militias, the Afghan National Army (ANA) and police force were nonexistent, anarchy dominated post conflict Afghanistan. On the basis of this scenario, delegates of the international community present in Petersberg decided on the following points for the reconstruction of Afghanistan:

- rebuilding of the army (US responsibility),
- rebuilding of the police (German responsibility) and
- preliminary to the first two was the need to disarm the irregular militias. (Japanese responsibility).

International peacekeeping troops were sent to guarantee security in the country, with the end state aim to gradually reach the objectives stated above (rebuilding of the police force and the army and the simultaneous disarmament of the irregular militias). It is important to note that these decisions made at Petersberg were fully approved and encouraged by the Afghan provisional government first and subsequently by the legitimate government led by Hamid Karzai (elections were held at the end of 2004).

Seven years have passed and the country is far from stabilized. The presence of International troops, significantly grown in numbers since 2001, is essential to the survival of the reconstruction effort. The early win by the Northern Alliance and Allied troops over the Taliban regime forced many Taliban to flee to safe havens in nearby Pakistan. These autonomous groups have reorganized and

are now running guerilla attacks all over the southern region of Waziristan and into Afghanistan. These attacks are aimed at destabilizing the Karzai government.

## 2.) Italian troops in Afghanistan

In December 2001 the Italian Parliament passed a law decree (n. 451) that authorized the deployment of troops within the International Security Assistance Force (ISAF) for the reconstruction of Afghanistan. Italian troops are deployed in Kabul at ISAF Headquarter (HQ) and Regional Command Capital (RC-C), in the West of the country with command over the Provincial Reconstruction Team (RC-W - PRT) based in Herat and in the Forward Support Base of Helmand.

Italy has also deployed troops in Operation Enduring Freedom (OEF) (law decree n. 421 approved by the government on 1<sup>st</sup> December 2001). The Italian Navy (GRUPNAVIT) took part in the Combined Task Force 152 (CTF 152) that patrolled the Central South Arabian Gulf from the 3<sup>rd</sup> of December 2001 to the 31<sup>st</sup> of January 2003. Rear Admiral Emilio FOLZER (Italy) commanded the CTF 152 from the 28<sup>th</sup> of June until the 3<sup>rd</sup> of December 2006.<sup>1</sup>

Special forces and parachutists were also deployed along the border with Pakistan and especially in the Khowst region from the 15<sup>th</sup> of March to the 15<sup>th</sup> of September 2003 in Task Force Nibbio.<sup>2</sup>

This strip of mountainous land is particularly suitable for drug trafficking and the smuggling of arms as well as the infiltration of armed groups that can easily enter Afghanistan without being detected. This specific area has historically harbored terrorist cells and their logistics bases.

The greater part of Italian troops (2455) are currently operating in ISAF, Italian involvement in Afghanistan entails also contribution to Active Endeavour, to the European Union Police Mission (EUPOL) while participation in OEF is officially over.

## 3.) Legal framework

### a. Constitutional framework

The Italian constitution states that Italian Armed Forces may take part in peacekeeping operations. In particular article 11 recites: "Italy renounces war as a means to offend other peoples and to resolve international disputes..." the constitution also "...allows for an instrument of International Law that limits the country's sovereignty in order to ensure peace and justice amongst nations. Italy moreover promotes and favours International Organizations devoted to this objective"<sup>3</sup>

### b. International Law and the United Nations

Italy is subject to International Law and promotes those Organizations, such as the United Nations, that are devoted to the maintenance of peace and security in the International Community. Article 11 of the Italian constitution refers explicitly to Chapters 7 and 8 of the UN Charter. Chapter 7 disciplines "Action with respect to threats to the peace, breaches of the peace and acts of aggression"<sup>4</sup> for which the Security Council shall decide what measures to adopt. Chapter 8 delegates "regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action..."<sup>5</sup>

1 [http://www.difesa.it/Operazioni+Militari/operazioni-concluse/Mare+Arabico+-+ENDURING+FREEDOM/contributo\\_oggi.htm](http://www.difesa.it/Operazioni+Militari/operazioni-concluse/Mare+Arabico+-+ENDURING+FREEDOM/contributo_oggi.htm)

2 <http://www.btgsanmarco.it/leoniafgani/leoniafghanistanprima.htm>

3 Costituzione Italiana. <http://www.quirinale.it/costituzione/costituzione.pdf>

4 <http://www.un.org/aboutun/charter/>

5 <http://www.un.org/aboutun/charter/>

A UN resolution is therefore the highest legitimating act that can delegate action to International Organizations such as NATO or the EU (or a group of countries such as the UNIFIL mission in Lebanon) to “enforce action under its authority”.<sup>6</sup> Following a UN Security Council resolution, the Italian Government sends a motion (usually in the form of a law decree) to Parliament. A law decree is approved by the Council of Ministers (executive branch) and passed by the President shortly after, it immediately enters into effect. Parliament (legislative branch) then has 60 days to vote on the decree. This form of legislation is used in cases where necessity and urgency call for immediate approval of laws. Parliament is then called upon to vote for the approval of the mission’s budget once a year.

