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The road ahead: political and institutional reconstruction in Afghanistan

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ABSTRACT *After 23 years of war, Afghanistan's political reconstruction faces a daunting number of hurdles. Institutions must be developed at the national, regional and local levels, and a means for interface among these institutions, and between them and an array of international actors, must be created. As each institution defines and develops its role, it will rely on and/or conflict with other institutions at different levels. Establishing a healthy political and societal environment, critical to the success of Afghanistan's new institutions, will require development of organisational infrastructure and power sharing at all levels. Long-term integration needs to be taken into account along with short-term needs. Instability also allows fluidity, and institutions supported by resources now will become embedded in a new political culture. This article seeks to answer the question of what shape these institutions should take, what key considerations will determine their success, and how they can best be supported.*

When the wheels of war grind to a halt, allowing societies marred by conflict to re-emerge and begin to rebuild their physical and political infrastructure, it is often the result of a deliberate process of ceasefires, negotiation and confidence building between the warring factions. From this process, the evolution to stable, participatory, broadly representative political institutions is a natural, albeit complicated step. In early 2001, far away from any such evolution, Afghanistan was ruled by the Taliban regime, which faced no credible military opposition, nor any serious commitment to challenge Afghanistan's regime on the part of the international community.

Then, what could perhaps best be described as a *deus ex machina* resolved what was beginning to seem like the intractable Taliban problem. The previously inconceivable occurred: the US military swept the Taliban aside, clearing the way for a new political leadership to (re)emerge. Just two months after 11 September 2001 the Taliban were crumbling, and the new old-guard factions that had torn Afghanistan apart from 1992 to 1996 following the collapse of the Soviet-backed government were re-occupying their old domains. At the same time several of

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these factions had new leadership, they had had a five-year hiatus from fighting each other, and international intervention constrained their room to manoeuvre. The Bonn Agreement then attempted to lock these various forces into a compromise of new and old, of Afghan and international, intending to move these competing forces towards stable, participatory institutions. This article seeks to examine how that process might unfold.

The Bonn formula envisions an all-Afghan Interim, and then Transitional, Authority and Administration, with the international community (including the United Nations and multinational peace forces) playing only an 'assistance' role—eschewing therefore the options of partnership with an Afghan government, control of parts of the country, or complete governorship over it.[1] This choice is a reversal of the increasingly intrusive trend in transitional administration, from the international exercise of executive and legislative powers in Eastern Slavonia, Brcko and Kosovo to global sovereignty in East Timor. Such an arrangement will require greater popular participation on the one hand, while at the same time achieving harmonisation among international and Afghan actors participating in the governance and reconstruction process.

The constellation of institutions

The political, social and governmental environment of Afghanistan is presently a fragmentary array of institutions. These include national institutions (a Transitional Authority); local institutions (eg village, clan, mosque); regional institutions (eg province, party/faction, tribe/ethnic group, domestic NGOs); and international institutions (eg UN political and humanitarian agencies, the World Bank, international NGOs, interested states and coalition forces, and an International Security Assistance Force). Because of the ongoing conflict—comprising US-led operations against suspected terrorists and competition between Afghan factions—and the lack of supremacy and order among these institutions, they will continue to compete for influence and resources while Afghanistan's basic conditions evolve. As political authority is re-established, these institutions should be fashioned into a semi-cohesive framework, with basic delineation of powers and non-violent dispute resolution mechanisms.

Political space

The creation of political space is essential to allow a cohesive and representative system to emerge. Political space requires both a physical area as well as a social environment within which people can meet, negotiate and plan, free from the threat of force. The Bonn Agreement has left undefined many crucial elements of the process of establishing political institutions. Many sensitive issues, such as the means of selecting government representatives and ensuring ethnic and gender participation, will need to be hammered out through extensive negotiations and difficult compromise. If the needs of constituencies are not incorporated into this process, there will be a high likelihood that the resulting political institutions will fail.

National institutions

With one or two notable exceptions,[2] there are no national institutions currently functioning in Afghanistan. Prior experience with national government has varied between two loose models. The first model is characterised by centralisation, concentration of power into the hands of a narrow minority, and subjugation of opposition by force. This approach was most evident in the reign of Amir Abdul Rehman Khan (1880–1901), the Soviet-backed PDPA government (1979–92), and the Taliban. The second model is characterised by efforts to modernise the state apparatus while co-opting autonomous local authorities through patronage. This model was most evident in the reign of Amanullah (1920–29) and Zahir Shah (1933–73). A third model began to emerge in the brief period of political liberalisation following the enactment of the 1964 Constitution. This constitution, for the first time in Afghanistan's history, envisioned a system of direct popular selection of representatives with the power to legislate and an independent judiciary.

