



Report

Conflictual Peacebuilding: Afghanistan Two Years after Bonn

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R 2004: 4

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Prepared for The Norwegian Ministry of Foreign Affairs

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Chr. Michelsen Institute *Development Studies and Human Rights*

CMI Reports

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E-mail: cmi@cmi.no
www.cmi.no

Price: NOK 50

ISSN 0805-505X
ISBN 82-8062-074-5
This report is also available at:
www.cmi.no/public/public.htm

Indexing terms

Afghanistan
Democratisation
Peacebuilding
Reconstruction
Security Sector Reform

Project title

Afghanistan two years after Bonn

Project number

23058

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ABBREVIATIONS

AACA	Afghan Assistance Coordination Authority
AG	Advisory Group
AIA	Afghan Interim Administration
AIHRC	Afghan Independent Human Rights Commission
ANA	Afghan National Army
ANBP	Afghan New Beginnings Program
AREU	Afghan Research and Evaluation Unit
ARTF	Afghan Reconstruction Trust Fund
ASG	Afghan Support Group
ATA	Afghan Transitional Administration
CG	Consultative Group
CIMIC	Civil-Military Cooperation
CLT	Constitutional <i>Loya Jirga</i>
CMI	Chr. Michelsen Institute
DDR	Disarmament, Demobilization and Reintegration
EC	European Commission
ELJ	Emergency <i>Loya Jirga</i>
EOD	Explosive Ordnance Disposal
EU	European Union
GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit
IARCS	Independent Administrative Reform and Civil Service Commission
ICG	International Crisis Group
IDP	Internally Displaced Person
IFI	International Finance Institutions
IMF	International Monetary Fund
ISAF	International Security Assistance Force
LOTFA	Law and Order Trust Fund
MAPA	Mine Action Program for Afghanistan
MDG	Millennium Development Goals
MoC	Ministry of Communication
MoD	Ministry of Defense
MoF	Ministry of Finance
MoFA	Ministry of Foreign Affairs
MoI	Ministry of Interior
MRRD	Ministry of Rural Rehabilitation and Development
NABDP	National Area Based Development Program
NATO	North Atlantic Treaty Organization
NDB	National Development Budget
NDP	National Development Plan
NEEP	National Emergency Employment Program
NGO	Non-Governmental Organization
NSP	National Solidarity Program
NWFP	North West Frontier Province (Pakistan)
OEF	Operation Enduring Freedom
PAREM	Public Administration and Economic Management
PMU	Program Management Unit
PRIO	International Peace Research Institute, Oslo

PRR	Priority Reconstruction and Reform
PRT	Provincial Reconstruction Team
SRSG	Special Representative of the Secretary General (UN)
TAPA	Transitional Assistance Program for Afghanistan (UN)
TSS	Transitional Support Strategy
UNAMA	United Nations Assistance Mission to Afghanistan
UNDP	United Nations Development Program
UNHCHR	United Nations High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
WB	World Bank
WFP	World Food Program

EXECUTIVE SUMMARY

This report is a follow-up to *Peace-building Strategies for Afghanistan*, which we prepared for the Norwegian Ministry of Foreign Affairs in early 2002, soon after the Bonn meeting that established a transitional regime for Afghanistan. The present study assesses the developments since then.

Criteria for Assessment

By what standards should the policies pursued in Afghanistan during the past two years be judged? Three standards are relevant, ranging from the simple to the complex:

- The text of the Bonn Agreement itself: Were the goals outlined in the Agreement met and the strategies followed? Was the timetable adhered to?
- The relevance of the Bonn Agreement to the Afghan situation: Was the Bonn Agreement a good script for creating security and rebuilding the Afghan state and economy?
- The implicit political and ethical standards of intervention to change a regime: Did the intervention and related assistance strategies improve the political, socio-economic and security situation in Afghanistan?

The Balance Sheet

As the title of the present study suggests, conflict has been embedded in the process of rebuilding the Afghan state and economy. Nevertheless, relative peace has been maintained in large parts of the country. The political arena has been reestablished and functions as a forum for resolving conflict. Relief programs are being replaced by a coherent reconstruction policy. These are significant achievements. They reflect a very substantial international commitment to prevent Afghanistan from backsliding into civil war or anarchy, as well as the determination of most Afghans to use the war against the Taliban as a stepping stone towards greater peace and development.

The transitional administration struggled from the beginning with the implications of being a foreign-installed and foreign-financed government. Afghans quickly noted that the design for reconstruction and state building was laid out in New York, Bonn and Tokyo, rather than in their own country. While the importance of foreign assistance to maintain stability and start reconstruction is appreciated, the dependence on the international community conflicts with the declared principle that Afghans should be ‘in the driver’s seat.’ Partly as a result, the transitional administration continues to face a basic legitimacy problem.

The reconstruction policy aims to create rapid growth in a short time, ostensibly to prevent Afghanistan from becoming a ‘narco-mafia state,’ as the Minister of Finance emphasizes. This strategy entails a very high dependence on external funds, thus reinforcing concerns about dependence, sustainability and legitimacy. Significant

wealth is in fact generated within the country, but largely in the black economy or in any case outside the taxation reach of the central government. Failure by Kabul to collect revenues is rapidly recreating the classic conditions of a foreign-financed 'rentier state.' While a familiar phenomenon in Afghan history, heavy dependence on foreign funds encourages accountability towards foreign donors rather than toward the Afghan people. As such, it runs counter to the basic principles of democratic development. A longer time-frame for reconstruction, allowing for greater local capacity building and institutional reform in the governance sector, would be more conducive to the development of a locally accountable and hence democratic state.

Reconstruction programs are framed within a coherent, market-driven model of economic policy. The rationale is to create rapid growth, with much less concern for the likely negative consequences in terms of inequality and social and political exclusion. The downside effects of a market approach are particularly worrying in Afghanistan. A conflictual 'post-conflict' situation suggests that inclusiveness and equity in the distribution of the peace dividend should be emphasized instead. Importantly, an unbalanced market approach to reconstruction will likely leave the most insecure areas behind. At present these are some Pashtun provinces in the South and the Southeast, which as a result may turn into 'rogue provinces.'