#### 4.) The Rules of engagement

In the above mentioned legal framework we also find the rules of engagement (ROEs). ROEs are directives guiding the application of armed force by soldiers within a theatre of operations. First, they define the degree and manner of the force to which soldiers may resort. Second, they delineate the circumstances and limitations surrounding the application of that force. ROEs are drawn in reference to mission objectives.

Rules of engagement authorize or limit the use of force in military or police operations. ROEs must be legitimate: International Law sets the framework that limits the legal use of force in military operations. National legislations can further limit the use of force in specific military operations/conditions by applying *caveats*. “[ROEs] do not limit a Commander’s inherent authority and obligation to use all necessary means available and to take appropriate action in self-defense.”<sup>7</sup>

For all NATO led operations (including ISAF) common ROEs are drawn up by the Military Committee (MC) and approved by the North Atlantic Council (NAC), the Alliance’s highest decision making body. ROEs are then sent to national authorities for their approval. In Italy, ROEs are approved by the Ministry of Defence supported by the Chairman of the Joint Chiefs of Staff (CJCS). The *Comando Operativo di vertice Interforze (COI)* is the military body that reports to the CJCS on all military operations on foreign soil. COI analyzes the accordance of NATO ROEs with National legislation and applies limitations (*caveats*) where appropriate.

Rules of engagement are a result of policy decisions made by the Ministry of Defence and by the Chairman of the Joint Chiefs of Staff (CJCS). “The operational level is halfway between the tactical level represented by the security needs of troops on the ground and the strategic political level that takes into account the wider policy decisions.”<sup>8</sup>

The new NATO ROE catalogue (MC362/1<sup>9</sup>) was adopted during the Washington Conference of 1999 when the new strategic concept was conceived. This is the basis on which ROEs for the current ISAF mission are drawn. Different interpretations of self defence and specific *caveats* account for the differences in ROEs between countries taking part in ISAF.

The Italian government has put 2 *caveats* regarding the operations its troops can carry out in Afghanistan, these are:

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<sup>6</sup> <http://www.un.org/aboutun/charter/>

<sup>7</sup> [http://www.globalsecurity.org/military/library/report/call/call\\_96-6\\_roeappa1.htm](http://www.globalsecurity.org/military/library/report/call/call_96-6_roeappa1.htm)

<sup>8</sup> <http://files.studiperlapace.it/docs/20060102153615.pdf>

<sup>9</sup> S. Weber. *Rules of Engagement: Ein Paradigmenwechsel für Einsatz und Ausbildung?*, in *Humanitäres Völkerrecht*

- a constitutional limit which does not allow Italian troops to hand over prisoners to countries that enforce the death penalty. Afghanistan is one of these countries;
- the second is the use of anti-riot agents that cannot violate the convention on chemical armaments signed in 1993.

Government policy limits the deployment of Italian troops to the areas of Kabul and Herat. This limitation cannot be seen as a *caveat* since it does not entail legal incompatibilities, it is exclusively a result of political will.

In May of 2006 NATO decided to adopt new and more aggressive rules of engagement allowing ISAF troops to counter insurgents more effectively:

“the expansion of ISAF to the south of Afghanistan has implicated the adoption of new ROEs. Even though NATO anticipated this move as early as 2005 the new ROEs became operational in the summer of 2006. Even though their specific content is secret, the new Rules of Engagement apparently allow for preemptive strikes against threats to the security of forces”<sup>10</sup>

Security Council Resolution 1510 was quite clear authorizing “[4] Member States participating in the International Security Assistance Force to take all necessary measures to fulfill their mandate”

## 5.) Considerations

Italian troops are deployed in Afghanistan since the start of the ISAF mission in 2002, these troops are involved in the nation building process for the stabilization and reconstruction of Afghanistan. There are some political parties that are however particularly hostile to the deployment of forces in war like scenarios, this opposition endangers the country’s support to their Armed Forces thus weakening the consensus for effective and stable foreign policy.

NATO rules of engagement were originally drawn for a peacekeeping mission in which ISAF was tasked to rebuild the country both economically and socially. Starting from 2006 both al Qaida and the Taliban increased attacks against coalition forces with the precise aim of destabilizing the country. To counter this insurgency in the summer of 2006 NATO introduced more aggressive ROEs allowing ISAF forces to carry out preemptive strikes.