The Afghan Transitional Administration now faces the task of simultaneously centralising certain government functions, while allowing participation to flourish at the local level. In striking a balance between these models there is a need to determine which institutions must have a national character, which local, and what the relationship between them should be. While military forces must have a national function to defend borders and ensure internal cohesion and integration, there may be an appropriate role for local control over basing, recruitment, and non-military policing functions. National institutions will also have a useful role in co-ordinating social services and economic management.

Regional institutions

The turmoil of the past 23 years has created a strong degree of regional autonomy in Afghanistan. Ethnic groups that were relatively disenfranchised now have autonomous military, and to a lesser extent, political structures. These new political centres will have to be taken into account. Factional party structures at times have functioned as mini-state governments, carrying on foreign relations, issuing visas and even printing currency.

The most significant manifestations of this decentralising trend are the military forces currently controlling the regions of the country. Similar to the period of civil war between 1992 and 1996, the country is essentially divided into five or six regions under the control of autonomous military forces. An uneasy peace now exists, with the heads of each region offering conditional support to the Afghan Transitional Administration. However, this state of affairs presently poses the greatest challenge to peace, and must be addressed.

The challenge of the existing decentralised power structure is to avoid regional autonomy that prevents the development of national institutions. The challenge of centralisation is to create national institutions that do not usurp all power and participation from the regions nor cause those regions to seek alternative political arrangements through force or disintegration of the state. The key to an approach in Afghanistan is a dual and simultaneous process of centralisation and regional-

isation, in order to engage in a harmonised way in the regions and at the centre.

It is also critical to begin building confidence between rivals. Military leaders must be brought together to rebuild relations and mutually to reassure each other that use of force will not be an option for dispute resolution. A mechanism that acknowledges past transgressions without fear of prosecution may also be necessary to reduce tensions. Also, the efforts to create a non-political, integrated military force that can act as a growing buffer between rival factions and which can incorporate demobilised Mujaheddin must continue.

Local institutions

The core of Afghan society has always been located at the local level. The process of creating a national identity and government collapsed following the Soviet invasion and during the ensuing 23 years of conflict. As a result, the power to administer basic government functions again devolved to the local level. Although not democratic, these institutions are representative of the local population and, as such, they are a critical resource for political and physical reconstruction.

Informal village-level bodies are the primary functioning structure of decision making still remaining. The village *shura* (council, or *jirga* in Pashtu) is an *ad hoc* institution that allows broad representation and nominally consensual decision making. The word '*shura*', from the Arabic '*mashwara*' (to discuss), is best translated from contemporary Dari as 'council or committee'. In some Islamic religious thought, the *shura* is considered the ideal model for governance, and many Islamic governments have used such nomenclature for a variety of institutions. Thus the *shura*, a concept as old as Islam itself, carries certain meanings and associations for most of Afghanistan's inhabitants.

The *shura* also had national connotations in pre-war Afghanistan. The national assembly in Kabul was known as the *Shura-i-Milli* (national shura), and each province had a *Shura-i-Woloyati* (provincial shura). Also, before the coronation of a new king or in a national emergency, a *Loya-Jirga* (grand council) was called to endorse the selection or address the crisis. Therefore, in the past, the *shura* concept has held significant political currency in the forum of Afghan politics.

The *shura* traditionally has been an advisory council formed to solve conflicts, resolve disputes, or deliberate on decisions affecting the community. Such councils are comprised of those whose opinions, negotiating skills and knowledge of tribal and/or religious law are respected, usually including elders, religious authorities and local influentials. The membership of the council varies according to the issue it is confronting. While the council itself may have no direct means of enforcement, its authority is respected, and those who do not comply with its decisions will find themselves at odds with the community. In Afghanistan, where family and tribal affiliations outweigh all others, non-co-operation or exclusion by the community, perhaps to the point of complete ostracism or banishment, is a harsh if not unbearable punishment.

Any head of household can attend the *shura* and all parties attending the *shura* are allowed to speak. The process of reaching consensus is entirely dependent on the participants' inherent understanding of the social hierarchy within the village.

Unless the proper people are represented at the *shura*, a decision will not be made. And all voices in the *shura* are far from equal. But there is no definitive means by which to determine the line of authority in the hierarchy. No one is vested with ultimate decision-making power, but there are certain individuals who cannot be excluded.

