

**The Great Deception:  
Only Democratic Delusions for Afghans**

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**1. Introduction**

Within minutes of the attack on the Twin Towers in downtown Manhattan, Afghans began to anxiously discuss the implications for their country. It was evening in Kabul, a city of craters, bombed-out buildings, no street lighting, and a night-time curfew, when news of the unprecedented events in New York and their possible links with Osama Bin Laden began to circulate. Within hours, the aid community had mobilized contingency plans; by daybreak, relief agencies had begun to prepare for the near-certainty of a US military intervention.

Afghans were fearful about the safety and well-being of their families and rushed to take whatever protective measures were possible. Very quickly, Afghans, including numerous aid agencies, were also speculating about a potential ‘silver lining’ to the new round of warfare that US military action would likely entail. A common assumption was that the world would come to grips with the consequences of decades of political turmoil and armed conflict and help Afghans build a future free of violence, tyranny, poverty, and abusive governance systems.

The demise, just two months later, of the Taliban regime, and the promise that “Operation Enduring Freedom” would pave the way for the creation of a viable, democratic, and accountable state was the source of great elation in Afghanistan. By the end of 2001, many Afghans were concerned about the nature and content of the peace consolidation and state-building exercise as it lacked broad-based participation and empowered those responsible for much of the havoc the country had endured. However, the overwhelming sentiment was that of hopeful expectation that the dark days of unfettered violence and blatant disregard for human rights were about to end.

Ten years later, a majority of Afghans feel disillusioned and angry that a daunting array of problems still confront them. These include rising levels of violence and insecurity, lawlessness, impunity, corruption, absence of social and economic justice, widespread poverty, and a discredited state system that fuels the insurgency and fears about the future. These problems complicate and exacerbate the structural fault-lines that gave rise to the crisis of governance that emerged in the 1970s.

This chapter examines the impact of war on Afghan society. It reviews the ramifications of policies that have constrained and undermined the efforts of Afghans eager to secure respect for human rights and the development of a political culture conducive to the realization of democratic and accountable governance. It concludes that the policy of backing and resuscitating well-known and widely reviled warlords stacked the deck against all those Afghans – the vast majority – who were desperate for a modicum of human security and a dignified life. As the crisis in Afghanistan continues to deepen, it is Afghans who pay the most for failures that are compounded by policies that persist in denying Afghan citizens a meaningful say in their own future.

**2. Afghanistan in the Pre-9/11 Period**

Afghanistan’s geo-strategic significance at the crossroads of Central Asia has shaped its efforts to forge a functioning nation-state out of a diverse ethnic mosaic. Land-locked, and isolated from the post-colonial modernization schemes that shaped the development of state systems in neighboring countries, Afghanistan faced many hurdles as it attempted to develop centralized, legitimate, and effective governance capabilities. Inhibiting factors, in addition to

geography, that bedeviled the development of effective nation-state infrastructure included astounding levels of poverty, very low educational levels, and tensions within and between different sets of stakeholders including a profound rural-urban divide. Afghan modernization efforts also suffered from a very weak fiscal base with 49 percent of state expenditure dependent on foreign aid that, in the Cold War era, was driven by East-West competition for influence.<sup>1</sup>

The attempts of King Zaher Shah to build a more open and inclusive state system included the inauguration of a pluralist Constitution in 1964. This heralded the beginning of a democratic experiment that came to an end in 1973 when the king was overthrown by his cousin Daoud who declared Afghanistan a republic. The turmoil that followed, coupled with another coup in 1978 known as the Saur Revolution, led to the invasion by the Soviet Union in December 1979. This marked the beginning of decades of warfare, death, massive displacement and widespread suffering that have shaped the lives of Afghans and the political culture of their country since then. According to a recent survey by the International Committee of the Red Cross, almost all Afghans – 96 percent – have been affected either directly or indirectly by warfare; almost half (45 percent) indicated that a family member had been killed, 43 percent said they had been tortured, and a third (35 percent) had been wounded.<sup>2</sup>

The 1980s, or to be precise, the 9 years and 50 days of Soviet occupation that ended in 1989, was a defining and deadly experience for Afghanistan. An estimated 1 million Afghans were killed in the 1980s. Between 1979 and 1992, an estimated 6 million Afghans – more than one-fifth of the population – fled their places of origin and sought refuge in Pakistan and Iran or remained displaced elsewhere in Afghanistan. Irrigation systems, crucial to agriculture in Afghanistan's arid climate, were destroyed as a direct result of warfare and much reduced the nation's farming capacity. Long-standing urban-rural differences, particularly in terms of societal attitudes to women as well as living conditions and access to basic services, widened as the countryside bore the brunt of the fighting.

An overwhelming majority of Afghans opposed the Soviet invasion and concurred with idea that the invasion was an attack on Islam that necessitated a *jihad* or holy war. This led to a mushrooming of resistance groups who found safe haven in Pakistan where the ISI (Inter-Services Intelligence), under the auspices of President Zia-ul Haq, and with the help of the CIA, channelled support that was critical to the survival of ant-Soviet forces. A large relief programme effectively took care of the families of *mujahedin* fighters and the sprawling refugee settlements provided a convenient recruitment pool of potential fighters.<sup>3</sup> The arrival of the Red Army in Afghanistan gave birth to the “Carter Doctrine” that set out the commitment of the US to resist Soviet expansion and defend its national interests, with force if necessary, in the Persian Gulf region.<sup>4</sup> The US and Saudi Arabia provided extensive military and financial support to the various *jihadist* groups and gave preferential treatment to the most fundamentalist parties including Hisbi Islami that was notorious for its attacks on women in the 1970s.<sup>5</sup> US funds were also utilized by the ISI “to recruit and equip thousands of foreign radical Muslim fighters” as part of a larger Cold War agenda to exhaust the Soviet Union.<sup>6</sup>

The confrontation with the Soviet Union in Afghanistan had a profound impact on Afghan society and its political culture. Afghanistan's embryonic or quasi-state effectively ceased functioning in rural areas thereby rupturing and undoing what little progress had been made in making rudimentary services available. The emergence of military commanders as power kingpins occurred at the expense of the *khans*, the traditional landed elite, and tribal elders whose influence was greatly diminished at some cost to local governance and dispute-resolution mechanisms. Importantly, the emergence of new political factions linked to armed groups contributed to the politicization of Islam and the radicalization of militant youth. *Jihadists* wanted “not only to liberate Afghanistan but to create a state based on Islam as a political and legal organizing principle.”<sup>7</sup>

The systematic and indiscriminate aerial bombardment of the Afghan countryside and other atrocities were a major factor in the mobilization of the Afghan resistance. Those arrayed against the Soviet presence in Afghanistan, however, were not known for their compliance with core human rights standards, an issue that was mostly ignored during the Cold War years. Dr. Mohammad Najibullah, a leader of the moderate wing of the ruling party, took over as President at the end of 1987, a few months before the signing of the Geneva Peace Accords (August 1988) that paved the way for the Soviet exit from Afghanistan. Resistance groups that had formed an alliance against the Soviet Union soon turned their guns on Kabul where Najibullah was forced to cede power in 1992. The collapse of the Soviet Union and the cessation of Moscow's financial support for the government in Kabul, coupled with the defections of various Commanders, gave rise to a series of negotiations that resulted in the formation of an interim government in 1993 but not the end of long-standing rivalries between different mujahedin factions.

Afghanistan quickly descended into a brutal and bloody new phase of warfare as militias, mostly organized along ethnic and geographic lines, fought each other in a destructive grab for power that saw much of Kabul reduced to rubble, with the city subsequently described as the 'original Ground Zero'. The end of Cold War confrontation had seen the US disengage from Afghanistan and an accumulation of problems that had become more pronounced with the ready availability and use of lethal weaponry, a booming drug trade, and erosion of norms that were critical to societal cohesion. Washington's former proxies killed, raped, tortured, pillaged and set in motion new waves of displacement and enacted legislation that further restricted the limited freedom of Afghan women.<sup>8</sup>

Concern about the situation of Afghan women, and a wide array of human rights violations did, however, move center stage when the Taliban marched into Kabul in September 1996. Their rise to power was as much an outcome of fear and revulsion at the lawlessness, criminality, and brutality that had characterized the mujahedin infighting and their warlord rule as a confluence of interests associated with regional post-Cold War tensions, trade routes, and religious zealotry. Mullah Omar and his band of religious "purists" were an indigenous movement that emerged from the Pakistani *madrassas* that provided an education to poor Afghan refugees; they benefitted from political, financial and military backing of Pakistani authorities disillusioned with their earlier "freedom fighter" *protégés*.

The Taliban inherited a country laid waste by years of unrestrained warfare that had also destroyed significant elements of the Afghan social fabric. A resilient people, Afghans were nonetheless debilitated, under-nourished, with a mortality rate and socio-economic indicators that are amongst the worst in the world. For Afghans, then as now, the priority concern was a modicum of human security; they were war-weary and fearful of the violence and mayhem that greatly constrained their ability to move about and access income-generation possibilities. Thus, the Taliban, at least initially, were tolerated if not effusively welcomed, as they instituted draconian measures that routed the warlords and brought lawlessness to an end.

