

The Problem of Institution Building in Afghanistan

Even as we gather here to discuss and debate some of the most pressing issues in Asian security and geopolitics, one part of our neighbourhood continues to exist in a state of extreme distress with endemic conflict as a part of daily life. That part of our neighbourhood is Afghanistan, an unfortunate nation turned into a battlefield by conflicting external and internal interests.

Afghanistan might be in India's periphery but it is vital to our long term well being as conditions in that country continue to determine the nature of our immediate geopolitical environment. In other words, we can ignore Afghanistan only at our peril.

Over the months and years, we appear to have become inured to the violence and bloodletting in Afghanistan. We have come to assume the only problem with that country is the egregious Taliban, a force that needs to be annihilated from the face of the earth. Our only question seems to be how long will the West hang on in that country. Does NATO and the United States have the will to go on fighting in Afghanistan? These questions regrettably obscure some of the more fundamental issues regarding the normalisation and stabilisation of Afghanistan. If the objective behind the US' decision to go into Afghanistan was solely to destroy the Taliban and the al Qaeda, then the Afghan mission is destined to fail. For, ideas and ideologies have never been eradicated by the bullet. They have only been defeated by counter-ideologies and opposing notions. In India, we have long realised that no insurgency can be defeated by military means alone. Rather, the military is only an instrument for creating conditions for political dialogue and processes.

Therefore, the question we must ask of the many players in Afghanistan is whether these activities have aided the creation of political institutions and processes. If the Taliban and its allies are to be defeated, there needs to be alternative ideologies and institutions in place that could address the needs of the common Afghan, no matter whether they are Pashtun, Tajik, Hazara or Aimak. Most fundamentally, there is a pressing requirement for civil and state institutions that would give ordinary Afghans a greater say in their affairs, in law making and resource distribution. There is an equally urgent need for addressing judicial and developmental needs.

Frequent and violent political change in Afghanistan for more than three decades has resulted in the destruction of most institutions of state and civil society. After the US-led military intervention in Afghanistan, which led to the ouster of the extremist Taliban regime, it was correctly perceived that Afghanistan could slide back either to anarchy or once again fall prey to a retrogressive regime. The US and its allies therefore resolved that to stabilise the country and prevent the resurgence of extremist political Islam, it would be necessary to create a progressive, democratic polity. The Bonn Agreement of December 2001 was the first step towards this direction. This Agreement led to the formation of an interim government and under the Bonn Agreement the Afghan Constitution Commission was established to draft a new constitution in consultation with the public. The Bonn Agreement called for a *loya jirga* and a new constitution was drawn up in 2003. In the following year (2004 October), Afghanistan witnessed its first presidential elections in history and Hamid Karzai was elected President. In September 2005, Parliamentary polls were held and it seemed that the country was heading towards the desired direction.

Unfortunately, despite the right moves at the national level, neither has the parliamentary system of democracy taken root nor have democratic institutions of governance. The country is effectively governed through a bureaucracy almost completely controlled by the President's office. The President also appoints the all powerful provincial governors, who call the shots outside Kabul. The executive in Afghanistan today not only remains emasculated but is also considered hugely corrupt. Parliamentarians have little real power except those selected as ministers in the President's cabinet. This has meant that ordinary Afghans do not feel that they have a say in governance or policy

making. The crucial district elections have been postponed indefinitely and the elected provincial councils have yet to be activated, which means that Karzai continues to retain complete power. Parliamentarians too complain of their irrelevance in the current set up. The local village councils, particularly the traditional *jirga*, which was a key part of the traditional Afghan political system, have been excluded from the current system. This state of affairs is building huge resentment at the grassroots and hindering the development of democratic institutions.

This paper looks at the problems of democratisation in Afghanistan and the hindrances to the development of state institutions. It would also explore some of the alternative forms of governance that could work in an environment such as Afghanistan. If the current system fails to deliver or remains alien to the country's masses, the US led coalition will fail to stabilise the country. Without institutions that can take up the space created by the destruction of earlier, and in many cases, traditional structures, military action will not succeed – it will only fuel increasing cycles of conflict and translate into an unending war. This would invariably have a negative fall-out on the whole region in Afghanistan's proximity.

Need for Institution Building

Civil institutions are integral to any modern nation state and in fact constitute the structural skeleton of such states. Institutions are necessary firstly and primarily to solve disputes and resolve conflicts. Institutions are also necessary for the formulation and adoption of a common set of rules and laws. Without commonly accepted rules, laws and acceptable practices, there would be far too much friction and conflict within any society. Anarchy would prevail and civil society as we know it would collapse. There is also the need for the resolution of disputes and punishment for rule or law-breakers. The other big role for modern governments is the creation and maintenance of public assets. There is a more historically recent view that state institutions exist to actively aid economic activity and provide utility services like education, healthcare, public transport, etc. As societies and nations evolve so does the need for such institutions. Today for instance, the role of the media is critical in civil society. The media plays the key role of providing relevant information to the public. Then there may be the need to support all kinds of public regulators, ombudsmen and their like to regulate, oversee and guide social, economic and political activities.