The *shura* can deal with problems or disputes that arise within the community and it may also deal with the division of labour or resources where communal issues are concerned. For instance, many villages have a *mirab*—a person hired from within the community to distribute water via irrigation systems. This person serves as a village civil servant, paid from community resources and responsible for administering the systems and settling minor disputes. The *mirab* is responsible to the *shura.*

Although the concept of the *shura* is familiar to most Afghans, the local relevance of the institution is not equally strong in all areas of the country. In many areas politics have traditionally been limited to a power elite and the general populace has not enjoyed a participatory role at local or provincial levels. At the village level informal gatherings may have been called to deal with problems or conflicts arising in the community, but generally decisions were ultimately the domain of a small local elite. However, the past 23 years have transformed the politics of many previously disenfranchised areas, and these traditional limits on participation need to be re-examined.

Local access to power and resources has not typically been through formal structures. Authority is established and maintained through patronage systems. Resources are often sought through petition (*areza*), wherein a person from a village will go directly to an official for resources or help with a problem. The patronage system is symbiotic since the patron derives his/her authority from the act of hearing/granting requests. The patron's legitimacy would be undermined if he did not engage in this practice or were unable to fulfil these obligations. From the outside such a system can appear exploitative and corrupt, and it certainly makes fairness of distribution difficult to enforce. However, it is important to note that if an expert/outsider is put in the position of the patron without accountability to the population (ie without the obligation to hear/grant petitions), this may disrupt an important means by which people can have access. Afghans need to locate themselves in their social context. People must be able to engage in face-to-face encounters and should not be denied this opportunity.

International actors

International coalition forces continue to operate inside Afghanistan in the war against Al-Qaida and the Taliban. At the same time, an International Security Assistance Force (ISAF) has been deployed to provide a secure environment in Kabul and its environs and to build confidence between the remaining factions in the country, many of which have not fully acquiesced to the Bonn Agreement. There have been substantial efforts on the part of the Afghan Transitional Administration, the United Nations, and even some elements within the US government to push for the expansion of the ISAF to other parts of Afghanistan. Thus far the USA and its allies have refused to support an expansion.

The factions in different regions of the country have been heavily influenced in the past 23 years by neighbouring actors with whom they have political, ethnic and/or religious ties. There needs to be a concerted effort to reduce interference in factional competition by outside actors. These actors have contributed to inequities through assistance in both military and economic matters. Such inputs will destabilise attempts to ensure the balance that must emerge in reconstructing necessary institutions. Each of the neighbouring countries are concerned about co-ethnic elements, refugees, terrorism and narcotics. All have some ethnic ties to groups in Afghanistan, but there is a relative lack of irredentist tendencies.

Initially a range of international/inter-governmental bodies will be the primary channel of financial support and expertise to Afghan institutions. An effort to harmonise inputs and approaches will be critical to ensuring rapid deployment of resources as well as minimising the tendency to undermine agreements through competition and differing standards. As political institutions take root, there will no doubt be aggressive efforts on the part of other states to cement ties to Afghanistan via bilateral, rather than multilateral, engagement. In this environment it will become more difficult to harmonise international inputs and policy. Afghanistan's governing institutions will gain leverage as a result—but will also be forced to serve additional masters.

Political and institutional stability requires that international inputs are harmonised under a system of Afghan control. Executive and legislative powers, as well as legal sovereignty, will be residing with the Afghan Authority, while the international community will have the status of 'assisting' that Authority. The Bonn Agreement vests the UN Special Representative with full authority over UN agencies. The World Bank and bilateral development agencies will be operating separately, with co-ordination, but not unified control, through a reconstruction steering committee. There will need to be a national planning capability established within the Afghan Authority in Kabul that can relatively quickly make sense of the myriad international actors in the country.

To this end the Afghan Interim Authority created an internal co-ordinating body, the Afghan Assistance Coordination Authority (AACA), which is responsible for approving, coordinating, and monitoring all programme support to Afghanistan. The AACA has managed to draw a substantial amount of authority away from the line ministries in an attempt to closely control the aid and development process. Whether it will be able to manage this effort and avoid creating a dangerous bottleneck remains to be seen.

Non-governmental organisations (*NGOs*)

Humanitarian agencies on the ground have grown accustomed to working with relative freedom and autonomy. They now need to adapt. They will have to work with or be operationally integrated with UN Secretariat offices, including the Department of Political Affairs and the Department of Peacekeeping Operations, aid agencies and international military forces. The strategic framework and similar arrangements attempted previously have not managed to harmonise the political and humanitarian avenues. This is not a one-way process; as humanitarian agencies have been operating inside Afghanistan for a decade, there is

much the political side can learn from them.