The Taliban's harsh imposition of their fundamentalist interpretation of Islam and Sharia law, including their strict segregation of women, was greatly resented beyond the Pashtun belt, especially in the cities. Women and girls were subjected to a twilight existence that severely curtailed their access to the limited health, education, and job opportunities that were available. Taliban claims to be the true proponents of Islam lost credence when they proved to be no less cruel than their predecessors: for example, civilians in contested areas were subjected to "summary executions, arbitrary detention, forced displacement, and a scorched earth policy that included the destruction of homes and agricultural assets."<sup>9</sup>

The international community did express much concern about the fate of Afghans under Taliban rule but offered little practical help. The focus was on demonizing the Taliban and the imposition of sanctions that included a one-sided arms embargo that effectively supported the continuation of armed conflict. It proved impossible for aid agencies to mobilize funding for education programs in refugee camps where Afghans were under pressure to repatriate. Humanitarian appeals for Afghans who were also suffering from a severe drought during the latter years of the 1990s were routinely under-funded.

When the Taliban regime was ousted in November 2001, it was widely assumed, both in and outside Afghanistan, that this marked the end of armed conflict and the beginning of a new era of representative governance. Aspirations that peace would be secured, and an open society would enable Afghans to participate in shaping their own future began to evaporate, however, as the Bonn process unfolded and the B-52 campaign gave way to the full force of the Global War on Terror.

### **3. Warlords, Impunity, and Other Consequences**

President George Bush launched “Operation Enduring Freedom” (OEF) on 7 October, 2001 less than a month after the horrific attacks by Al Qaeda on the World Trade Centre and the Pentagon. The stated purpose of OEF was to destroy Al Qaeda’s infrastructure, find Osama Bin Laden, and remove the Taliban regime.<sup>10</sup> Underlining his intent to use all available resources to “win the war against terrorism” the President stressed that he made no distinction between those who carried out unlawful acts and those who sheltered them.<sup>11</sup> OEF was widely seen in the global South as an attack on the sovereign rights of independent nations. In Afghanistan, few tears were shed as the Al Qaeda “guests” disappeared and Taliban foot soldiers returned to their villages. However, Washington’s determination to make no distinction between the large number of Afghans associated with the Taliban and the foreign fighters funded by Osama Bin Laden did raise questions about the viability of a democratic model that excluded a significant segment of Afghan political opinion.<sup>12</sup>

OEF, with its combination of aerial bombardments and ground assaults by former Afghan commanders led by US Special Forces, set the scene in the lead up to a meeting of various Afghan stakeholders to identify and agree on a power-sharing arrangement. At the behest of Washington, the United Nations (UN) pulled together a number of Afghans who were mostly those already constituted into known political groups such as the Northern Alliance that enjoyed US military and financial backing. Afghans associated with King Zaher Shah, known as the Rome Group, as well as two small parties, the “Peshawar” and “Cyrus” groups, also participated. A small number of civil society activists met in a parallel gathering but were not directly involved in negotiations at Bonn. Barnett Rubin, an advisor to Lakhdar Brahimi, the UN Special Representative for Afghanistan who organized and chaired the meeting in Bonn, noted that this process “did not represent the people of Afghanistan, either directly or indirectly.”<sup>13</sup> Street wisdom in Afghanistan at the time held that the major beneficiaries of Bonn were those “who walked in on American legs” namely the warlords revived by US military and financial largesse.

Finalized with record speed in nine days, the Bonn Agreement, and its implementation had serious deficiencies from the outset. The Bonn meeting was dominated by many of the individuals who were infamous for their notorious deeds, were widely despised by Afghans, and had been evicted from power by the Taliban. The resuscitation of well-known warlords who had just been installed in their former fiefdoms for the primary purpose of helping the US prosecute the Global War on Terror was of great concern to Afghans. Significantly, Bonn did not include groups concerned about the marginalization of women, human rights advocates, nor representatives of the victims of war and abuse. A significant proportion of the Pashtun community, particularly those associated with the Taliban and rural norms, were not invited to Bonn and were, effectively, relegated to the margins of Afghan politics.

The Agreement signed (5 December, 2001) in Bonn was not a peace accord in the sense of a consensus or shared compromise on power-sharing and constitutional arrangements to build the framework needed for a transition to a democratic future, nor did it address underlying drivers of armed conflict, including non-inclusive governance arrangements.<sup>14 15</sup>

Washington and its allies were ostensibly committed to ridding Afghanistan of the problems that led to state failure and an environment that triggered the Taliban rise to power. However, their support for systems and structures that were antagonistic to fairness, equity, inclusiveness, human rights and the rule of law effectively condemned Afghanistan to a repetition of its violent past. To build a different and democratic Afghanistan, the country needed a governance system that was representative and committed to addressing the root causes of structural violence, poverty, and widespread concerns about insecurity and impunity.<sup>16</sup> The Bush Administration and its NATO allies invested in war but not in peace building through the establishment of accountable and representative governance. Reflecting on the failures of the Bonn process, Mr. Brahimi noted that the Bush Administration was “not really interested in working seriously to stabilize Afghanistan. They had already decided to invade Iraq.”<sup>17</sup>

Afghans were desperate to be free of the past and repeatedly underlined that security, or lack thereof, was their priority concern. As elsewhere, being secure means not being harmed physically. In Afghanistan, it also means not being subjected to predatory or abusive practices. Undignified treatment, or behavior that undermines one’s sense of honor, are equally of concern.

#### *Afghan views on insecurity and related injustices*

An April 2002 survey found that Afghans were “tired of war and violence”; they are ready to embrace human rights and turn away from guns but the leaders won’t let them” noted a villager who was then a refugee eager to return home.<sup>18</sup>

In 2003, a survey conducted by Afghan and international NGOs found that security issues were the priority concern; participants “consistently talked about being tired of the long years of war and the negative effects of the conflict on their lives”; a large majority of respondents “mentioned security and economic progress as mutually dependent forces.”<sup>19</sup> Afghans raised concerns “about the threat to potential long term peace including armed groups, rule by the gun, lack of rule of law, and impunity for commanders and warlords.” A woman in Herat was of the view that “as long as there are gunmen, neither impartial nor peace loving people can stand for election.” Commenting on the need for justice a woman in Saripul in northern Afghanistan indicated “courts do not solve our problems properly because of corruption and powerful armed men.”

“A Call for Justice”, an extensive survey covering 32 of Afghanistan’s 34 provinces undertaken by the Afghanistan Independent Human Rights Commission (AIHRC) during an eight month period in 2004 found that many participants were critical of the role of the international community noting that if it had “seriously addressed injustice, security would be assured today.”<sup>20</sup> On the subject of Afghan leadership, a woman from Kandahar noted that Afghanistan needed “the kind of leadership that can gain people’s respect. We do have good people in Afghanistan but unfortunately these gunlords do not let good people work...”. Security was identified as the most urgent concern by most participants and was frequently linked to justice issues. A man from Balkh in the north of the country indicated “our immediate concerns are security, justice, water, food, electricity and shelter, in that order of importance”. A woman from Laghman in eastern Afghanistan noted “justice is very important but security and justice are inter-related.” Afghans who were consulted in this

survey “felt that action on justice must be taken soon to end the sense of despair and to consolidate the peace.” Quoting an old Afghan proverb, a man from Kabul stressed how “being compassionate towards wolves with sharp teeth is tantamount to being unjust to defenseless sheep.”

In 2009, an Oxfam assessment of Afghan perceptions of the costs of war found a great deal of dismay with growing insecurity and widespread impunity. A woman in Dai Kundi underlined that the government should “start paying attention to its people”; many respondents called for accountability noting that the government “should not appoint warlords.”<sup>21</sup>

Commenting on the de-prioritization of Afghan concerns and the ramifications of this for security and the development of legitimate governance institutions, Mr. Brahimi noted in 2009 that “We are now paying the price for what we did wrong from day one...The popular base of the interim administration put together in Bonn under President Karzai was far too narrow. We all vowed to work hard to widen that base once we returned to Kabul. Unfortunately, very little was done. On the contrary, the Northern Alliance which had been thoroughly defeated by the Taliban and had been literally resuscitated from certain death by the US, was actively engaged in consolidating its grip over the country... I am afraid today's government is not much better than that of the mujahedeen after the withdrawal of the Soviet Union and the fall of the man they left in charge, Najibullah.”<sup>22</sup>

During the final negotiating session at Bonn, a draft paragraph forbidding an amnesty for war crimes was deleted. This effectively established a *de facto* amnesty. It also sent the message that it would be extremely difficult to counter impunity as those best known for their infamous deeds were now back in positions of power.