The difficulty of trying to build peace while simultaneously waging war has become increasingly evident. The continued low-level war in Pashtun areas has complicated virtually all aspects of the peacebuilding agenda implicitly endorsed in Bonn. By collaborating with local commanders to hunt down suspected enemy units, US forces are nurturing the warlord phenomenon and related problems. The practice of arming, training and paying local militia units was formally reconfirmed as policy in early 2004. In pursuit of the war, the US has subordinated matters of democratic development and human rights to the needs of a close working relationship with Afghan military commanders at both the national and local levels. Far from subduing the militants, however, the Coalition forces have faced increasing attacks, as have 'soft targets' in their areas of operation. The result has been generalized insecurity in large parts of the area along the border with Pakistan.

Tension persists between responding to the ambitious goals of the Bonn Agreement and securing a transparent, inclusive and minimally just process. The dilemma is aptly captured in current discussions about whether to delay or hold elections as planned in the summer of 2004, at the risk of further alienating groups that already feel left out of the peace process. Problematic sequencing in the peacebuilding design includes the neglect of demobilisation issues in Bonn, which has hampered the development of democratic practices. Human rights have been increasingly marginalized in the name of promoting stability. By treating political stability and human rights as sequential priorities, the international community compromises the rights element in the original rationale for the war to remove the Taliban, and arguably shirks the responsibilities that arose from intervention.

The regional context remains critical to matters of peace and war in Afghanistan. The role of Pakistan, in particular, is important in relation to the challenge of Islamist militants. While Afghanistan presently is developing close and dependent relations with the United States and European countries, a case can be made for anchoring the peacebuilding process more firmly in the development of good Afghan relations with

neighboring states. The Six Plus Two Group was a forum for dealing with neighbors as well as with the large powers, but it disappeared with the fall of the Taliban and no similar structure has been established since.

Norway has been a small but persistent actor in Afghanistan. While traditionally focusing on humanitarian assistance, the government in 2001-2 undertook a military engagement that consumed more resources than other forms of assistance. Norway's military role was largely defined by security interests related to maintaining a good standing both in NATO and its bilateral relationship with the US. The government in late 2003 designated Afghanistan as a 'partner country' for Norwegian development assistance. This decision entails a sustained and considerable aid commitment as well as considerable risk, given Afghanistan's uncertain security environment.

The Policy Agenda Ahead

A continued international commitment seems necessary to prevent a return to civil war in Afghanistan, but there is no clear recipe for how to move from preventing war to creating a better peace. The analysis so far suggests a few guidelines:

- Refocus and limit the war against the militants so as to reduce the negative impact on the peacebuilding agenda. Distinguish between the 'national terrorists' (the Taliban) and the 'international terrorists' (which the Afghans call 'the Arabs'), and to the extent possible address the grievances of the former through political means.
- Emphasize institutional reforms and local capacity building as prerequisites for a large influx of new funds. Focus on the effective use of funds to alleviate current problems rather than on counterfactual scenarios of Afghanistan becoming a 'narco-mafia state.' Recognize that the dividing line between 'reconstruction' and 'development' is becoming very thin, particularly when planning is linked to the Millennium Development Goals.
- Address issues that have been relatively neglected in the reconstruction process so far, including human rights, anti-poverty programs, and regulatory policies that promote greater equality and equity in sharing the benefits of reconstruction. This is especially important to reduce the likelihood that poor and insecure areas will become 'rogue provinces.'
- Anchor the peacebuilding process more firmly in the regional context, *inter alia* by creating an institutional forum for cooperation between Afghanistan and its neighbors.

As for Norway's role, the Norwegian government should consider consolidating its present aid portfolio and concentrating on an identifiable niche where the Norwegian contribution can make a difference. This strategy was followed with some success earlier, when Norway chaired the Afghan Support Group. At that time, the international aid community was moving from humanitarian assistance under the ostracized Taliban regime to a comprehensive aid program in support of the new authorities. At the present juncture, a niche that would harmonize with overall

Norwegian aid policies would be one that gives voice to the relatively neglected issues in the present reconstruction policy.

Chapter 1 introduces the four pillars of the peacebuilding design for Afghanistan developed in New York, Bonn and Tokyo – a transitional regime, state capacity at the central level, humanitarian and reconstruction assistance, and light international ‘footprint’ with the UN in the lead. The national and international context for implementing the design is examined, as is the concept of ‘conflictual peacebuilding.’

Chapter 2 discusses the state-building process, which has been informed by three principles: establishing state capacity and gradually subjecting the state to democratic controls, basing reconstruction on a heavy influx of foreign aid combined with market-driven economic growth, and entrusting sovereignty during the transition period to the Afghan administration.

Chapter 3 addresses relief and reconstruction policies with reference to programs, principles and results. Strategies of capacity enhancement are contrasted with capacity building. The two main national assistance and reconstruction programs (NSP and NEEP) are discussed. ‘Snapshot’ illustrations from the provinces indicate how conditions in Kabul compare with those in other areas.

Chapter 4 examines the political transition process, where the Bonn Agreement provided a tight schedule and detailed script for the establishment of an Interim and Transitional Authority, the promulgation of a new constitution and elections.

Chapter 5 examines the establishment of the rule of law as a key element in the successful transition from war to peace. Developments in three areas are discussed: judicial reform, police reform and human rights, including the question of bringing to justice the perpetrators of past war crimes and massive human rights abuses.

Chapter 6 discusses the principal elements in the security situation: the war between the US-led forces and the militants, mainly confined to the South and the Southeast; continuing violent conflicts among Afghan power holders in the regions; and security problems that confront ordinary Afghan villagers and urban residents. The role of ISAF and PRTs, and current plans for modified deployment are analyzed.

Chapter 7 discusses the international regional context, and the role of institutional structures to mediate in the changing relationship between Afghanistan and the US and Europe, as compared to its immediate neighbors.

Chapter 8 examines Norwegian military and economic assistance.

INTRODUCTION

This study is a follow-up to *Peace-building Strategies for Afghanistan*,¹ which we prepared for the Norwegian Ministry of Foreign Affairs in January 2002, soon after the Bonn meeting, which established a transitional regime for Afghanistan, and just before the Tokyo pledging conference, which promised to finance the process. The present study assesses developments in Afghanistan since 2002. The title - *Conflictual Peacebuilding* - reflects not merely a mixed balance sheet. There have been both progress and setbacks since Bonn. More importantly, conflict was embedded in the very process of rebuilding the Afghan state and economy, and this has been reinforced by the fact that a war continues to be waged in parts of the country.