Traditionally, Western political theorists have pointed to the need for the establishment or existence of three main pillars for a modern state structure – viz. the legislature, the executive and the judiciary. The additional postulate is that these three primary institutions need to be independent of each other for the proper functioning of democracy. In feudal times, most often all these functions were carried out by the aristocracy. The king was lawmaker, arbiter and administrator, rolled into one. Even in colonial India, for instance, the all powerful district magistrate was in many places both an administrator and judge.

In Afghanistan, some of the modern state institutions have never existed. The traditional structures that prevented anarchy and served as civil institutions have long been destroyed. Existing informal and formal civil institutions have been corrupted and are currently unable to provide the average Afghan proper redress, whether political, judicial or executive. This fundamental hiatus is causing further alienation and increasing the distance between the common Afghan and Kabul.

The judicial system too is in a shambles. According to a Kabul based journalist, Wahidullah Amani, the Centre for Policy and Human Development at Kabul University had brought out a report claiming that the state system lagged far behind traditional courts in terms of public confidence and effectiveness. In a questionnaire cited by the report, fewer than 20 per cent of Afghans put the state courts first when asked “Whom do you trust most to resolve any dispute you might have?” While over 70 per cent said that tribal or community elders and shuras were their preferred option. The

study condemned the state court system for corruption and ineffectiveness, saying that problems in the judiciary were jeopardising the entire structure of state governance. "Corruption in the judiciary undermines confidence in governance, as it facilitates corruption across all sectors of government," read the report. The Supreme Court reacted swiftly and decisively, summoning several of the authors to the court for a dressing down. "This report is an absolute lie," said Abdul Rashid Rashed, spokesperson for the Supreme Court. "These people are just against the system. They were summoned to the Supreme Court and questioned about the accuracy of the report, and in the end they accepted that their report was not based on truth. And they apologised." [Amani]

Even Zalmay Khalilzad, former US envoy to Afghanistan and current US ambassador to the UN, who had operated as something of a kingmaker during much of the Karzai regime, while speaking at an American-Afghan business conference in November last year, admitted: "There is [a] serious problem of governance in Afghanistan...At the national level, corruption exists at unacceptable levels. At the provincial and district levels, especially in contested areas, government, particularly police, too often is weak, ineffective, sometimes nonexistent, and sometimes even predatory". He added that there was "too much polarization" among Afghan political leaders, a growing opium economy, high unemployment, and the lacklustre pace of reconstruction.

This is Khalilzad, the purported architect of the Afghan reconstruction, speaking just a few months ago. Clearly, the existing institutions are not working or are not sufficient. For the average Afghan, especially the rural Pashtuns of southern and eastern parts of the country, Western intervention has hardly changed anything. Rather, things have got worse with military action and air strikes hitting their villages and killing their people. Not surprisingly, the Taliban are creeping back. As soon as troops vacate a town or village, the turbaned Taliban fighters are back. NATO cannot agree to troops increases and the existing 40,000 soldiers, many of whom do not have a mandate to engage in combat, are simply not enough to hold ground in even a part of Afghanistan. Worse, the failure to build a political constituency in Afghanistan continues to render US and NATO forces in the country as irrelevant at best, or as enemies at worst.

Traditional Governance in Afghanistan

It would be wrong to assume that Afghanistan has been a primitive tribal society or one that has naturally tended towards anarchy. However, it has been a predominantly Pashtun state. Despite existing for many centuries as a loosely federated state, Pashtuns, after the unification of the country by Ahmad Shah Durrani, who in 1747 founded the monarchy that ruled the country until 1973, were united by the notion of being Afghans and subscribing to certain common traditions and cultural mores. Even Ahmed Shah was chosen leader of his clan by consensus and not by force. He created a vast empire stretching from Punjab in the east to Meshed in the West. Despite Ahmad Shah Durrani's spectacular successes, Kabul's relationship with the provinces and other tribes was not formalised. In subsequent years, following the death of the Father of the Afghan Nation, as Durrani was called, it was clear that Kabul could only rule through consensus and its authority over the rest of the country would vary vastly from time to time.