The Interim Administration of Hamid Karzai that took office at the end of December 2001 had little capacity to counter a surge in human rights violations. When the Taliban regime was pushed out of northern Afghanistan, it was replaced by a string of commanders who had returned to their former fiefdoms with US military and other support. The UN was reluctant to speak to such human rights violations, as was the wider international community, given the role of these newly armed, former mujahedin in the Global War on Terror.<sup>23</sup>

Afghan civil society actors were marginalized throughout the Bonn implementation process including, importantly, at the Emergency Loya Jirga (ELJ), in June 2002; well-known warlords, who arrived at the event with their own militia, hijacked the meeting. The stated aim of the traditional ELJ assembly was to select a “broad-based, multi-ethnic, and fully representative” Transitional Administration tasked with the creation of a revamped state system; this included a new or modified constitution and presidential elections slated for October 2004. Notwithstanding formal procedures to help ensure the Jirga was representative, warlords forced their way into the proceedings and threatened delegates who had been formally selected. Instead of an open debate and transparent voting, back-room deals were presented for ELJ confirmation.<sup>24</sup>

The Bonn process also failed when its recovery template did not prioritize social justice and the need to combat the discrimination and marginalization that denied a huge swathe of Afghan society such fundamentals as their right to food, shelter, health and education. Poverty is widespread and deeply rooted in Afghan structural inequalities and the powerlessness that keeps the poor on the margins of society; one third of Afghans struggle to survive on less than \$1 a day while another third of the population is ranked just above this extreme poverty marker.<sup>25</sup>

Poverty is the biggest killer in Afghanistan. This is particularly true for females; at 43 years, Afghan women have one of the lowest life expectancy rates in the world. This is roughly half the number of years Japanese women can expect to live and is significantly lower than

Afghans South Asian neighbors; life expectancy for women in Pakistan and Sri Lanka is 66 and 77 years respectively.<sup>26</sup> Maternal and child mortality rates rank among the highest in the world notwithstanding some reductions in recent years.<sup>27</sup> Figures for 2010 indicate a maternal mortality rate of 1,400 per 100,000 live births while in war-torn Sri Lanka the figure is 92 per 100,000 live births.<sup>28</sup> These alarming statistics can be attributed to a number of factors including the continuing limited access to health care, especially for women, in many rural areas.<sup>29</sup> The intensification and spread of armed conflict impacts on the availability of, and access to, health services so that maternal mortality rates in war-affected provinces such as Helmand, for example, are “three times the national average.”<sup>30</sup> According to a *Médecins Sans Frontières* (MSF) assessment in 2009, there was a 30 percent mortality rate “largely the result of absent staff and patients’ inability to arrive until a condition had become life-threatening” at the hospital they support in Lashkargah, only one of two in all of southern Afghanistan.<sup>31</sup>

Such statistics are indicative of the need to challenge transition strategies that prioritized outdated and counter-productive notions of stability over the aspirations and priorities of Afghans. An estimated 6 million children are now enrolled in primary school, a huge improvement on pre-war figures. However, schooling tends to be rudimentary at best and growing insecurity threatens to erode some hard-won achievements. In Daikundi, one of the least war-affected provinces, less than 1 percent of schools have a building with dedicated class-rooms; nation-wide, an estimated 5 million children do not attend school and a mere 25 percent of teachers are trained professionally.<sup>32</sup> In a country where only 18 percent of women are literate – with 10 percent the average in rural areas – it is worth recalling the promise that the demise of the Taliban regime would greatly enhance the status and participation of women in Afghanistan’s social, political and economic life. Instead, numerous studies attest to the persistent and profound discrimination faced by Afghan women and girls and the nature of the violence that continues to harm them in and outside their homes.<sup>33</sup>

The years of war have created massive refugee flows as well, with millions leaving the country and being internally displaced in the years of violence before and after the 2001 invasion. With the assistance of the largest repatriation program coordinated by the United Nations High Commissioner for Refugees (UNHCR), five million Afghans returned from Pakistan and Iran between 2002 and 2011.<sup>34</sup> However, the rate of refugee returns has declined significantly since 2008 due to worsening security in Afghanistan.<sup>35</sup> Moreover, many Afghans who have repatriated have been unable to return to their place of origin because of continued armed conflict, adding to the growing numbers of internally displaced persons within Afghanistan.<sup>36</sup>

There are still 415,000 internally displaced people in Afghanistan.<sup>37</sup> Many return refugees have been unable to go back to their places of origin for reasons of continued insecurity or the lack of a viable livelihood. Poverty and natural disasters have also contributed to the recent displacement of Afghans, but violence continues to be the major factor in involuntary migration.<sup>38</sup> Between June 2009 and September 2010, more than 120,000 Afghans fled their homes as a result of armed conflict.<sup>39</sup>

As of 2009, there were still 1.8 million Afghans living in Pakistan.<sup>40</sup> As of 2011, there were still 1.8 million Afghans living in Pakistan given both security and economic instability in their country. However, the country that for decades has hosted Afghan refugees has become the site of extensive military activity that has displaced Pakistanis internally as well as back and forth into Afghanistan.<sup>41</sup>

Civil society actors began to wonder about the nature of the many commitments made to secure a better deal for Afghan women, as well as the development of state institutions that would allow them and others to build a future free of organized violence and militarized power structures, when the blatant manipulation of the Emergency Loya Jirga was ignored. A

short while later, Vice-President Haji Abdul Qadir, an influential and former Jihadi Pashtun leader, was gunned down in Kabul with no discernible consequences for the killers. The use of guns to settle differences or to advance particular political or economic agendas set the tone for the latter phase of implementation of the Bonn Agreement.<sup>42</sup>

#### **4. The Failures of Democratization**

It was widely acknowledged that the hastily concluded and unrepresentative Bonn meeting resulted in interim power arrangements that strengthened the hand of warlords antagonistic to democratic governance. Nonetheless, subsequent implementation of the Bonn process continued to suffer from the prioritization of short-term, primarily US, expedient objectives over long-term Afghan democratization goals.

The run up to the Loya Jirga that resulted in a new Constitution in January 2004 was bedeviled by “the same factors that limited the accomplishments of the Emergency Loya Jirga.”<sup>43</sup> Under pressure from Washington, which was already preoccupied with Iraq and saw Karzai as a trusted partner, Afghanistan ended up with the formal apparatus of power concentrated in the President who was both head of state and head of government. A weak parliament, dominated by warlords, was coupled with feeble political parties and dysfunctional local governance.

The new Constitution underlined the importance of the Universal Declaration of Human Rights and that all citizens, women and men, have equal rights and duties before the law. This was an important signal for all in favor of gender equity but the task of translating these Constitutional guarantees into concrete achievements has become more, rather than less, difficult over time. Afghanistan has a long history of pro-equity advocates being challenged or condemned as un-Islamic by individuals eager to exploit the sensitive subject of “women’s honor” for their own gain.<sup>44</sup>

Although much of the US commentary on the plight of Afghan women and girls was self-serving and indicated a poor understanding of the deeply engrained discrimination that preceded the emergence of the Taliban, there was no disputing that most Afghan women had very limited autonomy, either in the private or public sphere. However, even though the stated purpose of Washington and its allies was to liberate the girls and women of Afghanistan by defeating the Taliban and ousting Al Qaeda, the resuscitation of warlord rule in the name of “stability” inhibited the realization of gender equity.

The difference between rhetoric and reality on the question of human rights in Afghanistan became apparent at an early point when no effort was made to convince Ismail Khan, the self-styled Emir of the western Afghanistan, to allow some new NGO representatives to participate in the first, post-Taliban regime, International Women’s Day celebrations in Kabul in March 2002. Many, including UN High Commissioner for Human Rights, Mary Robinson, had gathered to signal their support for a fresh start for Afghan women. But Human Rights Watch (HRW), based on an investigation at the end of 2002, just a year after the demise of the Taliban’s “uniquely oppressive rule”, declared that Ismail Khan had created “a virtual mini-state in Herat” where they found a “pattern of widespread political intimidation, arrests, beatings, and torture by police and security forces.”<sup>45</sup> Noting that Ismail Khan had taken power with the backing of the US-led military coalition, HRW documented Taliban-era style restrictions on women and quoted a UN official who indicated “Herat is the worst province for women in Afghanistan.”<sup>46</sup>

When US Secretary of Defense, Donald Rumsfeld, visited Ismail Khan in April 2002, he found him “appealing,” noting that he was “thoughtful, measured and self-confident.”<sup>47</sup> Speaking at a press conference in Washington shortly after his visit to Herat, the Defense Secretary emphasized that “in the bulk of the country the armies, the militias, the forces that

exist there, almost all of which have U.S. Special Forces involved with them and advising them and participating, are by their presence contributing to stability”; this is the same stability that early in 2002 saw many Afghans fleeing the warlord fiefdom of Mr. Dostum, a close US ally who benefited from the presence of US Special Forces when he participated in the routing of the Taliban in the north.<sup>48</sup> Mr. Dostum also benefitted from the advice of US Special Forces during negotiations for the surrender of thousands of Taliban and Al Qaeda forces; many were killed, including as a result suffocation, as they were transported to prison in sealed containers.<sup>49</sup> Although the Pentagon stonewalled in answering any questions on these deaths, Mr. Rumsfeld is likely to have been very familiar with the events in question as he was “euphoric” at Defense press briefings when reading snippets from the dispatches of Captain Nutsch who led the Special Forces in question.<sup>50</sup>

Karzai, with the “strong encouragement of US officials,” tried to reach an accommodation with Khan and Dostum, both of whom resisted dismantling their armed structures and loosening control of their fiefdoms.<sup>51</sup> The effective accommodation of various warlords shaped the environment for presidential and parliamentary elections – the conclusion of the Bonn implementation calendar – scheduled to occur a few months after the completion of the Constitutional Loya Jirga.<sup>52</sup> The absence of effective disarmament and demobilization of warlord militias and the lack of space for grass-roots political movements, coupled with Washington’s determination to show “proof” of democratic progress in Afghanistan ahead of US presidential elections in November 2004, led to outcomes that hobbled prospects of a forward transition.