Preparations for another international conference on Afghanistan are currently underway and several studies are being undertaken in this connection. The Afghan Transitional Administration (ATA), with the support of the World Bank (WB), the International Monetary Fund (IMF), the United Nations Development Fund (UNDP) and the UN Assistance Mission in Afghanistan (UNAMA), recently outlined a vision and strategies in a joint report entitled *Securing Afghanistan's Future*.² We present our report in the spirit of contributing to the pre-conference dialogue and the outcome of the meeting.

Revisiting issues of peacebuilding in Afghanistan means assessing the conclusions and recommendations presented in our earlier report. Our views then were similar to many that circulated at the time of the Bonn and Tokyo meetings, although they differed sharply from others. In particular, we concluded that a policy which emphasized that building state capacity at the central level was both important and possible, that the warlords could be undercut or co-opted, that the international aid community was correct in 'placing the Afghans in charge', as declaratory policy emphasized, and that aid money should be transferred at a pace commensurate with local absorptive capacity. Importantly, this included capacity to formulate a policy agenda that could claim some political legitimacy.

This report asks whether our earlier conclusions still hold. More broadly, it examines developments during the past two years in relation to the policy framework that was established soon after the fall of the Taliban in November 2001. The most important of these developments was the Bonn Agreement, signed on 5 December 2001, which formulated principles of political development and a precise strategy for the transition period.³ The agreement was amplified by resolutions of the UN Security Council, and accompanied by a set of international assistance mechanisms, including pledging conferences, agreements on division of labor among donors, and coordination structures. Taken together, these mechanisms formed the initial template for what was variously referred to as peace-building, state-building or, more conventionally, the reconstruction of Afghanistan.

Following common practice we shall ask whether the stated goals and timetables were accomplished or not. But first-order questions concerning the fit between the map and the terrain must also be addressed. Were the objectives and strategies suited to the situation on the ground? If not, could the ground be altered, or should goals be modified and new strategies identified? To what extent was the design laid down in Bonn and amplified by subsequent policies suitable for the Afghan situation post-Taliban?

A large number of agency reports and project evaluations have been produced on post-Taliban Afghanistan. The rebuilding effort is one of the most thoroughly monitored and best documented cases in recent years. UNAMA has performed important monitoring and reporting functions, the Afghan transitional administration has in some areas been a model of transparency, with well-developed websites, and international financial institutions, aid agencies and NGOs have produced numerous reports, and so have NGOs. The Afghan Research and Evaluation Unit (AREU) - an independent, Afghanistan-based organization that evolved from the previous, donor-assisted Strategic Framework for Afghanistan - has produced several insightful studies. Indeed, the importance of establishing such a unit in a post-war situation is one of the lessons to be learned from the Afghan case.

The present study has drawn on reports from all these agencies. It is further informed by the more academic literature related to peacebuilding in general, and in Afghanistan in particular. In addition, the study draws on data collected in Afghanistan recently by the authors, as well as insights gained from our engagement with Afghanistan over the past two decades.

The Norwegian team members made various field visits to Afghanistan in the past two years in connection with this and related studies. Besides Kabul they visited Kandahar, Wardak, Ghazni (Pashtun as well as Hazara-inhabited areas) and Parwan. Most recently (October-November 2003) team members were in Herat, Kabul, Parwan and Kapisa, interviewing villagers, staff of local and international NGOs, foreign diplomats, staff of aid agencies, UNAMA, the European Union, and officials at various levels of the Afghan Transitional Authority. Since this report reflects cumulative data collection from several field visits over a long period, offices and people interviewed are not enumerated in an appendix.

The team worked closely with a number of Afghans in collecting and assessing information. We wish in particular to thank Mirwais Wardak, Eng. Mohammad Hakim, Eng. Naeem Salimi and Dr. A.W. Najimi.

1. THE PEACEBUILDING DESIGN AND ITS CONTEXT

The transitional structure that emerged from deliberations at the United Nations, in Bonn and Tokyo and in related meetings had five pillars:

- an interim governing structure with a timetable for a transition to a more ‘broad-based, gender-sensitive, multi-ethnic and fully representative’ government
- state capacity to be rebuilt at the central level (with immediate external funding of salaries of government officials)
- large-scale international aid for humanitarian and reconstruction purposes
- a ‘light footprint’ international presence, which meant a UN assistance mission only (with sovereignty residing in the Afghan transitional administration), and a limited international peacekeeping force (only in the capital city)
- the UN rather than the United States would formally take the lead support role during the political transition.

The design incorporated the experience of the UN in previous post-war missions (particularly Kosovo and East Timor), as well as findings articulated in a recent high-level UN study on peace operations (the so-called Brahimi report).⁴ This was a source of both strength and weakness.

1.1. Conflictual Peacebuilding and the Legacy of the War

The post-war situation had many positive characteristics. There was a diffuse but recognizable yearning for peace among the Afghan people. Despite ethnically targeted massacres and some brutal ‘cleansing’ the population did not seem as divided by deep-seated ethnic hostilities as was the case in some other post-war situations (e.g., Bosnia and Rwanda). The collapse of the Taliban was not followed by violent anarchy, but rather a return to customary forms of order on the local level as assorted commanders and traditional leaders assumed power (or changed hats). The terrible drought that had afflicted the country since the late 1990s came to an end during the first, and especially, second year of peace, producing bumper crops in 2002-03. While nobody in Bonn or Tokyo underestimated the difficulties ahead, it was felt that a limited international presence and a fairly standard UN peacebuilding package just might work. Some voices called for a stronger international peacekeeping force to help the transitional government assert its authority over uncooperative warlords in the provinces, but US opposition and Afghanistan’s forbidding history with respect to foreign soldiers favored a ‘light footprint’ in this respect as well.

Yet Afghanistan in December 2001, when the new Afghan Interim Authority (AIA) assumed power in Kabul, was not ‘post-conflict’ in any meaningful sense of the word, and as such it differed starkly from both Kosovo and East Timor. Rather, the post-war situation had serious built-in elements of conflict that were either ignored or deliberately set aside in Bonn. As a result, the subsequent process to build the Afghan state and economy took on the shape of what we might call conflictual peacebuilding.

The Bonn Agreement, it will be recalled, included only the victorious parties to a war won essentially by the United States. As such it was not a conventional peace agreement. The defeated party (the Taliban) was not a signatory, and the agreement had no provision for

integrating the populations associated with it. Nor did the Accords cover issues that are usually included in peace settlements, above all demobilization and reconstitution of a new army. These questions were left to be hammered out in the future as was the issue of the division of 'spoils' among the victors in the war against the Taliban.