Some historians are of the view that political and social dynamics in Kabul have always been out of sync with the processes at the provincial and rural levels. The rural Afghans have traditionally gone their own way, isolated in their far flung villages and remote, difficult to access settlements. Over the centuries, the tribes of Afghanistan, starting with the Pashtuns, have devised their own way of resolving conflict, adjudicating disputes and making collective decisions. The best known among these traditional mechanisms is the *jirga*, meaning assembly, usually of elders. One contemporary Afghan scholar has defined the *jirga* as a "traditional institution and gathering of the Afghans, which over the centuries, has resolved our nation's all tribal and national political, social, economic, cultural and even religious conflicts by making authoritative decisions". [Rafi]

“The prototype in Afghanistan, the jirga, is the product of Pashtun tribal society and operates according to the dictates of the pashtunwali, an inclusive code of conduct guiding all aspects of Pashtun behaviour and often superseding the dictates of both Islam and the central government. Thus, in the tribal Pashtun areas, local *jirga* settles (nearly) all issues, unless assistance is requested from another tribe or the government.” [Carter and Connor] While the jirga was essentially Pashtun, something very much like it called the *shura* was adopted by non-Pashtuns as well. The *jirgas* and *shuras* were non-state mechanisms for conflict resolution. However, the jirgas and shuras were a means to resolve public conflicts while private conflicts were usually resolved within the extended family – called *Kahol* by the Pashtuns and *Kahanadan* by the Tajiks and Hazaras. These were not loose informal mechanisms but highly formalised and ritualised ones that dealt with issues at the village and higher levels.

Wardak elucidates that a *jirga* or *maraka*, as it is sometimes referred to, is not just a gathering but rather “may be described as a local institution of dispute settlement that incorporates a prevalent (time and space-bound) *narkh*, institutionalised rituals, and a body of marakachian whose *prikra* about a dispute (or problem) is binding on the parties involved. This description indicates that *narkh*, institutionalised rituals, *marakachian* and *prikra* constitute the fundamental elements of *maraka*. Thus, an assembly of a *khel*'s members without the materialisation of one, or more of these elements may be considered as an ordinary gathering rather than as a *maraka*.” Decision making was far from arbitrary and was based on centuries old, unwritten law called *Narkh*. A Pashto saying declares: You might abandon your tribe and homeland but you can never abandon *Narkh*”. Apart from the local levels jirgas, there were two other higher level institutions, the *qawmi jirga* and *loya jirga*. The former being at the tribe level and the latter of the national level. “For centuries, Afghanistan has convened *loya jirgas*, and therefore, the whole terminology is deeply rooted in Afghan culture and history. The best known *loya jirga* in Afghan history is the one held in 1747 in Kandahar during which various Afghan tribes selected Ahmed Shah Durrani (Ahmad Shah Baba) as the first king of modern Afghanistan; he then laid down the foundation of the modern Afghan state. Also, the 1964 and 1976 *loya jirgas* have special place in Afghan modern history as women representatives, for the first time, participated in them.” [Wardak]

The Afghan jihad of the 1980s and the subsequent Mujahedin wars dealt the first blows to the traditional system of conflict management. This was chiefly because the new set of commanders financed by Pakistan, the United States and other powers were usually not local community leaders or chieftains but either outsiders or upstarts fattened with jihad money. “Foreign military and financial aid bestowed selected militant factions with unprecedented quantity and quality of military resources. The militant factions thus gained independence from their communities and disproportionate power to deliver violence. The leaders of these selected factions, consequently, were able to corrupt the traditional ruling councils with exorbitant payments. Their incomparable military power challenged the traditional authorities in delivering justice and managing violence in accordance to customary laws.” [Pejcinova]

The US led Invasion and the Bonn Accord

On 7 October 2001, the US invaded Afghanistan with a view to destroying the Taliban, the al Qaida and other Islamist extremist. Aided by the Afghan Northern Alliance, US forces rapidly took the entire country. The Taliban swiftly disappeared, mostly into neighbouring Pakistan. In December 2001, a number of hand picked but eminent Afghans met under UN auspices in Bonn, Germany, to decide on a plan for governing the country. The result was the Afghan Interim Authority (AIA) headed by Washington's choice, Hamid Karzai. The plan was sound and the aim was laudable. A government system responsive to the needs of the people was imperative. For, only such a government and democratic institutions could assure that the Taliban never returned. If a

progressive, modern, democratic state structure could be implanted on the anarchy that was Afghanistan, then half the problem of political Islam and terrorism could be solved. Or so were the presumptions.

Under the main terms of the Bonn Agreement, an Emergency *Loya Jirga*, chaired by the former King Zahir Shah, was to be convened within six months of the establishment of the Interim Authority to decide on a transitional Administration to lead Afghanistan until a fully representative government could be elected no later than two years from the date of the Emergency *Loya Jirga*. Accordingly, in June 2002 an Emergency *Loya Jirga* established a Transitional Administration to govern until elections could be held in 2004. According to a UK government factsheet, "The arrangements for the *Loya Jirga* were designed to enable a broad-based representation. Seats were reserved for women, refugees, displaced persons, nomads, businessmen, intellectuals and religious scholars. The *Loya Jirga* concluded on 19 June 2002 with the inauguration of Hamid Karzai as President of the Transitional State of Afghanistan. The Emergency *Loya Jirga* marked the first opportunity for decades for the Afghan people to play a decisive role in choosing their future".