It was widely accepted amongst Afghans that Karzai was Washington’s candidate and pre-ordained President.<sup>53</sup> It was of major concern that the electoral process, notwithstanding the strong presence of the international community, was dominated by those with the greatest power to intimidate or to buy votes; the 2005 parliamentary elections effectively “legitimized” and further emboldened known thugs and ruthless commanders. It was also apparent to many Afghans in 2004 that the biggest threat to the country came from various ethnic militias that were generated to oppose the Taliban and “are technically part of the Government’s defense forces.”<sup>54</sup> By the time the second round of presidential and parliamentary elections were scheduled for 2009 and 2010 respectively, it was clear that the challenge of holding free and fair elections were huge, if not impossible to address.

Whereas Afghans do want a say in how they are governed, as indicated in the 70 percent turnout in the 2004 elections, a growing number of citizens are less and less interested in the ineffective democracy that has been on offer. By August 2009, impunity and corruption were more entrenched than before and Karzai’s western backers were still married to the notion that elections, however unconvincing to Afghans, were needed to sustain domestic support in ISAF troop-contributing countries. Elections, and Karzai’s bid to retain his Presidency, were marred by violence and well-documented, systematic fraud.<sup>55</sup> Turnout was low and polling day was the worst single 24-hour period of recorded violent incidents, including the deaths of 57 Afghans, since the overthrow of the Taliban regime.<sup>56</sup> The second round of parliamentary elections in 2010 fared no better in terms of being credible or acceptable to Afghan voters. Little effort had been made to correct either the electoral system or the faults that had marred previous rounds of voting. Widespread violence inhibited the participation of women both as candidates and as voters. Although there are, unquestionably, some parliamentarians who are representative and responsible, in terms of winning it “helps if you’re a warlord, or if you’ve made millions from development and military contracts – or both.”<sup>57</sup>

The cost and consequences for Afghans, as well as the taxpayers who have funded these fraud- and violence-marred election exercises, are many.<sup>58</sup> While the Bush and Obama

administrations have insisted that modern democracy was taking hold in Afghanistan, genuine representative, pluralistic, and accountable governance is absent.

##### **5. Deepening Crisis: Injustice, Lawlessness, and Insurgency**

The limited reach of centralized state structures in Afghanistan can, in part, be attributed to the issue of justice; its absence effectively denied rulers legitimacy and, thus, longevity. Traditionally, the minimum that Afghans “expected from rulers is that they should be Muslim and they should provide security and justice.”<sup>59</sup>

Widespread abuse, compounded by everyday indignities and the absence of redress, is a major driver of the insurgency and a boon to the propaganda campaign of the armed opposition. Grievances are many and run the gamut from the marginalization of particular tribes to their political and economic disadvantage, to night searches and arbitrary detention, through selective poppy eradication schemes, bribes for government services, extortion rackets, and violence against women.

The relationship between the creation, manipulation, or aggravation of tribal differences and support for the insurgency was identified as a critical issue, in a revamped approach to the war, by Stanley McChrystal, the four star General who headed Coalition forces from mid-2009 to mid-2010.<sup>60</sup> Tribal disputes have greatly undermined efforts to secure effective local governance. Local rivalries and conflicts have also fueled the poppy trade and the war economy that, in turn, have subverted citizen-centered state building.

Afghanistan produces some 90 percent of the world’s opium; according to the UN Office on Drugs and Crime (UNODC), the export value of the trade in poppies in 2007 was \$4 billion.<sup>61</sup> In a complex web of patronage and politics that protects criminals and their associates, it is widely understood that corrupt government officials, in league with the Afghan National Police (ANP) and provincial administrators, are in the pay of drug traffickers who could not operate without the “indulgence” of the Taliban.<sup>62</sup> Drawing on a British government study, the United States Institute for Peace noted that many Afghans in the south “believe that state actors earn greater profits from the drug trade than the insurgents.”<sup>63</sup> There are numerous accounts of the state apparatus being hijacked by senior government officials who have accepted large bribes “in exchange for appointing certain individuals into strategic and lucrative positions, often as police chiefs” in poppy-affected provinces.<sup>64</sup> According to a senior ISAF officer, corrupt syndicates and the state are vertically-integrated; “officials on the periphery move money upwards in exchange for license” to run their own fiefdoms.<sup>65</sup>

The daily reality of rampant corruption including bribes demanded by low-level government officials for simple tasks, has strategic implications.<sup>66</sup> Ranked second-last, together with Burma, at 177 out of the 178 countries reviewed by Transparency International in their 2010 Index, corruption is seen to infect “nearly every interaction between the Afghan state and its citizens.”<sup>67</sup>

Conscious of the important role of governance in effective counter-insurgency strategies, Washington has tried to convince Karzai to take some corrective, clean-up action but to no avail.<sup>68</sup> Karzai has routinely opted to safeguard discredited political allies, as well as family members allegedly involved in a wide range of nefarious activities, when judicial and other investigations point to corrupt and illegal practices. This included a variety of questionable practices at Kabul and Ansari banks in 2010. Mahmoud Karzai, a brother of the President, has, since its inception in 2004, been involved in Kabul Bank, seen as an “unofficial arm of the Karzai government” involved in bribing parliamentarians to secure support for particular legislative processes; the Bank faced near collapse when losses of several hundred million dollars, a significant proportion of the country’s gross domestic product, came to light.<sup>69</sup> Meanwhile, an investigation unearthed evidence that a Presidential aide, Mohammed Salehi – who previously worked with Dostum in northern Afghanistan – demanded a bribe in

exchange for scuttling an enquiry into the New Ansari bank. Mr. Karzai, however, insisted on the release of the alleged culprit a few hours after his arrest.<sup>70</sup> The investigation into Ansari found that the bank was moving money for “government officials, Taliban leaders, and drug dealers”; in 2009 alone, an estimated \$2.5 billion – equal to one-fifth of Afghanistan’s GDP – was flown, in cash, to Dubai.<sup>71</sup>

Afghan-owned corruption is only part of the story. Observers in Afghanistan also point out that the US has overseen or put in place systems that are themselves corrupt. A prominent Washington-based think-tank found that the US was “at least as much to blame for what has happened” noting that corrupt practices “threatens any real hope of victory in Afghanistan” and should be reduced or eliminated.<sup>72</sup> In addition, observers point out that the operating budgets of the US and its allies far exceed the level of resources available to Afghans, and profiteering and diversion involved with them have been widespread.

Corruption in Afghanistan is but one aspect of the lawlessness that was implicit and inevitable when the US, with the support of its coalition allies, orchestrated the return of warlord rule as a central element of its GWOT strategy. The absence of the rule of law is evident in the many parallel structures and systems of authority and control – backed by firepower or influential power brokers – that now characterize much of Afghanistan’s public life. One of the most striking and debilitating manifestations of this is the \$2billion private security industry that helps maintain a highly militarized supply chain for coalition forces as well as security for particular installations and development projects.

Private security companies (PSCs), widely seen as mercenaries in Afghanistan, have thrived as lawlessness and insecurity increase. Simultaneously, these companies have worked as a destabilizing factor given the rivalries and fierce competition surrounding the pursuit of lucrative contracts.<sup>73</sup> Afghanistan’s private security industry includes international companies and a motley mix of Afghan militias that operate as sub-contractors. A US Congressional study noted that these contractors include “warlords, strongmen, commanders and militia leaders who compete with the Afghan central government for power and authority.”<sup>74</sup> Warlords have prospered as government authority receded and are more powerful now than before.<sup>75</sup>

There are varying assumptions as to why, in August 2010, President Karzai declared his intent to greatly restrict the use of PSCs; it appeared linked, in part, to the larger agenda of transferring responsibility for security from external to Afghan forces and control of resources in relation to this. A few weeks earlier, at a Conference in Kabul involving all of Afghanistan’s major partners and donors, Mr. Karzai again underlined his oft-repeated declaration to fight crime and corruption. He declared that prosecutors and judges would have the required resources “to act swiftly and decisively.”<sup>76</sup> However, beyond the rhetoric, there has been little evidence of genuine commitment to the rule of law, and the separation of powers in the administration of justice, in the Presidential palace. The position of the United States, which has been instrumental in the institutionalization of abusive power structures, mirrors that of Mr. Karzai.