In the early 1990s the UN made a decision to fund Afghan NGOs—leading to the creation of several hundred NGOs in a brief period. While some of these organisations have established excellent track records in the most trying of conditions, others existed in name and bank account only. In both cases these NGOs were often required to cater to the desires of local commanders, who used them to build support within their patronage network. These practices often led to poor resource distribution and outright corruption. This symbiotic relationship tended to increase commanders' individual legitimacy and thus the factionalisation itself. Many NGOs were not accountable, which resulted in subterfuge by some and widespread distrust by many.

The NGO 'business' must be transformed. This mode of operation had its place in the factionalised emergency environment. The proliferation of NGOs that is sure to intensify in the coming months will result in the arrival of new and inexperienced organisations that could lead to violent incidents and wasted resources. Their operations must not contradict either national or local strategies for political reconstruction by facilitating spoilers or inhibiting popular participation in the process. Registering NGOs is a first step; fostering a code of conduct for operations in Afghanistan can also help. There are dangers in actually requiring NGOs to be licensed for their activities, which can either unnecessarily limit good works or turn licensing into a new form of corruption for authorising officers. There is a balance to be struck between the need for operational space for effectiveness and accountability to ensure legitimacy of action.

Re-establishment of political authority

The Bonn Agreement provides a skeletal outline for the re-establishment of a national political authority in Afghanistan.[3] The agreement envisions the formation of an Interim Authority for a period of six months. The Interim Authority is to consist of three separate components: an Interim Administration, a Supreme Court and a Special Independent Commission. The Interim Administration is responsible for administration of governmental functions, control of armed forces and establishment of, among other bodies, judicial, civil service and human rights commissions. The Special Independent Commission is charged with drawing up and implementing the selection process for the *Loya Jirga*, which was to convene within six months to choose the Transitional Authority. The Transitional Administration, in turn, will serve for two years and will be responsible for establishing a Constitutional Commission. Until that time the 1964 Constitution (minus the king and parliament), Islamic *sharia*, and subsequent laws not contrary to either are the law of the land. Of the three initial bodies, only the composition of the Interim Administration was determined by Bonn. Neither the composition, nor the means of selecting the members of the other two bodies, were determined by the agreement.

Therefore the Interim and Transitional Authorities are imbued with two critical, concomitant tasks. The first is to fashion a new political environment in Afghanistan, within which the details of these arrangements can be negotiated and settled without violence. The second task is to oversee the initial phases of

relief and reconstruction in a destroyed nation without solid political or administrative institutions. Each of these efforts will require enormous human and fiscal resources, and each is dependent on the success of the other. To the extent that these efforts do not proceed in tandem, they will undermine each other; causing political instability on the one hand, and wasting desperately needed resources on the other.

Culture of governance

The crisis of legitimacy in Afghanistan stems from a complete collapse of state structures. In addition, there have been rampant abuses of power by recent pretenders to the mantle of authority. Every governing entity in Afghanistan since 1978 has committed grave human rights abuses with impunity and wielded control at great cost to the people of the country. The very concept of government in Afghanistan's recent history is embodied by the desire of factions and warlords to rule at all costs, rather than to serve the needs of the population. The traditional symbiosis between the duty of the population towards a ruler and the requirement of responsibility in kingship has been shattered.

The imperative for broad participation in the new administrative structure fulfils several functions. Because of the factionalisation of the country and the regional/ethnic tensions that have emerged from the civil war, all groups will need to play a role to prevent disintegration of the peace. Additionally, developing stable leadership with sufficient capacity to govern the country through the coming challenges requires broadening the pool of available leaders.

Sheer force and the disintegration of the non-war related economy have transferred the exercise of power to those controlling the implements of war. Thus an intricate system of social influence has been disrupted throughout the country. While the former system was also fraught with ethnic, religious and class tensions, the result now is that many of the individuals who held respect in the minds of the people do not have the necessary power to wield that influence.

No matter how broadly participation is fostered, or how many peaceful attempts at compromise are made in the coming period, certain groups and individuals will remain at odds with leadership and administrative decisions. Rather than planning for the best-case scenario (that all parties will come to an accommodation), there must be mechanisms in place to allow for opposition that does not have to resort to force. There are far too many potential spoilers in and around Afghanistan at the moment not to plan for means by which opposition can be expressed outside the Interim and Transitional Authorities.