Then in January 2004, another *loya jirga* was organised and an interim Constitution was agreed upon, which included the mechanism for presidential and parliamentary polls. The *jirga* approved a 162-article constitution, establishing a presidential system of government with a bicameral legislature – the *Wolesi* and the *Meshrano jirgas*. The president, both chief of state and head of government, was to be directly elected to a maximum of two five-year terms. Ministers would be nominated by the President and confirmed by the legislature. Later that year, the country held its first presidential elections where Karzai once again emerged as the winner. In September 2005, parliamentary elections were held and the country seemed set on a democratic course.

The UNDP Country Programme for the Islamic Republic of Afghanistan (2006-2008) noted: "Since 2002, Afghanistan has made rapid political progress. *Loya Jirgas* have been convened, a constitution adopted, and elections held. The expansion of political and civil freedoms has been impressive, particularly when the conflict and repression of the previous decades are taken into consideration." The report went on to add: "The first objective is to strengthen the democratic state and government institutions at all levels to govern and ensure quality public services through advocacy, policy advice and capacity development. UNDP's assistance includes support to civil service reform, budget-making processes, ICT development, information management within ministries and the fight against corruption. Having paid the salaries of the police for more than two years, future support for the rule of law will include institutional development for the police...The next phase of Afghanistan's evolution requires a deepening of democracy. An accountable legislature, an independent judiciary, an active civil society and free press are necessary to secure constitutional rights for all. In this connection, access to justice is the key. Unless people have an accessible and reliable process to resolve grievances, the seeds of conflict will remain." Unfortunately, the next phase is yet to begin.

Obstacles to Institution Building

The critics of the current Afghan administration and its Western patrons believe that state institutions have not been developed because the powers that be do not wish to relinquish their control over the country. The charitable view is that the task is easier formulated than done. They argue that the restoration of law and order in the provinces has to precede developmental work, the establishment of democratic political institutions and the gradual easing of ethnic tensions. Aid agencies either are unable to function or are functioning in less than optimal manner. Most developmental projects are way behind schedule and all this has had a negative impact on Afghan public opinion. The problem, many claim, is the failure of the military to create necessary conditions for the implementation of administrative, developmental and other processes. This,

however, is not entirely true for both institution building and military activities at times need to go hand in hand. To be fair, there are many dilemmas in the current Afghan situation and we can only discuss a couple.

i. Lack of Political will

While in theory the Constitution adopted by the last *loya jirga* envisaged a democratic Afghanistan with a multi-layered political decision making and conflict-resolution structure, in practice what is in place can only be described as a top heavy administration where all power emanates from Kabul. In Afghanistan, as in most Asian countries, there are four distinct levels of administration. The first is the village, then the district, the province and finally the country. For the proper functioning of democracy, institutions are required at every level of the national pyramid.

In Afghanistan, as in many developing nations, the very basic impediments to democracy and national level interactions are often physical. In Afghanistan certainly lack of communication, poor transportation and telecom infrastructure have added to the rural disconnect. Millions of Afghans simply cannot participate in the democratic process or any other national process because of the physical impediments. "Afghanistan is administratively divided into 34 provinces, near 364 districts and around 20 to 40 thousands villages. The number of districts and villages are still disputed because of the politics of the power and ethnicity in the country. On the other hand there has never been a very clear definition of a village either by size of land or by population. Villages range from 25 families to 5000 families. On top of all, villages have continuously been disconnected with the district centres because of the accessibility problems. The average distance between a district centre and a village in Afghanistan is from one to two days walk." [*Ahmad Idrees Rahmani*]

In the 2005 polls, rural participation was negligible. According to a year 2007 estimate, Afghan population is 31.8 million. Yet, according to the official Joint Electoral Management Body (JEMB), which oversaw the polls, just about 6.4 million Afghans voted. What percentage of these votes were fake or stuffed ballots, it is impossible to conjecture, but it must be noted that the polls were conducted in a basically insecure environment where warlords and armed local commanders openly played a significant role. The JEMB report noted: "Although the turnout (51.5 percent of the total number of registration card issued) was lower than it was for last year's presidential election, the JEMB feels that it was satisfactory. Turnout was higher this year in seven provinces (including Nuristan, where the turnout nearly doubled) and among the Kuchi population, which is likely due to the higher number and better geographic spread of polling stations—across Afghanistan, there were around 30 percent more polling stations established this year than for last year's elections. The turnout was lower in all major urban areas throughout the country, including Kabul, and throughout the Southern region. A number of factors could have contributed to this, including the requirement this year that voters only vote in the province identified on their registration cards, the large number of candidates standing for office, widespread reports of voter intimidation by candidates and their agents and persisting security issues." [*JEMB*]

The 2005 polls could not, however, be described as fraudulent. The majority of Afghans who participated were extremely enthusiastic about the whole process and clearly looked forward to something positive emerging out of the entire exercise.