Washington has routinely acknowledged that a functioning and legitimate state is critical to its counter-insurgency strategy. However, together with its coalition allies, including an army of NGO partners, the US persists in pouring resources into technical initiatives – from building courthouses to training of judges, prosecutors and the police – that merely serve to perpetuate a corrupt, self-interested, and criminalized *status quo*.<sup>77</sup> The intersection of politics, business, and criminality is well known to those who bankroll the Karzai regime. So is the fate of the many Afghan government officials who have tried to uphold the law; the Deputy Attorney General was dismissed in August 2010, shortly after he attempted to prosecute a senior member of Mr. Karzai’s inner circle, and has effectively been under house arrest since then.<sup>78</sup> Afghans, disgusted and disillusioned by the state’s subversion of the rule

of law routinely point out that “the rich are not in prison”; it is only the poor and the poorly connected who are put behind bars.

Afghans tend to be very aware that the US, which presents itself as a freedom-loving nation, has a selective regard for international law. The use of arbitrary detention, torture, and rendition by US authorities, and their associates in Afghanistan, stands in sharp juxtaposition to Washington’s rhetoric on accountability and the rule of law. Bagram, the US detention facility where inmates are not treated in accordance with international law, for example, has undermined the rule of law in Afghanistan and complicated the task of those eager for reform in the Afghan justice sector.<sup>79</sup> It also raises questions about a plethora of interventions that have never had much prospect of securing substantive justice sector reform. Moreover, Afghans are skeptical of US calls for an independent judiciary and law-based governance while it simultaneously strengthens criminal and militia networks.

The police are the most visible, and among the most hated, agents of the Karzai regime. Numerous studies, reform, and restructuring initiatives, coupled with \$1 billion support by the US in 2008 alone, have failed to address or ameliorate problems that can be sourced to the “corrupt, factionalized, and criminalized institutional environment of the Ministry of Interior.”<sup>80</sup>

The development of a respected police capacity was hobbled from the start when recruits, in 2002, were drawn from the armed factions and militias of different local commanders and warlords.<sup>81</sup> A former deputy Minister of Interior noted in 2010 that the newly uniformed, warlord units, were more geared to preventing than upholding the rule of law.<sup>82</sup> A World Bank, UNODC (UN Office on Drugs and Crime) report concluded in 2006 that the Interior Ministry was appointing Chiefs of Police to “protect and promote criminal interests.”<sup>83</sup> Accused of “kidnapping, murders, rapes, extortion and trafficking,” the police are viewed by many Afghans as “lawless armed men, rather than trusted law enforcement officials.”<sup>84</sup>

The US and the European Union have launched numerous training and other initiatives without actually addressing the core structural problem of the leverage of warlords and local strongmen over the ANP (Afghan National Police) at the provincial and district level. An infusion of new and younger personnel has been offset by an attrition rate of 75 percent that is attributed to low morale, six weeks’ rudimentary training, and a high number of casualties.<sup>85</sup> Efforts to construct a law enforcement capacity that was legitimate have suffered from a focus on quantity over quality and the push to build a “paramilitary force rather than a tool to support rule of law.”<sup>86</sup> The prioritization of military objectives over a trustworthy police force has resulted in training programs being dominated by counter-insurgency skills rather than policing abilities and knowledge of the law. Notwithstanding numbers of excellent individual police officers, the overall result of almost a decade of training, and significant capital investment, is that the “ANP remains ill-trained, ill-equipped, ethnically unbalanced and badly affected by corruption” including many instances of collaboration with the armed opposition.<sup>87</sup>

Between 2006 and 2008 an extensive amount of weaponry was handed out to the Afghan National Auxiliary Police (ANAP) before they were disbanded given concerns about their loyalty as well as command and control issues.<sup>88</sup> A short while later, and apparently without any review of the failed ANAP exercise, the Ministry of Interior (MoI) “working almost exclusively with the US military”, particularly US Special Forces, launched the Afghan Public Protection Programme (APPP) known as ‘AP3’ to extend the reach of the government and enhance community security.<sup>89</sup> A pilot launch in Wardak province brought to the fore many of the problems that had characterized the ANAP leaving open the question of its replication elsewhere.

Eighteen months later, US military were pressuring President Karzai to expand LDI forces “from the current goal of 10,000 members to 30,000.”<sup>90</sup> Concerned that these forces, now known as “Afghan Local Police” (ALP) operate independently of the police and the army, the President has continued to voice concerns. Modeled after “joint village teams set up by the Marine Corps during the Vietnam war,” this programme is now seen “as a cornerstone of President Barack Obama’s war strategy.”<sup>91</sup> However, it appears that the push for “more boots on the ground” to facilitate the planned US drawdown scheduled to begin mid 2011 is taking precedence over Afghan concerns and experiences as illustrated by one vignette from northern Afghanistan in October 2010.

In March 2010, a dispute between the Taliban and Gulbiddin Hekmayar’s forces in Baglan in an area close to a highway that has become a strategic part of the US supply chain, resulted in a fierce firefight. The Taliban won and 100 or so Hisbi-Islami fighters surrendered to the government.<sup>92</sup> A short while later, these fighters were reconstituted as a local community-policing contingent and, with the help of US Special Forces, they got their weapons back.<sup>93</sup> In September, just before parliamentary elections, the Taliban attacked their old foes; promised US air support arrived late and accidentally bombed one of the locations of the anti-Taliban fighters killing their leader.<sup>94</sup> US Special Forces, with the help of a near-by German unit of ISAF, continued to help this particular group of fighters who were attacked again by the Taliban in October 2010.

Various studies attest to the critical role that injustice plays in fomenting dissent and support for insurgency. Research involving some 500 interviews found that unjust government and lack of redress fuels the insurgency; a tribal elder in Paktia in the south-east said that the “lack of clinics, schools, and roads are not the problem. The main problem is that we don’t have a good government.... There is a growing distance between the people and the government and this is the main cause of the deteriorating security situation.”<sup>95</sup> A British government-funded study concluded that “the failure of the state to provide security and justice” coupled with “perceptions of the government as corrupt and partisan” are influential drivers of the insurgency.<sup>96</sup> A study in the Taliban heartland of Kandahar found that anti-government sentiments “are exploited and aggravated” by the armed opposition; the “only viable means of political opposition” is seen to be the insurgency.<sup>97</sup>

The Taliban have continued to make their presence felt notwithstanding the combined military and civilian surge and joint efforts to extend the reach of the government. Insurgent attacks “jumped 66 percent from 2009 to 2010” and shadow governors operate “in all but one of the country’s 34 provinces.”<sup>98</sup> Intimidation is a significant part of the Taliban arsenal and is used ruthlessly in areas they control or where they have significant influence. However, when contrasted with the corruption and brutality of the Karzai regime and its warlord allies, many Afghans look favorably on the role of the armed opposition as it disrupts and destroys government plans and programs in different parts of the country.<sup>99</sup>

The Taliban have been able to exploit discontent because of their reputation and approach to criminality: they ended the mayhem associated with their predecessors many of whom are Karzai’s allies who have reverted to their predatory practices. The study commissioned by Stanley McChrystal in 2009 led to the conclusion that “widespread corruption and abuse of power exacerbate the popular crisis of confidence in the government and reinforce a culture of impunity.”<sup>100</sup> By contrast, the Taliban, according to the McChrystal study, have established ombudsmen “to investigate abuse of power in its own cadres and remove those found guilty.”<sup>101</sup> The Taliban have prioritized attention to justice issues according to an official working with a British Provincial Reconstruction team; their court system, in places such as Helmand, were “the only effective and trusted tribunals of justice. Above all, unlike the state courts, their decisions are not dependent on the ability to pay bribes and will be enforced.”<sup>102</sup>

The 2010 parliamentary elections were marred by fraud, violence, and manipulation of the electoral process. Competing efforts by Karzai and other power holders to orchestrate particular electoral outcomes gave rise to a stand-off between the executive, the legislature and the judiciary that has further discredited and weakened state institutions. Karzai, under pressure from his international backers who were anxious to maintain the fiction of “democratization,” reluctantly opened parliament – the Wolesi Jirga – on 26<sup>th</sup> January, 2011. However, he also maintained his own “Special Tribunal” that, in theory, was designed to investigate whether those elected had been elected fairly or whether fraud was involved.<sup>103</sup>

Karzai has been anxious to maintain his influence over the legislature that, since the first round of parliamentary elections in 2005, has been weak, fractured and dominated by warlords or their surrogates. Karzai backed the election of Abdulrab Rassoul Sayyaf as Speaker of the Wolesi Jirga to the great alarm of many Afghans including human rights activists given the proposed Speaker’s record.<sup>104</sup> Sayyaf is allegedly associated with a lengthy list of human rights violations including the infamous 1993 Afshar massacre in Kabul, his association with Osama Bin Laden in the 1980s, and views that are very antagonistic to the rights of women.<sup>105</sup> Sayyaf was a major supporter of the Amnesty Law that provides immunity from prosecution for war crimes and organized public rallies in its favor.<sup>106</sup> It is power holders such as Sayyaf, with ultra conservative views and unsavoury records, who broker deals with Karzai who has, increasingly, appeared intent on dismantling or destroying remaining constitutional checks on his authority.<sup>107</sup>

### **Conclusion**

Afghanistan has one of the youngest and fastest growing populations in the world. Between 1950 and 2006, the population quadrupled from 8 to 32 million.<sup>108</sup> With more than half the population in the 15 – 29 years age group and 43 percent less than 14 years, a staggering 90 percent has never known their country at peace.<sup>109</sup> The young in Afghanistan are acutely aware of the history they have inherited. They “are sick and tired of politics in this country” and “don’t want to accept the status quo” indicated one young candidate contesting the 2010 parliamentary elections.<sup>110</sup> It is these young people who were ignored and their aspirations denied when the US opted to align with the old guard warlords who had fought the Soviets but then turned their guns on each other and on defenseless Afghan civilians.