Italy responded to this increase in violence by sending heavier equipment to protect its troops deployed in Afghanistan. In May of 2007 5 “Mangusta” combat helicopters, 8 “Dardo” armoured vehicles, 10 Light Multirole “Lince” Vehicles and 2 “Predator” Unmanned Aerial Vehicles (UAV) were sent to Afghanistan in order to “provide our troops with adequate equipment in order to increase their security as well as mobility and operational capabilities”<sup>11</sup> (speech by Minister of Defence Parisi to the joint Foreign Affairs and Defence Commissions of Parliament - 15<sup>th</sup> May 2007). ISAF forces were no longer simply overseeing the reconstruction effort but were forced to take an active role in countering the new insurgents’ strategy. The newly elected government which took office in April of 2008 decided to send to Afghanistan one further “Mangusta” helicopter and 4 “Tornado” Multi Role Combat Aircrafts tasked for reconnaissance (RECCE) missions.

Recent calls by US Defence Secretary Robert Gates and NATO Secretary General Jaap de Hoop Scheffer were aimed at the Italian government to withdraw restrictions to the deployment of Italian Forces in the south of Afghanistan where the fighting against Taliban forces is heaviest.

<sup>10</sup> NATO seeks stronger Afghan “rules of engagement”, Reuters, 4 Aug. 2005; e

Synovitz, R. Afghanistan: NATO troops apply “robust” new rules of engagement’, Radio Free Europe/Radio Liberty, 7 Feb. 2006.

<sup>11</sup> <http://www.repubblica.it/2007/05/sezioni/esteri/afghanistan-28/dadullah-video/dadullah-video.html>

“I have spoken out repeatedly about national *caveats* that take away a commander’s flexibility and undermine our operational effectiveness. Just as we need combat forces that can also handle reconstruction, we can ill afford reconstruction armies that cannot handle combat.”<sup>12</sup> (NATO Secretary General Jaap de Hoop Scheffer’s speech at the Riga summit in November 2006).

“At Munich, Gates warned that NATO, which is based on the principle of collective defense, could not survive if it were to “become a two-tiered alliance of those willing to fight and those who are not.”<sup>13</sup>

In order to accommodate these requests the Italian Foreign Minister, Frattini and Defence Minister, La Russa announced last June that “Italian troops can [now] respond to emergency calls outside of their assigned area of operations following a government authorization that will be delivered within 6 hours of the request and not 72 as it was before.”<sup>14</sup>

Most of the Italian contingent stationed in the area of Kabul has been recently transferred to Herat in order to better support operations there (only a few units remain in Kabul).

This increased flexibility in the movement of troops along with the new equipment supplied *de facto* allows Italian troops to take part in combined combat operations in the south of the country.

## 6.) Conclusions

Italian troops are in Afghanistan since 2002, during these six years the Afghan scenario has dramatically changed, the insurgents have become more aggressive and have gained control over part of the territory. To counter this offensive by al Qaida and Taliban forces NATO has introduced (in 2006) more aggressive rules of engagement. Since the spring of 2007 Italian troops have been supplied with more adequate equipment (including combat helicopters and combat aircrafts) that allows a stronger counter insurgency approach. Modified NATO ROEs are now adequate to the operational scenario and to the threat posed by the insurgent forces. National *caveats* regarding ROEs are not arbitrary and derive from the incompatibility with national legislation, on the contrary limitations on the movement of troops to the areas of Kabul and Herat, are a result of clear political will.

A specific campaign is needed to counter the hostile public opinion for Italian involvement in armed conflicts. To do so the Ministry of Defence could promote a campaign aimed at: informing the public on objectives, tasks and duties of the Italian troops deployed in Afghanistan. Furthermore the general public should be informed on the strategic objectives of NATO troops in Afghanistan: to guarantee stability and counter terrorism in the region. It is very important that people understand the risks that would derive if these objectives should not be met. It is also worth noting that military operations must go together with a strong effort to strengthen the: state building process, governance, reconstruction and the improvement of living conditions of the Afghan people. These are all necessary to win the “hearts and minds” of the Afghans.

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12 <http://www.nato.int/docu/speech/2006/s061128a.htm>

13 <http://www.worldpoliticsreview.com/article.aspx?id=1593>

14 <http://www.repubblica.it/2008/04/sezioni/esteri/afghanistan-7/aumento-carabinieri/aumento-carabinieri.html>

(11th June 2008 on the eve of George Bush’s visit to Rome).