There is evidence of some subterfuge in the process of democratisation. In September 2005, when the parliamentary polls took place so did polls to the 34 provincial councils of the country. The provincial council elections were crucial because the upper house (*Meshrano jirga*) required the election of two candidates from each of the country's 34 provincial councils. The rest were to be filled up by Presidential nominations and by district councils that have yet to be created. So the members of the provincial council were duly elected by the people in September 2005 but as of yet

they have little to do and no defined role whatsoever. "While the functions of the 249 members of the national People's Council are enumerated to large degree in the country's constitution, the functions of the provincial councils remain largely unclear. Until the duties and authorities of those provincial bodies are more firmly enumerated and their members given official space in which to operate, there is a risk that a potentially effective mechanism for local government might be forever marginalized -- and an opportunity lost. " *[Amin Tarzi]*In other words, the elected provincial councils do not exist.

The polity today is characterised by a multiplicity of actors. At the highest level is the presidency ensconced in Kabul, guarded by American security guards. Below that is a council of ministers. The provinces are ruled by governors appointed by Karzai and many of these governors are former warlords., who remain a prominent part of the state structure because there is currently no alternative to them. Besides, the overstretched US and NATO forces have been bribing warlords to guard certain areas and fight the Taliban. Apart from this there are no recognised offices or institutions. There are a whole lot of informal power centres, including rich NGOs, NATO and US military commanders, local Afghan commanders, ex warlords, ISI operatives and Taliban commanders, who keep moving in and out of the country. What there is not is a working, institutionalised democracy. The average Afghan cannot be blamed for being confused and disillusioned.

A somewhat mysterious but extremely cogent critic of the Karzai administration named Bilhol Lohdi has been lambasting the current regime on several Internet sites. In one recent article he writes: "The shibboleth that 'Afghanistan is a democracy' with 'a constitution, an elected president, and an elected parliament' must be consigned to the dustbin of bad jokes. The Afghan people certainly don't believe it, nor do those foreign professionals whose careers have not depended on inventing and perpetuating the myth. The claim, often forwarded by the supporters of the current Kabul setup, that there's no alternative to replace Karzai is nonsense. It is an artifice through which they hope to bamboozle the rest of the international community to help continue maintaining Karzai and their associated assets in place, despite the fact that these people are part of the problem as well as a bar to implementing a solution. " Strong words indeed!

ii. The Ethnic Divide

A bigger more intractable problem is the vast ethnic chasm in the country. Afghanistan has 55 ethnic groups who speak 45 languages. However, the Pashtuns have traditionally ruled Afghanistan and believe that only they are destined to rule the country. The Pashtuns tend to be adamant and chauvinistic on this issue, to the extent that they reject the notion of power sharing with the country's other ethnic groups like the Hazaras, Tajiks and Uzbeks. The underlying Pashtun belief that they alone are destined to rule the country is more than evident. For, as one scholar has pointed out, Pashtuns call Dari (a Persian dialect) speaking people Tajiks. "The Tajiks themselves, however, never use that ethnonym, preferring to use the name of the valleys they come from to identify themselves, such as Panjshiri, Munjani and Andarabi. They identify with a place, not a tribe, nor its mythical origins, like the Pashtuns do. By using the spatial ethnonym "Tajik," the Pashtuns are, in a sense, denying Tajiks a territorial basis in Afghanistan and therefore are discrediting their right to spatial representation in any government in Kabul." *[Nigel J.R.Allan]*

Since 1880, when the British created the state of Afghanistan, there have been massive internal population movements at the instigation of the Pashtun royalty as part of their plan to Pashtunise the country. Even though King Zahir Shah, the Pashtun royal ruler, was ousted in 1973, the quest to Pashtunise the country did not end. In fact, it continued with the Taliban government, which seized power in 1996. Taliban is a Pashto word with a Pashto suffix attached to the Arabic word "talib." The Taliban was both an ethnic movement and a religious one. Twenty-six out of twenty-seven

members of the Taliban government's leadership were Pashtun and they were determined to bring the various ethnic groups of Afghanistan under traditional Pashtun conservative rural culture. "The carnage wrought by the Pashtun Taliban in the Kuh Daman valley, the orchards and breadbasket that sustained the Kabul area for millennia, were pulverised by the Taliban in 1999. The Taliban used a scorched-earth policy to destroy the Kohestani ("Tajik") *manteqas*, for they knew each *manteqa* had a commander who could marshal support from his collateral neighbours to oppose them." [Nigel J.R.Allan]

Karzai not surprisingly has had major problems with his native Pashtun community with the composition of his Cabinet, which initially had a preponderance of leaders belonging to the erstwhile Northern Alliance. This was natural because it was the Northern Alliance that had supported and fought for the US-led alliance. The Northern Alliance leaders were dependable and united in their hatred of the Taliban. Thus, the three most powerful men in President Karzai's first cabinet were Tajik leaders of the Northern Alliance: Marshall Mohammad Fahim, the leader of the Northern Alliance, Defence Minister; Abdullah Abdullah, another Northern Alliance strongman, Foreign Minister; and Yunus Qanooni, the political and military heir of Ahmad Shah Masood, Interior Minister. These three charismatic Tajik leaders and warlords were the best known faces of the new Afghan government after Hamid Karzai. The Pashtun population, in general, was mortified and felt that the Tajiks had taken over their country.