The US policy that has had the most profound ramifications for Afghans involves its wooing and revival of warlords associated with well-documented war crimes and the predatory and self-enriching systems they control.

Afghans know that they have, effectively, been disenfranchised and that their society needs to free itself of abusive forms of governance and systems of control that marginalize large segments of the population including, in particular, women and girls, as well as the rural poor.

The agreement concluded in great haste in Bonn had major deficiencies that were openly acknowledged in diverse policy and Afghan civil society circles from the end of 2001. Afghan participation was lopsided and unrepresentative particularly in terms of rural Pashtuns, women, and human rights actors. Warlords, associated with heinous crimes, greatly influenced the Bonn Agreement that effectively endorsed a culture of impunity. This Faustian Pact is still endorsed as the framework needed to achieve stability and a functioning state apparatus notwithstanding all the accumulated evidence to the contrary. This includes a burgeoning insurgency that is aided and abetted by state sponsored lawlessness that thrives with the support and myopia of Karzai’s external partners.

Ten years after 9/11 is a useful occasion to review policies that made Afghans pawns in the Global War on Terror and intensified regional rivalries that keeps in South Asia locked in a bitter struggle. Afghans deserve a “Bonn II” that is free of external interference, embraces

the full diversity of Afghan society, and is geared to the identification of genuine power sharing, peace-consolidation, and transparent state-building arrangements. Afghans are no less enthusiastic than citizens of Egypt, Tunisia, Libya, and other countries making the headlines in the myth-shattering spring of 2011 about living in a society where no one is above the law, where mechanisms are available to safeguard the rights of all, and where governance is based on democratic processes that are legitimate, fair and accountable. The majority in Afghanistan wants to see the emergence of state institutions that enjoy the trust of all Afghans. This is particularly the case for young people and women; they have the most to gain from an open society where all who transgress the law are held to account, disputes are resolved in court, and polling day is a routine opportunity to shape the country's future.

Everyone – Afghans and their allies – gains when the people of Afghanistan benefit from democratic processes and state institutions that undo the harm endured during thirty long years of war and a decade of false promises, deadly policies, and the trappings but not the substance of democracy in action.

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#### Endnotes

<sup>1</sup> Barnett R. Rubin, *The Fragmentation of Afghanistan: State Formation and Collapse in the International System*, Yale University Press, New Haven, 2002, p296

<sup>2</sup> ICRC/IPSOS, *Our World: Views from the Field: Afghanistan*, Opinion survey and in-depth research, Geneva, 2009, pp. 11 and 12.

<sup>3</sup> Refugees had to be registered with one of the Afghan parties recognized by Pakistan in order to receive necessary refugee documentation and relief goods. Recruitment was voluntary in the sense that it was not coerced but expected. A 1991 survey found that 83 percent of Afghans who had returned to Afghanistan “since becoming refugees had returned for jihad”; emphasis added. See Fiona Terry, *Condemned to Repeat? The Paradox of Humanitarian Action*, Cornell University Press, Itacha and London, 2002, p 69

<sup>4</sup> In his State of the Union address in January 1980, a few weeks after the Soviet invasion, President Carter declared “an attempt by any outside force to gain control of the Persian Gulf region will be regarded as an assault on the vital interests of the United States of America, and such an assault will be repelled by any means necessary, including military force.” See

<http://www.americanforeignrelations.com/A-D/Doctrines-The-carter-doctrine.html#ixzz1DIXoffZL>. It was also an opportunity for the US to give “the USSR its Vietnam war” said Zbigniew Brzeziski in an interview in which he also indicated that the US had begun to secretly support rebel groups in 1979 to induce Soviet military action. See *Le Nouvel Observateur*, 15-21 January, Paris, 1998

<sup>5</sup> Saudi Arabia favoured Sayyaf, a prominent fundamentalist in contemporary Afghan politics and Jalaluddin Haqqani, a ruthless insurgent leader widely known to be associated with some of the most deadly suicide attacks in Kabul in recent years. Pakistan channeled US funds to Hekmatyar who, then and now, heads up Hisbi Islami.

<sup>6</sup> Antonio Donini “Principles, Politics, and Pragmatism in the International Response to the Afghan Crisis” in Antonio Donini, Norah Niland, Karin Wermester (eds) *Nation-Building Unraveled? Aid Peace and Justice in Afghanistan*, Kumarian Press, Connecticut, 2004, p121.

<sup>7</sup> Alexander Their “The Politics of Peace-building” in *Nation-Building Unraveled op.cit.* p 43

<sup>8</sup> The UN Special Rapporteur on human rights, in a report to the UN General Assembly, 1994, “referred to massive numbers of civilians killed indiscriminately in Kabul as a result of rocket and air attacks”; a few months later the Rabbani-led government in Kabul introduced a decree outlining restrictions on women, including their dress that should not include “sound-producing garments” or go outside their homes “without their husband’s permission.” A 1995 Amnesty International report concluded that armed groups “have massacred defenseless women in their homes or have brutally beaten and raped them.” The Amnesty report also recounted incidents of abductions, forced marriage and disappearances. See Norah Niland “Justice Postponed; the Marginalization of Human Rights in Afghanistan”, in *Nation-Building Unraveled, op. cit.*, pp 64-65

<sup>9</sup> Norah Niland, *Nation-Building op. cit.*, p 66

<sup>10</sup> “By destroying camps and disrupting communications, we will make it more difficult for the terror network to train new recruits and coordinate their evil plans,” President Bush noted when announcing the attacks. CNN, “*Bush Announces Opening of Attacks*”, October 7, 2001

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<sup>11</sup> “Statement by the President in His Address to the Nation,” White House; See <http://www.whitehouse.gov/news/releases/2001/09/print/20010911-16.html>.

<sup>12</sup> Osama Bin Laden arrived in Afghanistan from the Sudan in May 1996 as a guest some Mujahedin commanders he had known in the 1980s. A few months later Osama Bin Laden became a *de facto* guest of the Taliban as the latter hastened to take Kabul in September 1996.

<sup>13</sup> Barnett Rubin, *Crafting a Constitution*, op cit

<sup>14</sup> Bonn had many imperfections but was the only achievable outcome under the circumstances at the time said commentators such as Barnett Rubin; see Barnett Rubin, “Transitional Justice and Human Rights in Afghanistan” 79(3) International Affairs 577, 2003.

<sup>15</sup> Norah Niland “Impunity and insurgency: a deadly combination in Afghanistan”, *International Review of the Red Cross*, Volume 92, Number 880, December 2010

<sup>16</sup> The term “structural violence” refers to the underlying causes of conflict or fault lines in a society that “normalize” harm such as discrimination or exclusion. It has been defined as ‘entrenched socioeconomic conditions that cause poverty, exclusion and inequality’ by Paul Farmer in *Pathologies of Power: Health, Human Rights and the New War on the Poor*, University of California Press, Berkeley, 2003, p 40

<sup>17</sup> Barbara Crossette, “Lakhdar Brahimi: Afghanistan’s Future”, *The Nation*, New York, 9 March 2009

<sup>18</sup> Centre for Economic Social and Cultural Rights, “*Human Rights and Reconstruction in Afghanistan*”, New York, May 2002

<sup>19</sup> Oxfam, “*Speaking Out: Afghan Opinions on Rights and Responsibilities*”, The HR Research and Advocacy Consortium, Kabul, November 2003

<sup>20</sup> AIHRC, “*A Call for Justice, a national consultation on past human rights violations in Afghanistan*”, Kabul, January 2005

<sup>21</sup> Oxfam, “*The Cost of War: Afghan Experiences of Conflict, 1978-2009*”, Kabul, 2009

<sup>22</sup> Barbara Crossette, 2009, op. cit,

<sup>23</sup> Norah Niland, *Nation-Building* op cit, p. 75

<sup>24</sup> William Maley, “Looking Back at the Bonn Process” in G. Hayes and M. Sedra (eds.), *Afghanistan: Transition Under Threat*, Wilfrid Laurier University Press, 2008, p.3-24. Lakhdar Brahimi concluded in 2007 that the Bonn state-building experience was flawed; Lakhdar Brahimi, “State Building in Crisis and Post-Conflict Countries”, Contribution to the 7th Global Forum on Reinventing/Building Trust in Government, Vienna, Austria, 26-29 June 2007.