In the past international transitional administrations have lacked a separation of powers, effective local participation, or any space for opposition during the transition. In turn, international administrators have a tendency to foster 'governments of national unity' to assume the combined legislative and executive powers they wield. This may be convenient, and gives the appearance of unanimity and an orderly transfer of power as an exit strategy. In reality, it breeds an absolutist form of power that forces any kind of opposition to function outside the acknowledged scheme of transitional governance; and new or old factions will protest and express their grievances in the way they know best, by taking up

arms. If transitional administrations—international or Afghan—do not allow for, or indeed encourage, legitimate opposition during the transition, there can be no expectation of space for this in successive regimes. Not only does this result in a structural denial of basic political rights, including freedoms of expression and assembly, but it will foment outright violence and amount to a nullification of the transitional exercise. There needs to be consideration of a forum for airing political grievances outside the standing bodies of the Transitional Authority, and in advance of the drafting of a constitution.

There is a perception in the Western media and in the US government that Afghans are mercenary; they have a reputation for defection and a culture in which it is acceptable to change sides despite contractual-style commitments. However, instability of political relations is a direct consequence of the insecurity of the past 23 years. It is true that many Afghans will sell their services as gunmen. Many of them—with US encouragement—took up arms as young boys two decades ago, and now that is the only skill they know and the warlords remain their only available employer. There is a fundamental division in Afghan political thinking between *qaum*, defining those relationships that are based on blood, and which are permanent; and *gund*, which are relations based on temporary need and opportunity. This division needs to be seen as a rational response to political insecurity; not as a moral failing that somehow places Afghans beyond the pale of moral discourse.

There must be a secure environment within which a new culture of governance can emerge. Insecurity provides legitimate and illegitimate reasons for certain elements to assert control and exploit insecurity to gain authority. These are the circumstances under which the Taliban emerged and consolidated authority.

There also needs to be a re-connection between individuals and institutions that people believe should be vested with authority, and those that actually wield power. The exigency of the situation in Afghanistan gives legitimacy to the procedure and substance of Bonn at present, but that legitimacy needs to be under-girded immediately. There must be a transition from the pursuit of power, and the privilege of 'ruling', to a service culture within the new institutions of the administrative authority. The ministries divided among the factions within the new government must not be treated as spoils, but rather as responsibilities. These responsibilities provide an opportunity for the military/factional leadership to prove their political viability.

The conventional notion of internationally organised or supervised 'free and fair' elections, understood to result in a winner and a loser, may not resonate in Afghanistan as a legitimate source of authority for the winner, and therefore may not be followed, in contractual terms, by any kind of transfer of power. Instead, without attention to non-contractual sources of authority, election results may be at best one factor in a self-evolving balance of power, and at once self-defeating, with a return to past conflict as such results are challenged. Such 'free and fair' elections are more likely to serve the convenience of the international community, to facilitate external recognition of an Afghan party, than to result in a stable and sustainable government.

Representation

This most fundamental of political questions pervade every aspect of the process of re-establishing political authority in Afghanistan. Although the selection of parties involved in fashioning the Bonn Agreement narrowed representation for the purposes of choosing an Interim Authority, the Bonn agreement acknowledges in its preamble that certain groups were not adequately represented at Bonn. Thus the project of determining how representatives of all segments of the Afghan population should be chosen is enormous.

An Emergency *Loya Jirga* was convened in June of 2002. That *Jirga* was responsible for selecting the Transitional Authority, which will govern Afghanistan for two years, and which will formulate Afghanistan's new constitution. The membership make-up and selection criteria have been determined by a Special Independent Commission, established by the Interim Authority. The institution of the *Loya Jirga* itself does not have an unambiguous history. The last use of the *Loya Jirga* that is widely regarded as legitimate was in 1964, when the new constitution was promulgated. That constitution also codified the role and make-up of the *Loya Jirga*. In the 30 years before that, it was notably used in 1943 to affirm the king's neutrality policy during World War II. Before the 1964 Constitution, the method of membership selection was by the king, with the approval of the provinces. Thanks to this arrangement, the institution has largely been perceived as a rubber stamp for the monarchy.