Addressing issues left unresolved by the war against the Taliban - plus the legacy of 23 years of previous wars, invasion and revolution - was further complicated by the lack of agreement on constitutive principles on the nature of the Afghan state and society. There was a diversity of views on fundamental issues such as the structure of the state (unitary versus federal), the relationship between state and religion, the nature of rights and the role of women, and the position of the monarch. The legacy of the past had left sharp political divisions relating to the civil war (1992-96), the revolution (1978) and the subsequent Soviet invasion.

A related difficulty concerned the nature of the interim government. The government was installed by foreign forces - the US and its main allies in the war against Taliban - with the Special Representative of the UN Secretary-General (SRSG) playing a prominent role. Washington had hand-picked the Chairman, Hamid Karzai, whose title was later changed to President. Key positions in the cabinet were held by one faction of the winning Northern Alliance (the Shura-e Nezar, dominated by the Pansjiris). The regime faced a legitimacy problem from the start, particularly among traditionally ruling Pashtun tribes who felt excluded and alienated. The psychological impact of Northern Alliance rule in Kabul was deeply felt. "We have to take off our turbans when we go to Kabul, or they will arrest us for being Taliban," some complained. Thus, issues of integration, representation and division of benefits - central but difficult issues in the aftermath of most civil wars - were particularly problematic in the Afghan case.

Within the international community there were different views about the purpose of the post-war operation. A minimalist perspective ('nation-building lite') held that the main purpose was to establish a stable, reasonably effective and Western-friendly government that could prevent international terrorists from making use of Afghan territory. A more ambitious perspective held up a higher standard: the overarching objective was to develop genuinely democratic and rights-based governing structures as well as to promote economic development. A common denominator was to support the modernist, reformist pro-Western elements in the transitional administration.

The maximalist ambitions were reflected in the language of the Bonn Agreement and the formal template for the political transition. In practice, key international actors - above all the US, but also the UN SRSG - at times acted more in line with a minimalist perspective in order to safeguard short-term stability and limit the influence of conservative Islamists. These concerns obviously might conflict with the demands of democratic development. There were fears that if confronted with such demands, the military strongman in Kabul, Marshal Fahim, might stage a coup or withdraw from the political arena, thereby courting renewed civil war. Alternatively, parliamentary elections might increase the power of conservative Islamists (as happened in Pakistan's North-West Frontier Province in 2003). The tendency of the transitional regime to develop vested interests in its own continuation added to the contradictions inherent in the Bonn script.

Another set of tensions emerged between economic and political strategies. As soon as the war was over, and before an interim Afghan authority was put in place, international aid agencies started assessing needs, resuming relief operations, and planning for reconstruction.

UN political strategists, on the other hand, argued for a measured pace. Only an Afghan transitional structure could set legitimate priorities for reconstruction and had to be in place before the aid agencies went into high gear.⁵ Later, when Afghan officials had a firmer hold on financial and reconstruction policies, the tension between political and economic strategies surfaced in a different form. Criteria of economic efficiency and growth - and a premium on rapid, tangible results - often clashed with political criteria such as the impact of aid on impending elections, or equity among provinces in the distribution of reconstruction projects.⁶

1.2. Waging War While Building Peace

The ongoing war between the US-led Coalition forces and suspected Taliban and Al-Qaida militants served to sharpen the conflictual part of the peacebuilding process. The constraints of trying to build peace in the shadow of the 'war on terror' were numerous. Most widely noted was the American and British use of local militias as mercenaries. This strengthened the warlord phenomenon, and indirectly the drug industry and the illegal economy as well. As villages were caught up in the military campaign of the Coalition forces in the Southeast, deaths and detentions of civilians created local resentment against the foreign military forces and, by association, the Kabul regime as well. Attacks by militants against 'soft' targets, notably aid workers, hampered relief projects and economic reconstruction. The deteriorating security situation created a preoccupation with short-term stability within the transitional administration and among its foreign supporters even when this preoccupation conflicted with the broader aims of democratization.

Equally important, the US focus on offensive operations rather than peacekeeping meant that Washington for almost two years failed to support calls from Karzai, the UN (both Kofi Annan and his SRSG) and many aid organizations for an expanded peacekeeping force. No other states were willing to go in without active US support. As a result, the UN-authorized peacekeeping force, the International Security Assistance Force (ISAF), was deployed only in Kabul, and not in the provinces. Two years after Bonn, a minor expansion of ISAF was underway, although a possible doubling of the force was being discussed in early 2004. Afghan army troops were only slowly replacing locally-controlled militias in the war against the militants. The security situation had deteriorated markedly in the second half of 2003, especially in the south and southeast, and drug production increased sharply.

1.3. International and Regional Support

The Bonn meeting had taken place against the backdrop of unprecedented international unity of purpose towards Afghanistan. For the first time in recent history, the neighboring states and the large powers - the Six Plus Two grouping in the UN - seemed to be pursuing compatible strategies. The US, Russia and Iran had assisted the Northern Alliance in the war against the Taliban. After the September 11 attack in the US, Pakistan's government had been persuaded to cooperate with the US against the Taliban and to support the new Afghan Interim Authority. In the UN more generally, there was widespread agreement that the international community must engage itself decisively in Afghanistan, to prevent the country, *qua* 'failed state', from sliding back into civil war and becoming a sanctuary for drug production and terrorists. Failure to engage decisively in the early 1990s, it was felt, had contributed to the civil war and the rise of the Taliban. With this in mind, the international community responded to the defeat of the Taliban by collectively supporting the Bonn

process and promised to fund relief, reconstruction and the return of some 3.4 million Afghan refugees living in neighboring countries.⁷

Two years after Bonn, international commitment and unity of purpose remained strong. Despite frequent bickering over the magnitude and speed of the aid flows - and the growing discrepancy between official Afghan requests and the size of pledges on the eve of a second major international conference planned for early 2004 - there was no obvious donor fatigue or disengagement. A division of labor for assistance in the important security sector had been defined in a sequel to Bonn, in which the UK would take the lead in controlling drug production, Germany would train the police, the US would reform the army and the Italians would support legal reform. The agreement on a division of labor provided a structure that helped tie in the aid commitment. The Afghan-centered structure of Consultative Groups (CG) and Advisory Groups (AG) served a similar purpose. By early 2004, the plethora of aid organizations, political missions and multinational military forces operating in Afghanistan conveyed the impression of a sustained, collective international engagement to rebuild the country.