<sup>25</sup> OHCHR “Human Rights Dimension of Poverty in Afghanistan”, United Nations, Kabul, March 2010, p 1

<sup>26</sup> Life expectancy for Japanese females is 85.6 years. Only some HIV/AIDS heavily infected African countries have lower life expectancy rates than Afghanistan. See, Women and Men in Afghanistan, Baseline Statistics on Gender, Ministry of Women’s Affairs and UN Development Fund for Women, Kabul, 2008, page 35

<sup>27</sup> In Afghanistan a “woman dies every 27 minutes from a pregnancy-related condition” that in most instances is preventable. See Dr Chelala “Women’s Basic Health Needs Unmet in Afghanistan” *The Epoch Times*, 31 July, 2010

<sup>28</sup> Women and Men, Baseline Statistics, op cit, page 37. See also Aunohita Mojumdar “An inflated claim of health success in Afghanistan exposed”, *Christian Science Monitor*, 8 December 2010 that makes reference to a joint UNICEF, WHO and UNFPA statement.

<sup>29</sup> According to the UN “only 52 percent of the rural population have access to a health facility within one hour walking distance.” *Ibid*

<sup>30</sup> Afghanistan’s 1970s pre-war figures estimate a maternal mortality rate of 3,070 per 100,000 live births while, in Iran and Pakistan, rates were 90 percent and 75 percent less respectively. See Ministry of Public Health of Afghanistan; <http://www.moph.gov.af/en/news.php?id=55>

The number of midwives in Afghanistan went from 467 in 2002 to 2,000 in 2009, a welcome but inadequate increase. See Oxfam, “NGOs highlight priorities ahead for the next Afghan government”, Kabul, 14 October, 2009 <http://www.oxfam.org/en/pressroom/pressrelease/2009-10-15/ngos-highlight-priorities-afghan-government>

<sup>31</sup> Michiel Hofman “Afghanistan: A return to Humanitarian Action”, MSF Special Report, March 2010

<sup>32</sup> Oxfam, “NGOs highlight priorities” op. cit.,

<sup>33</sup> OHCHR/UNAMA “Silence is Violence, End the Abuse of Women in Afghanistan”, Kabul, July 2009, OHCHR/UNAMA “Harmful Traditional Practices and Implementation of the Law on

Elimination of Violence Against Women in Afghanistan”, Kabul December 2010, and Human Rights Watch “We have the Promises of the World, Women’s Rights in Afghanistan”, New York, December, 2009

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- <sup>34</sup> UNHCR. 2011 UNHCR country operations profile – Afghanistan. <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e486eb6>, Accessed June 3, 2011.
- <sup>35</sup> <http://www.unhcr.org/pages/49e45af26.html>, accessed May 19, 2011.
- <sup>36</sup> Refugees International, Afghanistan: Open Eyes to Humanitarian Needs (July 21, 2009). Available at [www.refugeesinternational.org/where-we-work/asia/afghanistan](http://www.refugeesinternational.org/where-we-work/asia/afghanistan), accessed May 19, 2011.
- <sup>37</sup> UNHCR. 2011 UNHCR country operations profile – Afghanistan. <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e486eb6>, Accessed June 3, 2011. See also Refugees International, Afghanistan in a Time of Conflict. (December 1, 2010). Available at <http://www.refugeesinternational.org/where-we-work/asia/afghanistan>, accessed May 19, 2011.
- <sup>38</sup> Refugees International, Afghanistan in a Time of Conflict. (December 1, 2010). Available at <http://www.refugeesinternational.org/where-we-work/asia/afghanistan>, accessed May 19, 2011
- <sup>39</sup> Integrated Regional Information Networks (IRIN), Afghanistan: UNHCR Worried About Growing Number of Conflict IDPs (November 3, 2010). Available at <http://www.unhcr.org/refworld/docid/4cd3c9d2c.html>, accessed May 19, 2011.
- <sup>40</sup> UNHCR. 2011 UNHCR country operations profile – Afghanistan. <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e487016>, Accessed June 3, 2011.
- <sup>41</sup> Ibid.; Refugees International, Afghanistan & Pakistan: Raise Voices for Civilian Protection (January 26, 2009). Available at <http://www.refugeesinternational.org/where-we-work/asia/afghanistan>, accessed May 19, 2011.
- <sup>42</sup> Abdul Qadir's younger brother, Abdul Haq, was captured and killed in October 2001 as he participated in US-backed efforts to topple the Taliban regime. An important ally of Karzai, Qadir had threatened to abandon the talks in Bonn on the issue of inadequate Pashtun representation. In September 2002, Karzai narrowly escaped an assassination attempt in Kandahar, his home location.
- <sup>43</sup> Barnett Rubin "Crafting a Constitution for Afghanistan", *Journal of Democracy*, Volume 15, Number 3, July 2004
- <sup>44</sup> The modern history of Afghanistan is, in part, the story of "power struggles between contending political factions that use women's rights as a litmus test of Islamic legitimacy"; see Deniz Kandiyoti "The Lures and Perils of Gender Activism in Afghanistan, Anthony Hyman Memorial Lecture", *School of Oriental and African Studies*, University of London , 2009
- <sup>45</sup> HRW, "All Our Hopes Are Crushed: Violence and Repression in Western Afghanistan", New York, 5 November, 2002
- <sup>46</sup> Ibid
- <sup>47</sup> Ibid
- <sup>48</sup> Transcript DOD News Briefing, Secretary of Defense Donald H. Rumsfeld, Federal News Service, Washington, 8 May, 2002
- <sup>49</sup> Newsweek 26 Aug 2002
- <sup>50</sup> Ibid
- <sup>51</sup> US Ambassador Khalilzad indicated at the time that it was not realistic to expect these warlords to give up their US-supplied weapons and power structures as this would "inevitably result in resistance to the elections"; see Pamela Constable "Karzai Attempts diplomacy with Afghan Warlords", *Washington Post*, 91 May, 2004
- <sup>52</sup> Power brokers with notorious human rights records that had influential roles in the Constitutional Loya Jirga and subsequent elections, and related parliamentary processes, included characters such as Abdul Sayyaf, a former mujahedin leader and ally of Osama Bin Laden in the 1980s; he is associated with the Afshar massacre, 1993, and the death and disappearance of hundreds of the Hazara Shi'ite community. He was instrumental in packing the Supreme Court with religious conservatives and engineering the adoption of an Amnesty law (2007) for mujahedin atrocities. He endorsed Karzai's 2009 re-election campaign. Mohammed Fahim served under Ahmed Shah Massoud in the 1980s and succeeded him as military commander when Massoud was assassinated two days before 9/11. He is also associated with the Afshar massacre and the drug trade. He was a running mate of Karzai in the 2004 and 2009 presidential elections.
- <sup>53</sup> Thomas Ruttig, co-Director of the think-tank, Afghanistan Analysts Network and a UN political officer in Kabul during different election events concluded that Khalilzad "had a one point agenda, and that was a system where Karzai was as strong as possible so that they would have one person to deal with." Khalilzad also pushed through the inappropriate and counter-productive SNTV (single non-transferable vote) system that works against the creation of voting blocs. It also results in a huge number of contenders so that, in 2005 for example, "68 percent of all votes were cast for losing candidates." See Matthieu Aikins, "Disappearing Ink, Afghanistan's sham democracy", *Harper's Magazine*, January 2011

<sup>54</sup> Pamela Constable, Washington Post, op. cit.,

<sup>55</sup> UNAMA-AIHRC Joint Monitoring of Political Rights, Presidential and Provincial Council Elections, Third Report, 1 August – 21 October, Kabul, October 2009

<sup>56</sup> Scott Worden “Afghanistan: An Election Gone Awry”, *Journal of Democracy*, Volume 21, Number 3, July 2010, page 18

<sup>57</sup> Matthieu Aikins, op cit., p 39

<sup>58</sup> The UN, which should be able to stand by its principles occasionally, was slow in acknowledging the nature, extent, and ramifications of fraud notwithstanding early access to well-documented reports, by its own staff and others competent to provide credible insights, of very blatant vote-rigging.

<sup>59</sup> Stephen Carter, Kate Clark “No Shortcut to Stability, Justice, Politics and Insurgency in Afghanistan”, *Chatham House*, December 2010, p 3

<sup>60</sup> A study undertaken at the behest of General McChrystal found that the Taliban “consistently support weaker, disenfranchised or threatened tribes or groups.” See *COMISAF Initial Assessment (Unclassified)*, 30 August 2009. [www.washingtonpost.com](http://www.washingtonpost.com)

<sup>61</sup> Reuters “Q + A, Opium and Afghanistan’s insurgency”, 3 July 2009

<sup>62</sup> Gretchen Peters “How Opium Profits the Taliban” USIP, Washington, 2009, p 3

<sup>63</sup> Gretchen Peters, Ibid

<sup>64</sup> Quoted in Stephen Carter, Kate Clark op cit, page 11 with reference to Andrew Wilder “Cops or Robbers? The Struggle to Reform the Afghan National Police”, AREU (Afghanistan Research and Evaluation Unit), 2007, Kabul

<sup>65</sup> ISAF officer quoted in Stephen Carter, Kate Clark, op. cit, page 11

<sup>66</sup> A study by Integrity Watch Afghanistan found that the “average value of bribes paid in 2009 was \$156.” The study showed that almost a third of civil servants indicated that they had been “forced to pay a bribe to obtain a public service, while 13 percent of households said that they had paid bribes to secure their own sources of income.” See Aunohita Mopjumdar “Afghan citizens paid \$1bn in bribes for public services last year”, *The Guardian*, 8 July 2010