The Emergency *Loya Jirga* in June 2002 had some 1600 representatives, two-thirds of whom were chosen from electoral districts, with the other third selected by a process of consultation between local leaders, civil society leaders, the members of the *Loya Jirga* Commission, and the Interim Administration.[4]

After the Transitional Adminstration is selected and a new constitution is written and passed by a second *Loya Jirga*, to convene within 18 months of the first , 'free and fair elections' are to be held no later than two years from the first *Loya Jirga*.[5] For the elections, one key distinction to be decided on is whether representatives will be selected on a geographic basis, or on the basis of other representative criteria, or some mixture of the two. This will mean a decision between electing representatives from administrative entities (such as districts or provinces) or electing candidates (individuals or parties) based on their receiving a certain proportion of the overall vote. There are many possible variations within each of these basic models (eg multiple member districts, bi-cameralism, and minimum percentage requirements), but each model has advantages and disadvantages that may be critical to the success or failure of Afghanistan's future political arrangements.

The 1964 Constitution created a mixed bi-cameral system (the *shura*) with a *Wolesi Jirga* (House of the People), whose members were elected from equally populated districts, and a *Meshrano Jirga* (House of Elders), whose members were selected by the king, provincial councils, and by direct elections in the provinces. In the first elections candidates were elected as individuals. Political parties did not yet exist and the laws allowing their creation were delayed until the population had some experience with electoral politics.

A system of geographic representation would have local administrative entities

(provinces or districts) select representatives according to the number of people to be represented within that jurisdiction. Geographic representation can function as a neutral proxy for ensuring ethnic representation. However, as this form of selection is majoritarian, ethnic and political diversity within jurisdictions is limited.

Creating voting jurisdictions that are equally apportioned, or equally represented, will require a thorough and credible enumeration of the population. Annex III of the Bonn Agreement (Request to the United Nations by the Participants) calls for the UN to register voters in advance of the first general election to follow the adoption of the constitution, and to conduct a census of the population. There is substantial disagreement among Afghans and the international community as to the size and composition of the Afghan population. Therefore this work must be done with the utmost attention to both accuracy and transparency. It is worth noting that selection of participants in the first *Loya Jirga* took place without this information. Instead, population statistics from an uncompleted census in the 1970s have been used to roughly determine the relative size of electoral districts. However, these statistics are incomplete, out of date, and were subject to political manipulation when first derived.

Furthermore, administrative boundaries in Afghanistan (district and provincial) are not based on numerical equality. Even the exact number of provinces and districts are debated. Legislative districts have been redrawn over the years of war to reflect political realities on the ground and to increase representation in a future government. Also, during the past 23 years of war, an estimated one-third of the Afghan population left the country. It will be necessary and desirable to incorporate this population into new political arrangements.

Alternatively, a system of proportional representation would allow political parties to vie for support on a regional or national basis, resulting in a proportional stake in the government based on the percentage of the vote captured. A system of proportional representation should ensure ethnic and political diversity. However, a system of proportional representation requires political parties and does not ensure geographical representation. The Afghan people have limited experience with a stable political system that includes political parties. There is a danger that political parties in the centre and populated by elites will dominate all representation. Likewise, there is a danger that hastily organised political parties with disparate funding levels will cause a few well funded organisations to capture the vote. This degree of centralisation may undermine local leadership, which is presently the most intact leadership in Afghan society. A system of proportional representation will not necessarily require an enumeration that leads to re-districting before a fair election process. However it is likely that the electoral system will require either enumeration or voter registration prior to the election in order to allocate representation on some geographic basis.

Meaningful representation of every ethnic group in the country is essential for the new government's legitimacy. Years of fighting and disenfranchisement have increased ethnic tensions, and these must be allayed through participation in the new governing authorities. However, the means to achieving balance are fraught with peril. Establishing quotas for ethnic groups requires exact enumeration, and limits the potential of groups to increase their representation. Also, if selected on

the basis of ethnicity, representatives may be less likely to act on behalf of the whole population. In general, such a system would possibly increase ethnic divisions, making the population feel as though they cannot be represented by anyone outside their own ethnic group. Overall, geographic representation may provide ethnic diversity. But in districts where there is a mixture of ethnic groups, a majoritarian system of electing a single representative may mean that many are left feeling un-represented.

Following the demise of perhaps the most dramatically and explicitly gender-repressive regime in modern times, addressing the role of women in Afghan society has political ramifications that extend beyond those normally associated with political evolution in traditional societies. The most urgent needs of women in Afghanistan are those of Afghan society as a whole, namely food, shelter, education, health care and freedom from armed conflict and landmines. However, ensuring due attention to the needs of women will require more than simply directing programmes towards them. Women must have access to the political process. The degree of 'publicness' of this role will have to be mediated through local and national cultural norms, but it cannot be relegated to a list of secondary issues to be taken up once more pressing issues have been addressed.[6]

Structural issues

The overall division of authority between and among national institutions and local or provincial level institutions is the other macro-political question to be addressed in the coming period. Establishing a stable political environment will require a balance between diffusion of authority among institutions to create checks and balances, while at the same time avoiding debilitating factionalisation.