The most important external event to affect the Afghan operation since Bonn was the US invasion of Iraq in March 2003. On balance, the invasion probably served to strengthen the international engagement in Afghanistan. The problems encountered by the occupation forces in Iraq demonstrated to many, above all in Washington, the need to 'hold the fort' in Afghanistan. This seemed all the more important as the security situation in Afghanistan deteriorated in 2003 and revived fears that the country was precariously perched on the edge of a precipice. To help prevent a slide over the edge towards renewed war and Islamic militancy, NATO took over the ISAF command in August 2003. The change signaled an important institutional commitment in the security sector. Initial concern that the US government itself might reduce its involvement did not materialize. On the contrary, Washington in mid-2003 sent a new ambassador to Kabul, Zalmay Khalilzad, an Afghan-American with close ties to the White House, who replaced a career diplomat. In late 2003, Washington also sharply increased aid, expanded technical assistance, and actively involved itself in the Afghan constitutional process to support its preferred legal design and candidate.

Among the international actors, the US had a singular importance. The Bush Administration's willingness to use the military and economic power of the US to promote its interests in Southwest and Central Asia, and its aggressive use of America's superpower status in relation to allies, made the US by far the single most important foreign actor on the Afghan scene. The second most important actor was probably the SRSR. Lakhdar Brahimi enjoyed great prestige by virtue of his previous UN activities, including in Afghanistan, his role in designing the Bonn Agreement, and his familiarity with Afghanistan. With these assets, Brahimi had the possibility of create some space for an independent UN role despite the towering US presence. Other countries had niches, the international financial institutions, especially the World Bank, played an important role in reconstruction, and the plethora of NGO's added to a bewildering number of aid actors and coordinators (AREU published a 218-page "The A to Z Guide to Afghanistan Assistance," with a second edition in 2003).

A high degree of international unity did not preclude competition. The US had the advantage of having selected the chairman, and later president, of the transitional regime. Other key players in the transitional government (ministers of interior and finance) were Afghan-Americans who had returned from exile in Washington. Other governments had preferred candidates and factions as well: Moscow reportedly provided aid to the powerful minister of

defense, Iran had ties on both the national and provincial levels, and Pakistani groups – including the military intelligence agency, ISI - were said to support remnants of the Taliban. As external actors and internal factions repositioned themselves in the reconstruction process, a familiar pattern of competitive patron-client relationships with Afghan power brokers started to appear.

2. STATE-BUILDING

Creating a central state apparatus in Afghanistan was at the top of both the Bonn and Tokyo agenda. With the sudden defeat of the Taliban, the illegal economy and warlords surfaced as the principal structures of power. Reconstruction and peacebuilding efforts, therefore, focused on restoring an effective and legitimate state apparatus. Independent experts supported this strategy as well.⁸

2.1. Creating Central State Capacity

What kind of state should be created? Three guiding principles emerged from deliberations in Bonn, New York and Tokyo: the state would be subject to democratic controls, the economy should be governed by market forces, and sovereignty would rest with the transitional authorities (not the UN, as in the transition in East Timor). With these guidelines, the international community immediately set about creating state capacity by funding salaries and providing technical assistance to the Afghan Interim Authority.

UNAMA, UNDP and the World Bank took the lead in creating what amounted to emergency state capacity at the central level. This included establishing a trust fund for government salaries and assistance to planning and financial management. During the first two years, creating a capacity at the central state level was first priority, with reforms on the provincial level to follow. Even in mid-2003, about half of the government salaries paid for out of the Afghan Reconstruction Trust Fund (ARTF) were for officials in Kabul. By then, a small but significant core of capacity had been established, in particular in the Ministry of Communication (MoC), the Ministry of Finance (MoF) and the Ministry of Rural Rehabilitation and Development (MRRD).

The Ministry of Finance became the driving force in developing this strategy further by asking donors to channel funds to the Afghan administration rather than the UN aid agencies. The pace accelerated in late 2002 as the UN-led CAP process for mobilizing funds was replaced by the Afghan-structured Consultative Group arrangement.⁹ This gave some reality to the aspiration expressed in Bonn that international actors would have 'a light footprint', leaving the Afghans in charge.

Payment of government salaries made it possible to resume basic services in some sectors, notably education (teachers previously funded by NGOs were put on the government payroll). One of the most frequently cited reconstruction results - and possibly the most visible and widely shared peace dividend - was the rapid increase in enrolment. Three million students were in primary school in 2002, according to the United Nation Children's Fund (UNICEF), and four million by March 2003, according to the Afghan Transitional Authority (ATA). One-third were girls. By contrast, the total student population during the Taliban regime was just under 1 million.¹⁰

The Rentier State

Donors were impressed by the early presentation of a coherent and Afghan-led strategy for reconstruction. A National Development Framework (NDF) was prepared for the donor meeting in April 2002, and a National Development Budget (NDB) was ready for the October 2002 meeting. Reaffirming their willingness to fund state capacity, donors promised to cover almost two-thirds of the operating budget of \$349 million for 2002-2003. Most of this was for government salaries. Domestic revenues had initially been estimated at \$83 million, but by the end of the fiscal year (March) the transitional administration had managed to collect \$132 million.¹¹ While significant, it was still a symbolic manifestation of central state power. The operating budget for the following year had a similar donor-dependent framework: domestic revenues were expected to generate only 200 of the 550 million dollars.

At one level, the dependence did not worry Afghan budget officials. In the larger picture, \$350 million to keep the government running for another year did not seem much for a donor community that in Tokyo had pledged \$4.5 billion over a five-year period. Yet the operating budget came on top of a development budget of \$1.8 billion for 2003-2004, which was wholly dependent on foreign aid, and this raised broader issues of dependence and sustainability.

Foreign funding of government salaries meant a direct dependence on external sources that touched fundamental questions of national integrity and legitimacy. That transfers were made through a trust fund administered by the World Bank under the supervision of the other development banks and the UNDP did not materially alter this fact. Equally significant was a vision of future development where the importance of foreign funds remained paramount. The costing exercise jointly done by the ATA and international aid agencies in preparation for the March 2004 international conference on Afghanistan estimated the proportion of domestic revenues to foreign financing to be in the order of 1:8 for the next seven years (2004-2010).¹²

Dependence on foreign funding of this magnitude necessarily generates primary accountability towards the foreign patrons and a related sensitivity to their concerns. By contrast, collection of domestic tax revenue has an important democratic function by encouraging the government to be accountable towards its own people. As a financing structure the former is typical of the rentier state that has characterized Afghan history since the reign of King Abdul Rahman Khan in the late 19th century.¹³ At the present juncture, however, a rentier structure works fundamentally at cross purposes to the political objective of the Bonn Agreement, which is to create a democratically accountable government – that is, accountable to its own people.