<sup>67</sup> See [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi/2010/results](http://www.transparency.org/policy_research/surveys_indices/cpi/2010/results)

Transparency International’s 2009 annual index noted that examples of corruption range from “public posts for sale and justice for a price to daily bribing for basic services.” See also Dexter Filkins “Letter from Kabul” The Great Afghan Bank Heist”, *The New Yorker*, 31 January, 2011

<sup>68</sup> US commanders “say with near-unanimity that corruption drives ordinary Afghans into the arms of the Taliban”; Dexter Filkins in the same article advises that Obama administration officials pressed Karzai to get rid of some of the corrupt people around him but concluded by the end of 2010 that this effort was useless. See Dexter Filkins “Letter from Kabul” op. cit

<sup>69</sup> Dexter Filkins “Letter from Kabul” op. cit.,

<sup>70</sup> Dexter Filkins “Letter from Kabul” op. cit.,

<sup>71</sup> Dexter Filkins “Letter from Kabul” op. cit.,

<sup>72</sup> Anthony Cordesman “How America Corrupted Afghanistan: Time to Look in the Mirror”, *Centre for Strategic & International Studies*, Washington DC, 8<sup>th</sup> September, 2010

<sup>73</sup> Dion Nissenbaum, Hashim Shukoor “Karzai to ban private security companies in Afghanistan”, *McClatchy Newspapers*, Washington, 24 January, 2011

<sup>74</sup> Dexter Filkins “US Said to Fund Afghan Warlords to Protect Convoys”, *New York Times*, 21 June, 2010

<sup>75</sup> US Subcommittee on National Security and Foreign Affairs, “*Warlords, Inc. Extortion and Corruption Along the U.S. Supply Chain in Afghanistan*”, US Congress, June 2010, pg 47; Cordesman, Centre for Str & Int Studies, op cit; Carl Frosberg, “Politics and Power in Kandahar” *Institute for the Study of War*, DC, April 2010.<sup>76</sup> Carter, Clark, op. cit, page 28

<sup>77</sup> “It is difficult to identify all the programs, activities, and actors” in Afghanistan because “of the continued evolution of US strategy and interagency coordination” initiatives that, according to the CRS, should be aligned with COIN objectives. See Congressional Research Service “Afghanistan: US Rule of Law and Justice Sector Assistance”, Washington, 7 December, 2010

<sup>78</sup> Dexter Filkins “Inside Corrupt-istan, a Loss of Faith in Leaders”, *New York Times*, 4 September, 2010

<sup>79</sup> Built by the Red Army during the Soviet occupation of Afghanistan, the Bagram Air Base has been used for several purposes since it was occupied by the US military in 2002. Inmates at the Bagram Theater Interment Facility (BTIF) were relocated to a new, nearby facility, now known as DFIP, Detention Facility in Parwan, at the end of 2009. The new structure provides better conditions for inmates while helping to curb usage of the term “Bagram” in relation to detention practices widely seen as worse than Guantanamo in terms of breaches of international law.

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<sup>80</sup> Andrew Wilder, “Cops or Robbers? The Struggle to Reform the Afghan National Police”, AREU, Kabul, p2

<sup>81</sup> Ibid, p4

<sup>82</sup> Carter, Clark, op cit, p 30.

<sup>83</sup> Ibid, p 10

<sup>84</sup> Nadene Ghouri “Afghan police: corrupt and brutal, and still not fit for purpose”, *The Guardian*, 6 November, 2009 and Kim Sengupta, Jonathan Owen, Brian Brady, “Afghan police corruption hits NATO pullout”, *The Independent on Sunday*, 21 November, 2010

<sup>85</sup> Nadene Ghouri, op cit.,

<sup>86</sup> Carter, Clark, op cit., page viii

<sup>87</sup> Ibid, page 31

<sup>88</sup> The ANAP were mostly deployed to war-affected provinces. One of the undeclared objectives in organizing the ANAP was to regularize existing militia. See Mathieu Lefèvre “Local Defence in Afghanistan, a review of government-backed initiatives”, *Afghanistan Analysts Network*, Kabul, May 2010, page 1

<sup>89</sup> Ibid

<sup>90</sup> Adam Entous “US Builds Afghan Village Force”, *Wall Street Journal*, 22 January, 2011

<sup>91</sup> It was also singled out as holding “significant potential” in the December 2009 internal review of US strategy with some administration officials seeing it as a potential “game changer” in Afghanistan. Ibid

<sup>92</sup> This is the same Hekmatyar who benefitted from US support in the 1980s and was put on the US blacklist when he re-emerged in Afghanistan after 9/11.

<sup>93</sup> Thomas Ruttig “Another militia creation goes wrong”, *Afghan Analysts Network*, Kabul, 18 October, 2010

<sup>94</sup> Ibid

<sup>95</sup> Andrew Wilder, Stuart Gordon, “Money Can’t Buy American Love”, *Foreign Policy*, 01 Dec, 2009

<sup>96</sup> Sarah Ladbury and CPAU (Centre for Peace and Unity) an Afghan NGO “Testing Hypotheses on Radicalization in Afghanistan: why do men join the Taliban and Hisb-i-Islami?”, DfID, Kabul, 14 August, 2009

<sup>97</sup> Carl Frosberg, “Politics and Power in Kandahar” *Institute for the Study of War*, DC, April 2010

<sup>98</sup> Ahmed Rashid “How Obama Lost Karzai”, *Foreign Policy*, March/April, 2010

<sup>99</sup> COMISAF Initial Assessment (Unclassified), Kabul, 30 August, 2009

<http://www.washingtonpost.com/wpdyn/content/article/2009/09/21/AR2009092100110.html>; Stephen Carter, Kate Clark “No Shortcut to Stability, Justice, Politics and Insurgency in Afghanistan”, *Chatham House*, December 2010.; US report shows Taliban support in Afghanistan, blames Karzai. World Bulletin, 29 April 2010. This latter report said Karzai’s central government had support in just one quarter of 121 areas the Pentagon considers key, although the report placed all blame on Karzai rather than the invasion and occupation and US support and installation of the current power brokers.

<sup>100</sup> COMISAF Initial Assessment , op cit

<sup>101</sup> COMISAF Initial Assessment, op cit

<sup>102</sup> Frank Ledwidge, “Justice and Counter-Insurgency in Afghanistan: A Missing Link” RUSI Journal, Vol 154, No 1, February 2009

<sup>103</sup> The Special Tribunal was also tasked with investigating alleged wrong doing by the IEC (Independent Election Commission) and the ECC (Electoral Complaints Commission). Scott Worden, an ECC Commissioner during the 2009 presidential elections said it “appears that action by the special tribunal to change the results or at least put pressure on candidates accused of fraud is intended to influence the vote for speaker.” See Jean MacKenzie, “Afghanistan’s imperial presidency”, *Global Post*, 20 February, 2011

<sup>104</sup> On 27<sup>th</sup> February, 2011 parliamentarians ended a protracted and destabilizing stalemate when they elected Mr. Abdul Rauf Ebrahimi, a little known member of the Uzbek minority group from Kunduz in northern Afghanistan as Parliamentary Speaker. This was seen as a victory of sorts for Karzai who was anxious that the position not go to an opponent with clout. However, the Special Court, widely seen as unconstitutional, indicated it was planning to expand its scope to conduct a review of votes in 24 of the country’s 34 provinces. See Dion Nissenbaum “Afghan Legislators Pick Leader”, *Wall Street Journal*, 28 February, 2011.,

<sup>105</sup> Amnesty International reported how Sayyaf’s forces “rampaged through Afshar murdering, raping and burning homes.” See Phil Rees, “The Afghan Trap”, BBC, 2 December, 2001

<sup>106</sup> The Afghanistan Justice Project “Amnesty would jeopardize national reconciliation and security”, Kabul, <http://www.afghanistanjusticeproject.org/>

See also, Eurasianet.org “Afghanistan: Amnesty Law Draws Criticism, Praise” 16 March, 2007

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<sup>107</sup> Early 2011 when Karzai was re-calibrating his policy on different issues from parliamentary elections to talks with the armed opposition, there were moves to close or impose government control on a handful of “safe houses” run by NGOs for Afghan women who have fled abusive domestic situations. The notion that these shelters house prostitutes, and are at odds with Islamic law, were widely seen as preposterous and yet another attempt to use the rights of women as a political bargaining chip. See Rod Nordland “Afghan Official Says Women’s Shelters are Corrupt”, *The New York Times*, 15 February, 2011

<sup>108</sup> Gunnar Heinsohn “Islamism and war: the demographics of rage”, *open Democracy*, London, 16 July 2007.

<sup>109</sup> Index Mundi “Afghanistan Demographics Profile 2010”,  
[http://www.indexmundi.com/afghanistan/demographics\\_profile.html](http://www.indexmundi.com/afghanistan/demographics_profile.html). See also Carolyn O’Hara, “The Age of Peace, maturing populations may mean a less violent future for many societies torn by internal conflict”, *Smithsonian Magazine*, August 2010

<sup>110</sup> Farhad Peikar “A younger generation of Afghan politicians bucks tradition”, DPA, Germany, 14 September, 2010