Several Afghan groups have in recent years advocated a federal-type system that would grant relative autonomy to various regions of the country. This model is in response primarily to nation-wide ethnic and tribal divisions, and the desire to guarantee basic rights for each minority population. Afghanistan's history of political centralisation is associated in the minds of many with repression. At the same time, *de facto* regional autonomy has existed for much of Afghanistan's history, especially over the past 23 years. Regardless of the ultimate form, some degree of authority will have to be devolved to the local level.

The selection or appointment of regional/provincial/municipal governors will be a critical short-term issue. Historically, provincial governors were appointed from the centre, and were often not from the area they governed, causing tensions with local leaders. Indeed, some of the first armed clashes following the introduction of the Interim Administration occurred over the appointment of a governor in Khost province.

As part of the Bonn process, the Transitional Authority may consider establishing an additional body, a Commission on Local Governance, to: build on what leadership is intact in the country; generally address the specific challenges of dividing responsibilities between the centre and the provinces and districts; foster local participation in national reconstruction; and ensure local participation in national institutions and decision making. In addition, appointments of

administrative staff of central authorities, such as governmental ministries, should be made in consultation with local authorities.

The Bonn Agreement has called for the establishment of an independent judiciary while establishing a unified executive and legislative authority for the interim. There must be clear distribution of authority and dispute resolution mechanisms in place to avoid constitutional crises. Iran's recent experience provides a cautionary tale, wherein there is an elected parliament that has been repeatedly stripped of its authority by a supreme religious council whose relationship to the parliament is not clearly defined.

Imbuing the concept of separation of powers into international transitional administrations has been a missing piece of the doctrinal evolution. Executive and legislative powers have been vested in the hands of a single supreme global governor, the 'Transitional Administrator'. National histories of absolute authority involved the distribution of power from a monarch to multiple governmental institutions through constitutional processes, both violent and non-violent. So too in internationally organised or sponsored transitional arrangements, comparable constitutional questions have to be tackled during the transitional period if they are going to have any future afterwards. The very purpose of the transitional period should be to give space to a 'culture of governance' that may not otherwise get it. Therefore, in the shift from the interim to the transitional period in Afghanistan, there should as soon as possible be a separation of executive and legislative power, even in advance of finalising a constitution. Otherwise, a new constitution will not only have to contend with the factionalism of the past, but it will not even have a fertile ground prepared from which it can grow: it will have to compete with the contrary culture of unified, absolute authority of the recent transition.

Institutional reconstruction

In addition to establishing a stable, representative government, institutions responsible for implementing the work of government need to be established. This considerable undertaking requires long-term commitment of resources and attention. The challenge of reconstructing Afghanistan will require competent, non-self-interested leaders and implementers. Initially some substantial portion of budgetary inputs and technical competence will come from abroad, providing further challenges to domestic leadership. Similarly, the most devastated and neglected regions of the country will require inputs from regional centres. Thus there must be an immediate focus on institutional reconstruction at all levels of government and society.

Developing institutions that can help the Afghan people to provide for their most immediate needs will be a top priority. The sectors of food and agriculture, heath care, education, and de-mining are clear top priorities to sustain the population and stabilise the environment. Larger infrastructure projects, requiring greater financial and technical inputs, will increase as government stability and capacity increase.

One explanation proffered for the collapse of Afghanistan's state institutions in the past has been the issue of 'fairness'. Inequity has been identified as a source

of deep and long-term dissatisfaction, and in turn has fuelled conflict. Kabul in particular, and other regional centres, dominated resource distribution in the past. There was a so-called 'six mile rule', by which population centres and a six-mile-wide ring around them received almost all the resources. Despite the relative hierarchy of ethnic groups in Afghanistan under previous regimes, poverty was not exclusive to disenfranchised groups.

A means of ensuring accountability of decision makers is critical to building legitimacy. While there is a separate Supreme Court envisioned in the Bonn Agreement for judicial questions, there is no independent means to hold the interim and transitional authority, as well as the role of the international community in its myriad forms, accountable to the wishes of ordinary Afghans. 'Ombudsman' offices have been created to fulfil this function in the past. However, in transitional administrations they have tended to be controlled by an executive, and are often therefore self-defeating, as they can be too cautious about criticising policy decisions or oversights. A mechanism that functions like a transitional 'court of appeal' is required, in advance of the finalisation of national constitutional questions. Without such a mechanism, the Authority in Kabul could fail to respond to ordinary grievances and find itself isolated and without popular support.