Capacity Building *versus* Capacity Enhancement

Efforts to create rapid state capacity by using foreign consultants and subcontractors raised similar concerns. Capacity enhancement by contracting foreign expertise had started as an emergency measure. The practice was first used in the Ministry of Finance, and subsequently adopted in a major way in the National Solidarity Program (NSP), one of the principal ‘national programs’ in the early reconstruction phase. The division of labor was as follows: The ministry - in this case MRRD - formulated policy with the assistance of foreign advisors. NGOs bid on projects for implementation. Two international agencies, the German GTZ and

an American NGO (Development Alternatives, Inc.) organized the bidding process and provided oversight. A similar structure was in 2003 being planned for provision of health services.

The Ministry of Finance had pioneered the use of international companies for procurement and auditing (e.g. Crown Agents and KPMG) in early 2002. At the Dubai meeting of donors in September 2003, the Minister of Finance, Ashraf Ghani, announced that capacity enhancement through international sub-contracting was to become a general policy - the line ministries would formulate policy, NGOs would implement, and international management firms would be hired to do the administrative work of the line ministries through project preparation, contracting, and oversight.¹⁴

The strategy reflected in part the inoperative nature of many ministries and the difficulties of civil service reform. A civil service commission had been established under the Bonn Agreement, but two years later had done virtually nothing. As the government explained in Dubai, firing civil servants was unpopular and could undermine peacebuilding efforts. Many ministries represented political fiefdoms. In one ministry, for instance, 500 new staff were added to the payroll soon after the Bonn Agreement, all belonging to one ethnic group. In this situation, new technocrat ministers did not fire incompetent staff but sidelined them by working with a small circle of their own choosing. In a ministry that handled large amount of donor funds, notably the MRRD, this meant additional staff were needed. The Minister in this case hired senior Afghan NGO managers as consultants and used international agencies to administer programs such as the NSP.

The enhancement strategy based on foreign contracting made it possible for the Ministry of Finance to argue that Afghanistan had sufficient absorptive capacity to receive vast sums of foreign aid. By late 2003 the Ministry suggested 'needs' were in the range of \$30 billion for the next five to eight years, almost three times the initial needs assessment prepared by international aid agencies for the first pledging conference in Tokyo. The strategy resembled an international market model of state administration, and as such was consistent with the Ministry's broader reconstruction and development strategy (see chapter 3).

In preparation for a new international conference on Afghanistan, there appeared to be some moves to modify this model with greater emphasis on local capacity building.¹⁵ A process of selective reform of the central ministries (Priority Restructuring and Reform, PRR) was on the drawing board, as was a related plan for core management units within the reformed ministries (Program Management Unit, PMU). The key question remained unclear, however. What would be the balance of national and international personnel in PMUs in the ministries selected for reform? And would foreign personnel be used to build local capacity rather than execute policy directly?

By late 2003, there was little evidence that capacity building was being pursued on a broad front. The policy discussion focused on reform by importing international administrative capacity and simultaneously circumventing the stalled civil service commission by hiring a small number of Afghans on merit and a separate salary scale. It may be indicative that the costing plan for the next seven-year period prepared jointly by the ATA and international aid agencies designates very limited funds specifically for local capacity building.¹⁶

Whichever way policy eventually develops, the general implications are clear. Enhancing capacity through foreign sub-contractors might well produce the quick results that are widely

deemed important to the credibility of the transitional administration, the progress of the peacebuilding process, and the satisfaction of donors. Weaknesses relating to cost and sustainability are equally obvious. Reputable international management and auditing firms are notoriously expensive (Bearing Point and Deloitte were among those with ATA contracts in 2003), donor-seconded experts and international NGOs almost equally so. The Ministry has to date provided no estimate of the costs of its enhancement strategy but cost is one reason why reforms will be implemented gradually. Technocrat-led ministries that are most open to change and 'speak the language' of the donors will be first in line for reform. Thus MoF, MRRD and the Ministry of Health were initially selected, while the Ministry of Agriculture - said to be run by 'a warlord' - was not. The selective pattern of capacity enhancement raises further issues of equity and priorities.

More generally, by focusing on short-term gains, the enhancement strategy is not an approach to capacity *building* but rather a substitute for it. A policy that deliberately develops state dependence on foreign subcontractors - be it agencies, NGOs or private firms - can hardly be said to create state capacity. Rather, a dual structure *within* the Afghan state was by late 2003 taking form, as strikingly manifested in physical configurations. In the Ministry of Finance and MRRD - the two most reformed ministries - the minister with a small staff of mostly foreign consultants was located in a compound separate from the rank and file of the department. In the case of Finance, the two were even in separate buildings in different parts of Kabul.¹⁷ It seems safe to assume that the isolated rank and file of civil servants were marginal to the functioning of the ministry and were, mostly, 'drinking tea'.

If this trend develops, international staff will assume an increasingly significant role in administration and implementation of key sectors of public policy, and to that extent also in policy. Apart from the minister and some close advisors, Afghan officials in the same sectors will mostly form a second tier in terms of decision-making importance, salaries and status. Arguably, a structure of this kind will make it more rather than less difficult to build local capacity in the future.

Sustained and widespread use of international staff to administer as well as implement policies may also undercut the legitimacy of the new Afghan state. One claim to legitimacy is the ability to deliver public goods. To validate that claim, the state cannot merely administer foreign funds and hire foreign management firms to supervise the (partly foreign) NGOs that deliver the services on the ground.

2.2. The Central State and the Regions

State-building requires the central state to gradually assert its authority at the local level. Two years after Bonn, limited headway had been made in this respect. Critics routinely referred to Karzai as 'the mayor of Kabul', or the client of the US (he still had American bodyguards), while Kabul and its supporters generally denigrated local power holders as 'warlords'. The evolving relationship between Kabul and the provinces was shaped by several factors. The question of who controlled the central state cut to the core of the legitimacy issue and was important in determining the authority of the central state at the local level. Also important were central state strategies to assert itself on the provincial and community level, perceptions in the provinces of the transition process, and the political economy of center-regional relations.