Karzai consequently has been steadily trying to weed out the prominent Northern Alliance warlords from his cabinet. Qanooni was the first to go because he was unwise enough to challenge Karzai's leadership. He was first demoted to education minister and then challenged Karzai in the presidential elections. He came second but found himself without a job. He is currently the speaker of the *Wolesi Jirga*. Interestingly, Qanooni floated a new political alliance in March 2005 named *Jabhai Tafahim Millie* (National Understanding Front). Qanooni declared that his aim was to try to change the strong presidential system enshrined in the Afghan Constitution into a parliamentary system in order to create a more representative governing system. "A government without a parliament or opposition will drift towards dictatorship," said Qanooni. Sadly, this had neither led to a lot of understanding nor a more democratic set up.

In end-December 2004, Karzai also carried out a cabinet reshuffle in which he made several important changes. The most dramatic was the sacking of the prominent defence minister, Marshal Mohammad Fahim, and replacing him by his deputy, Abdul Rahim Wardak, a Pashtun. Karzai named a relative unknown, Habibullah Qaderi, to head the new Counter narcotics Ministry, which will be tasked with cracking down on a multibillion-dollar drug trade that is flooding the world with cheap heroin. Southern warlord Gul Agha Sherzai has been removed as public works minister. Also dropped from the Cabinet was Sayed Hussain Anwari, who controlled a private army in the north and had been agriculture minister. The well known warlord and governor of Herat, Ismail Khan, was given a minor position in the cabinet.

On 22 March 2006, another reshuffle was undertaken in which 14 ministers retained, 8 new one appointed and 3 reshuffled. Abdullah Abdullah, a Tajik and a key figure was dropped as foreign minister and replaced by Dr. Rangeen Dadfar Spanta, a Karzai confidant, who had spent time in Germany. This reshuffle ended the dominance of the Northern Alliance triumvirate which had dominated Karzai's government in 2002. Pashtuns, however, are far from satisfied. Of the twenty eight ministers (including temporary ministers) currently in Karzai's cabinet, ten are Pashtun, nine are Tajiks, five Hazara, two Uzbek, one Baloch and one Turkman. Pashtuns are still not used to the idea of sharing power and in the circumstances, the establishment of state institutions and democratic functioning cannot but be difficult.

A number of experts are sceptical about the prospects of success of the current political system

imposed on Afghans by the Bonn Accord. "The building of an Afghan nation with strong central control, put forth in 2001 in Bonn and the 2002 follow-up meeting, is a fantasy of social democratic European governments.¹¹ The solution for Afghanistan may instead lie in considering and implementing the features of a coimperium form of governance. According to Alain Coret's definition, "a coimperium is a regime in which a partial international community exercises certain competencies over a portion of the territory of a third state...All regions of the country must be able to participate in decisions that affect them. This involves maintaining indigenous suzerainty by creating regions dominated by particular ethnic groups that have a powerful presence both at the local and national levels." [Allan]

There does not appear to be any urgency on the part of the powers behind Karzai to radically alter the present political order, wherein Kabul controls all institutions and political processes in the country. There is a legitimate fear of things going out of hand and Karzai's weak hold on the rest of the country becoming untenable. The focus clearly is on the fight against the Taliban, which instead of diminishing over the years has only exacerbated since last year.

iii. Fundamentalists and warlords

The underlying presumption in the West's approach to Afghan political reforms is that the nation left to itself will revert to fundamentalists and warlords. And that regrettably does not seem very far off the mark. For, Afghan, and in particular Pashtun, society remains highly traditional. Assaulted by conflict, foreign intrusion and a pastiche of often conflicting ideologies, the Pashtuns have tenaciously clung on to their time tested ways and beliefs. While many of those traditions have helped Pashtun society survive, it has also hindered the evolution of more progressive mindsets. The role of Islam and the mullah consequently remain paramount. Besides, there are the local commanders and warlords, who in recent years have climbed to the top of the socio-political heap in Pashtun tribal societies. As mentioned elsewhere, this new socio-political hierarchy now is obviously resistant to any change that might threaten their dominance. Even elections, without any fundamental change at the grassroots, can only bolster the existing power elite.