Ethnic affiliation, rather than merit-based criteria, has too often been the primary criterion for selection of leadership and professional positions. A long history of ethnic hierarchy in Afghanistan fostered educational and wealth imbalances which have led to a further imbalance in even merit-based selection. Fairness requires broad-based representation and participation will require an increase in ethnic diversity at all levels. However, fairness also requires that selection of personnel for the upcoming reconstruction period must consider some relatively objective merit-based criteria.

The means of incorporating women are no doubt going to be very different in village and urban environments. The village *shura*, for instance, is a primarily patriarchal structure by which male heads of household are the lone decision makers. There has been some limited success, however, at instituting women's *shuras* in rural areas. In the urban context there is greater possibility for women's participation through the workplace, educational institutions and other non-governmental organisations (eg the women's council). In Afghanistan, unlike in other countries with a colonial heritage to draw on, women's rights have been home-invented, which is a unique achievement and a strong history to draw on to tackle any specific circumstances.

Conclusion

Afghanistan's political reconstruction faces a daunting number of hurdles. Institutions must be developed at the national, regional and local levels, and a means for interface among these institutions and between them and an array of international actors must be created. As each institution defines and develops its role, it will rely on and/or conflict with other institutions at different levels. Establishing a healthy and vibrant political and societal environment, critical to the success of Afghanistan's new institutions, will require individuals to develop

organisational infrastructure and share power at all levels. Long-term integration needs to be taken into account along with short-term needs. Instability also allows fluidity, and institutions supported by resources now will become embedded in a new political culture.

Reliance on violence to settle disputes has not yet receded into Afghanistan's past. Attention must be paid to developing a means of resolving, not suppressing, existing disputes. The use of international military forces to build confidence is key, but a refusal to expand the ISAF beyond Kabul is seen by many as undermining this objective. Even if Afghanistan is able to come through its first national consensus process, the Emergency *Loya Jirga*, without a return to internecine fighting, there is still a great danger that the project to rebuild Afghanistan will fail. Regional warlords continue to hold power outside the capital, and a failure to centralise the security apparatus with due attention to local concerns could cause recent political gains to erode. A *de facto* divided Afghanistan will not be a stable Afghanistan. The harmonisation of political, security, and development policy in Afghanistan is essential to achieve this end.

Notes

On 11–12 December 2001—one week after the signing of the Bonn Agreement—the Thomas J Watson Jr Institute for International Studies at Brown University, in collaboration with the Center for Afghanistan Studies at the University of Nebraska, Omaha, hosted a meeting entitled '(Re)establishing Political Structures in Afghanistan'. The meeting brought together a mixture of experts on Afghan law, politics, administration and society, and experts on peace operations, reconstruction and transitional political arrangements. Those in attendance included participants in the Bonn process, former ministers in the Afghan government, current and former US and UN officials, and several eminent scholars. This article incorporates many ideas contributed by meeting participants; however, the conclusions are the responsibility of the authors alone.

[1] See Jarat Chopra, James McCallum & Alexander Thier, 'Planning considerations for international involvement in post-Taliban Afghanistan', *BJWA*, Winter 2002 (describing the degrees of intervention which the international community engages in, ranging from assistance to partnership to control to governorship). While the Bonn Agreement formally establishes an assistance role, facts on the ground in Afghansitan are likely to push the UN into more of a partnership, or even control, role. This applies to both the military situation, wherein the International Security Assistance Force (ISAF) and coalition forces are responsible for security; and to the aid sphere, where a lack of capacity on the part of the Afghan government to deliver aid quickly and effectively will push the aid community to take on increasing responsibility— and therefore also accountability— for delivery of assistance.

[2] The Afghan Red Crescent Society and the National Organisation for Ophthalmic Rehabilitation are examples of organisations which, with external assistance, have managed to continue operations throughout the war.

[3] The official title of the Bonn Agreement is the 'Agreement on Provisional Arrangements in Afghanistan Pending the Re-Establishment of Permanent Government Institutions'.

[4] See the 'Procedures for the Elections of the Members of the Emergency Loya Jirga', 1 April 2002.

[5] Bonn Agreement, Art I, Para 4.

[6] For a more in-depth discussion of these issues, see Judy Benjamin, 'Post-Taliban Afghanistan: changed prospects for women?', UN Coordinator's Office, Afghanistan, February 2002.