Control of the Central State

After Bonn, a main concern, especially in the Pashtun areas, was the degree to which a small ethnic-political faction (the Pansjiris) had come to monopolize power at the central level. During the next two years, their military presence in Kabul, skilled diplomacy and international support enabled them to retain much power, although this was increasingly challenged. The Pashtuns seemed to close ranks against this and other minorities during the Constitutional *loya jirga*, for instance. Divisions within the transitional administration, moreover, had grown more complex. Members of the government were identified not only with reference to their ethnic background and political affiliation with the main political parties or strongmen that had emerged during jihad. Other reference points were used such as ‘former bureaucrats’ ‘returned from the West’, ‘former NGO workers’, or simply ‘reformers’.

A survey of the background of high-level officials in the transitional administration suggests a more complicated picture than a straightforward Pansjiri domination. Data was collected for this report on 96 members of the ATA in late 2003, involving ministers and deputy ministers, as well as chairpersons and deputies of the state bank and the various commissions established by the Bonn Agreement. The results were:

*By ethnic groups:*¹⁸ 45 % Pashtuns, 32 % Tajiks, 13 % Hazaras, 9 % Uzbek/Turkman and 1 % others.

By political affiliation: 35 % affiliated with Jamiat-e Islami/Shura-e Nezar, 34 % recorded as ‘independent’ (former government officials or others returned from exile, former NGO workers), 9.5 % belonged to Hazara-based parties, 5.3 % to the conservative Islamist Sayaff, another 5.3% identified as followers of the religious leader Gilani, 3.5% supporting the northern, Uzbek general Dostum, while the rest, 7.5 %, were identified as ‘others’.

In terms of ministerial control, however, key persons within Jamiat-e Islami/Shura-e Nezar controlled three important ministries (defense, education, foreign affairs) as well as the internal security agency (Amniat-e Milli). Members and affiliates held ministerial positions in five other ministries (civic aviation, *haj* and religious affairs, justice, refugees and repatriation and public health) and the position of chairman of the Constitutional Commission. They were represented by one or more deputy minister in a total of thirteen ministries, of which seven were led by a non affiliated minister.

Strategies of the Central Government

The formal administration inherited by the Afghan Interim Authority was quite centralized. In the provinces, some civil servants of the line ministries had remained on the payroll as well as in their offices throughout years of war and turbulence.¹⁹ In late 2001, while in theory controlled by Kabul, most were dependent upon local leaders who reasserted themselves after the Taliban. This was particularly the case in areas with strong self-appointed governors. In Herat, people said, “nobody has a job without the approval of Ismail Khan.” For the central ministries to assert their authority in provincial administration required, in the first instance, control over the payroll. Even this was difficult. Funds were insufficient to cover all ministries, and the payroll system was in disarray. Even two years after Bonn, the Ministry of

Finance was struggling with inflated or unverifiable registers, trying to put in place a basic system of payroll identification and oversight.

The central government also used its formal powers to appoint key officials and issue decrees, but with limited success. Policy guidelines were issued to provincial leaders, but largely ignored.²⁰ Karzai changed governors in some troublesome provinces (in 2003 in Zabul, Paktia, Kunar and Kandahar) but, as the new Kandahar governor, Eng. Pashtun, lamented, their ability to bring about change was limited as long as the rest of the local power structure remained intact. Moreover, the much-publicized change of governor in Kandahar did not make other leaders with a strong local power base follow suit, such as General Dostum and Ismail Khan.²¹ On the district level where so-called second tier 'warlords' held sway, local power structures remained largely unaffected by the government in Kabul.

In a parallel move, the transitional administration adopted a reconstruction strategy to reach communities at the village level directly. The aim was to create a sense of popular empowerment, thereby weakening the hold of existing powerbrokers on the provincial and district level while simultaneously creating allegiance to Kabul. The main instrument, the National Solidarity Program (NSP), was modeled on the World Bank's scheme for 'community-driven development'. A flagship of the early nation-wide programs, the NSP distributed small block grants directly to the villages, where elected village councils in turn would determine spending priorities.

Similar programs have been used elsewhere, but mostly in less conflictual situations and with a less ambitious political objective.²² Two years after Bonn, the NSP was just underway. An early review found it to be slow as well as bureaucratically cumbersome and costly.²³ Current plans call for a four-year program to cover all of Afghanistan's approximately 20 000 villages, but only 1450 villages had been included by the end of 2003, and NGO implementing partners were on one-year contracts. One major reason for the delay was that the NSP was to serve as a vehicle for the political transition process. Kabul wanted to ensure that villagers knew the cash grants were coming from the government, even though NGOs were organizing the local consultation process. The Ministry of Finance and MRRD further insisted that elections for the village community councils should be by secret ballot so as to prepare people for the upcoming national elections.

Long-term involvement seems necessary to generate allegiance or 'buy peace'. Several Afghan villages have been the site of aid projects from different sources over the years, some with long-term presence and others on an ad hoc basis. In such areas, the NSP may seem as one more project that – while welcome and valuable – does not constitute part of a political contract. Uncertainties remain. For example, local village decisions must be coordinated to ensure that each village does not build a health center. Sources of long-term funding and operating costs remain to be clarified.

More conventionally, the transitional administration tried to work with existing power structures at the provincial level to identify reconstruction projects to be funded through Kabul. The prototype here was the National Area-based Development Program, run by the MRRD and UNDP, where provincial governors helped establish district-level development priorities in their respective provinces over a two-year period commencing in 2002. The project had a modest start, with plans for funding projects in 10 priority areas that had suffered the most from armed conflict, human displacement, and natural disaster.²⁴

Views from the Provinces

Limited surveys and much anecdotal information are available on attitudes in the provinces.²⁵ They show, first of all, dramatic differences according to region. For instance, one NGO asked sample villages in different regions to rank the present government compared to previous regimes (the Taliban, the communists, and the mujahedin period). While Karzai generally fared best - except in Kandahar where the present and all previous regimes except that of Zahir Shah were voted down - the attitudes varied considerably by region.²⁶

The credibility as well as the legitimacy of the Karzai government continued to be questioned, especially in some Pashtun areas. Just south of the capital, villagers in Wardak portrayed the government as divided and weak. They noted that Kabul was unable to prevent armed groups from operating freely in different parts of the country, while in the South-East militants attacked foreign and Afghan troops as well as aid workers. In this situation, the villagers had few reasons to support a government that at the outset they felt was non-representative and hence carried little legitimacy. Asked why they did not support the Karzai government more actively against the militants, the villagers answered: "What will happen to us tomorrow if the Taliban or Gulbuddin get back in power? Can anyone assure us that this will not happen?"