The ranks of current parliamentarians not surprisingly are packed with traditionalists, some of whom entertain ideas exactly like those of the Taliban. One of the most devastating indictment of the current political dispensation in Kabul was by a courageous Afghan woman legislator who was expelled from parliament because she described the legislative body as worse than a stable during an interview. Twenty nine year old Malalai Joya went to New York and accused the United States of making a mockery of democracy and the war on terrorism by supporting corrupt Afghan lawmakers who are criminals and warlords. "Washington supports the same enemies, who are mentally like the Taliban. ... They brought them back into power", soft-spoken Joya told Reuters in an interview during a visit to the United States [Reuters, 18 June 2007].. "Afghanistan has been fractured by rival warlords since the Soviet Union pulled out in 1989 and its lower house of parliament, elected in 2005, is full of ex-warlords and former militia leaders along with suspected drug dealers. Joya recounted the horrors she experienced in the Afghan parliament: "Many, many times they insulted me, even inside of the parliament they threw water at me and they threatened me with death, and one of them shouted, Take her and rape her. They turned off my microphone. This is a completely non-democratic parliament, they stand up against the constitution and they do non-democratic acts", she said. One such act was a proposal in the lower house of parliament for a blanket amnesty for those who committed war crimes over nearly 30 years of conflict. She asked, how can criminals forgive themselves? Joya said "the Afghan people had been hopeful the US-led invasion would bring democracy for them and security for them and many more things like that, but unfortunately we are looking at a worse situation than the Taliban period."

The case of a young reporter, Sayed Perwiz Kambakhsh, who allegedly circulated anti-Islamic

material picked up from the Internet, is equally illustrative. He was accused of distributing printouts of an article that claimed that Prophet Mohammad had ignored the rights of women. He was arrested, charged with blasphemy and condemned to death. When the matter went up to the upper house of parliament (*Meshrano Jirga*), the response was as expected. The House confirmed the death sentence. The *Meshrano Jirga* also strongly criticised the international community for putting pressure on the Afghan government and judiciary over the case. Under Islamic law stipulated in Afghanistan's constitution, blasphemy is punishable by death.

Last year, the Meshrano Jirga had taken another controversial decision. It approved the controversial draft law recommending impunity for those accused of war crimes and human rights violation during the more than two and half decades of war and civil strife. The draft law, absolving former warlords of any criticism and prosecution, was approved by the lower house of parliament or Wolesi Jirga through majority in January 2007. The passage of the bill drew serious criticism from rights organisations and torch-bearers of democracy and human rights across the world. but Afghanistan's elected representatives went ahead regardless.

Regulations have, at times, not even spared the marginal elements of society. For instance, according to a Reuters report, Afghanistan's traditional fortune tellers are banned in 2007 because religious elders branded their ancient practice as un-Islamic. "Dozens of fortune tellers were ejected from the surrounds of the beautiful Hazrat Ali shrine in the northern city of Mazar-I-Sharif after religious elders responsible for the mosque's upkeep tired of their presence." The report noted that Afghanistan's fortune tellers or "fallben are an irregular fixture outside mosques and shrines across the country. Their fortunes have fluctuated for nearly 1,400 years - since Islam was first revealed to Prophet Mohammed - but the practice dates back to when Alexander the Great conquered the country with his army and its multitude of accompanying gods, most of whom required constant consulting, a role for the soothsayers. Banned and persecuted under the rule of the Taliban, fortune tellers had made a comeback since the hardline Islamic group was ousted in 2001." But they have once again been proscribed.

The challenge of transforming a traditional, deeply conservative society and polity such as Afghanistan's is evident. In fact, every recent attempt to "modernise" Afghanistan's socio-political structures have ended in complete failure. The communists in the 1970s wanted a progressive country, shorn of tribalism and religion. The more the communists tried to change Afghan society, the greater the resistance they faced, and this process ultimately led to a revolt. One reason why the Taliban managed to establish order, especially in the Pashtun areas, was because they themselves were traditionalists, who had no desire whatsoever of being progressive or modern. If anything, the Taliban grafted a form of strict Wahabi principles on the Pashtun tribal base. The idea that a Westernised, democratic model could be successfully implanted in Afghanistan is in itself questionable. One school of thought believes that political engineering is doomed to failure, while the others argue that Afghanistan will remain a problem for the world as long as its conservative, backward polity is not replaced with something better. Apart from the debate over the ethics of tampering with socio-political realities, there is a real problem of governance. The Taliban model did not suggest that it had any merit when it came to governance. Problem is that the current set up too falls short on this count.

Alternative Models

Max Weber, the German political scientist, postulated the existence of three forms of authority: traditional, rational-legal and charismatic. Charismatic authority, according to Weber is a kind of exceptional (or divine) endowment of grace that is imputed by followers to leaders. Contemporary examples of this form of authority may be the authority of Mahatma Gandhi or Nelson Mandela.

Legal-rational authority, on the other hand, according to Weber is the authority of highly organised groups such as that of the modern state. And finally traditional authority for Weber is the semi-political decisions made by chiefs of tribes in societies where formal processes of governance do not exist, or are not fully institutionalised.

In Afghanistan, as in most countries, there is a clear lack of any charismatic leader. Perhaps, one solution for Afghanistan could be the hybridisation of Weber's traditional and rational-legal models. The jirga model far from being primitive or irrelevant in Afghanistan's current context, is actually a rather sophisticated and accepted form of institution, which could be formalised, enmeshed with the state structure and legitimised. What precise form such hybrid politico-judicial-executive institutions would take is impossible to formulate without experimentation but it could be done if there is a political will to do so. After all, the acceptability of the jirga concept was successfully used to confer legitimacy to the post-Bonn accord institutions and to the current Afghan Constitution. If the jirga could work at the highest level, there is no reason why it cannot work at the lower levels of Afghan society where conflict resolution institutions are needed the most.

Unfortunately, instead of seeking viable solution to the pressing problem of institution building in Afghanistan, the country of late has been subject to several bizarre experiments. One being the outsourcing of governance to NGOs. A prominent example for outsourced statehood is the National Solidarity Program (NSP). The National Solidarity Programme was one of the original twelve National Priority Programmes (NPP) of the government and was first announced in President Karzai's address to donors at the Tokyo conference in January 2007. The aim was to establish stable state structures for development. But nothing seems to have come of this. Like most other local bodies, the local development councils too appear to be dominated or under the influence of former religious leaders, *Arbabs* or local strongmen. Thus, traditional society leaders and the common Afghan have been rendered irrelevant to the political decision making process. And despite the change of regime very little has changed at the grassroots.

The epilogue to the series of unfortunate events in Afghanistan is best provided by President Karzai, who, during a visit to the United States, lamented: "All politicians in this system have acquired everything – money, lots of money. God knows it is beyond the limit. The banks of the world are full of the money of our statesmen. The luxurious houses [built in Afghanistan in the past five years] belong to members of the government and parliament, not only in Kabul but here and there. Every one of them have three or four houses in different countries...With the support of the world community – money, aircraft, and their soldiers – and with full sympathy of the Afghan people, the Afghan politicians were able to return to their country. Unfortunately, I see now that they did not learn the lessons of the past. They should know that the Afghan people will rise against us. And this time, there will be no place [abroad] for us to flee." His anguish is understandable what is not are his omissions.

By Indranil Banerjee
New Delhi
Date: 28 January 2008

Notes:

1. "*Afghanistan: Creation of a Warlord Democracy*", Ana Pejcinova, Department of Political Science, Central European University, Budapest, Hungary, 2006.

2. *“Rethinking Governance in Afghanistan”* Nigel J.R.Allan, Journal of International Affairs, Spring 2003.
 3. *“Jirga - A Traditional Mechanism of Conflict Resolution in Afghanistan”* Ali Wardak, University of Glamorgan, UK, 2003.
 4. *“The Role of Religious Institutions in Local Governance and Provision of Social Service in Afghanistan”* Ahmad Idrees Rahmani, Muslim Society Group, International Policy Fellowship, September, 2005.
 5. *“Afghanistan: What Will Become Of The Provincial Councils?”* Amin Tarzi , Radio Free Europe, 11 November 2005.
 6. *“Loya Jirga”*, H. Rafi, Aman Publishing Ltd. Peshawar, 2002.
 7. *“A Preliminary Investigation of Contemporary Afghan Councils”* Carter, L. and Connor, K., Peshawar: ACBAR, 1989.
 8. *“Afghanistan’s Creaking Court System”* Wahidullah Amani, ARR No. 276, 06-Dec-07, Kabul
 9. *“Final Report: National Assembly and Provincial Council Elections 2005 “*, Joint Electoral Management Body, December 2005
-

Afghanistan Timeline:

2001 October 7: US, Britain launch air strikes against Afghanistan after Taleban refuse to hand over Osama bin Laden, held responsible for the September 11 attacks on America.

2001 November 12: Alliance march into abandoned Kabul and other key cities.

2001 December 5: Afghan groups agree deal in Bonn for interim government.

2001 December 7: Taleban finally give up last stronghold of Kandahar, but Mullah Omar remains at large.

2001 December 22: Pashtun royalist Hamid Karzai is sworn in as head of a 30-member interim power-sharing government.

2002 January - First contingent of foreign peacekeepers in place.

2002 April 17: Former king Zahir Shah returns, but says he makes no claim to the throne.

2002 June 13: Loya Jirga, or grand council, elects Hamid Karzai as interim head of state. Karzai picks members of his administration which is to serve until 2004.

2003 August 11: Nato takes control of security in Kabul, its first-ever operational commitment outside Europe.

2004 January 4: Grand assembly - or Loya Jirga - adopts new constitution which provides for strong presidency.

2004 October 9: Presidential elections

2004 November 3: Presidential elections: Hamid Karzai is declared the winner, with 55 per cent of the vote. He is sworn in, amid tight security, in December.

2005 September 18: First parliamentary and provincial elections in more than 30 years.

2005 December - New parliament holds its inaugural session.

2006 July onwards - Nato troops take over the leadership of military operations in the south. Fierce fighting ensues as the forces try to extend government control in areas where Taleban influence is strong.

2006 October - Nato assumes responsibility for security across the whole of Afghanistan, taking command in the east from a US-led coalition force.

2007 July 22: Former king Zahir Shah dies.

[ends]