Attitudes towards the central government seem strongly influenced by the nature of administrative rule at the local level. Uruzgan province in the South is notoriously badly ruled, with forcible tax collections, use of torture, harassment of political opponents, and with local commanders controlling the police and the courts. Taliban and associated militants are said to control several districts. The province governor was appointed by Karzai to put some order into the place; in consequence the local people tend to blame him and his government for all that is wrong in the area.

In Ghazni province the lack of good governance also rebounds on Kabul mainly because the transitional administration has not succeeded in installing better local officials. The governor in late 2002 was a youngish commander and appointee of the old mujahedin leader Sayaff (who had no position in the ATA), while the deputy governor was a former *jihad* commander, an ex-Taliban official, and a tribal leader. "We hoped we had seen the last of these people" a local *shura* member complained in late 2002. By April 2003 the Hazara population in the Jaghori district of Ghazni refused any contact with the governor due to Sayaff's past atrocities against the Hazaras.

In Herat, by contrast, the economy has revived, trade is flourishing, and the local strongman, Governor Ismail Khan, ensures public order. While strongly criticized by international as well as local groups for his heavy-handed rule, Ismail Khan has undoubtedly more support in the province than does the Karzai government. Relative peace and rapid economic growth are part of the explanation; so is the appeal of a governor who spends locally much of the revenue he collects in this currently very rich province. With control of local administration down to the district and sub-district level, Ismail Khan has built a strong base. While political opposition mounted during elections to the Constitutional *loya jirga*, that does not necessarily mean popular preference for a governor appointed by Karzai. A Kabul-appointed governor would probably come from outside the province and be viewed as mostly responsive to Kabul. Local success thus can make localism trump centralism.

As seen from the local level, legal-formal mechanisms designed to enhance the legitimacy of the central government, such as assemblies and the constitutional process, have limited relevance (see chapter 4). While the *loya jirga* is a traditional institution, it does not necessarily entail a great deal of popular participation. Many delegates selected to attend the 2002 *loya jirga* felt manipulated, and similar complaints were made in reference to the Constitutional *loya jirga* in 2003. Nor did the constitutional hearing process create a strong sense of popular participation. In the absence of more popular empowerment, local commanders and other power brokers will remain central figures on the local scene.

The Political Economy of Center- Province Relations

These limitations notwithstanding, international recognition and support, and the prospect of large reconstruction funds, clearly make the central government a factor to be reckoned with. Provincial leaders who wished to deal with the center within a political framework gave signals in that direction. Thus, Ismail Khan *did* receive the general that Kabul sent out in the second half of 2003 to take official command of the military forces in the region, although the units in reality remained under the control of Ismail Khan and his men. Ismail Khan *did* turn over some \$20 million in tax revenues to the Finance Minister, although this was only a small fraction of the total revenues he collected, and happened only after Minister Ashraf Ghani had repeatedly pleaded and begged.

Local leaders of various kinds meanwhile collected, and kept, most of the revenues raised in the country. Kabul received only 80 million of an estimated 500 million collected in customs duties in 2002.²⁷ As a result, they could easily outbid, say, block grants delivered through the NSP in the competition for local allegiance. *De facto* decentralization of this kind was most problematic in relation to equity issues on a national level. Even if local revenues were spent for local reconstruction and development, as seemed to be the case in Herat, in the absence of national redistribution this would worsen existing inequalities among the provinces. Customs duties are the principal legal sources of revenue and are concentrated along a few important trade routes. National differences in revenue generation are starkly demonstrated by a recent AREU/World Bank study. Kabul and Kandahar together generated some 3 billion afs. in revenue in 2002 (according to data turned over by the provincial office of the Ministry of Finance), while the combined total revenue collected in four other provinces surveyed (Badakshan, Bamyan, Faryab and Wardak) was slightly less than 12 million.²⁸ Given the competitive tribal and ethno-political mosaic and widespread poverty, sharp inequities in expenditure are a recipe for conflict.

The other problem associated with local control of revenues, according to the Finance Minister, is that some 40% of the economy is in the illegal sector, mainly in drug production and smuggling (including arms). From a purely economic view, a large illegal sector need not be a problem - for instance, an estimated 30% of Thailand's thriving economy is generated illegally from drugs, prostitution and gambling. However, the illegal economy in Afghanistan is associated not only with corruption and the drug trade (as in Thailand), and involves some local commanders as well as, reportedly, some government officials on the local and central level. The illegal economy also undermines the centrist policy approach by financing an independent local power structure. Moreover, the US and the Karzai government claim that the drug industry helps finance national and international terrorism.

Combating the drug industry was a major concern of the transitional administration and the international donors, but the UK-led conventional approach in 2002-03 was generally considered a failure. Emphasis on law enforcement and a limited program of crop substitution did not prevent large increases in poppy production compared with 2001, when the Taliban by sheer force succeeded in virtually halting cultivation. In 2003, the UN registered a bumper crop of poppy, including cultivation in new areas.²⁹ While additional funds were committed to the program for 2004, some new strategies proposed were controversial. The US mission, for instance, revealed plans for ploughing up the entire poppy-growing area from North to South in 2004, relying on soldiers (to be contributed by Muslim countries to the Coalition, it was hoped) for guarding the operation.³⁰

2.3. Conclusions

The centrist approach to state building was in part inspired by a progressive rationale. The ultimate aim was to creating a modern, democratic and accountable state for all of Afghanistan. Given the legacy of a weak state and fragmented power, there was no expectation that the process would be quick or easy. This remains the case. In addition, two underlying contradictions in the state-building project that were not so obvious at the time of Bonn have now surfaced. First, the disproportionately heavy dependence on external funding creates an incentive structure where the state has more reason to be accountable to foreign donors than to its own people. To this extent, there is a conflict between the aim of rapid economic reconstruction and democratization. Second, the guiding principles for state-building in Afghanistan were formulated outside the country – in New York, Bonn and Tokyo – and thus conflicted with the notion that the Afghans would be ‘in charge’.

International funding and technical assistance were initially undertaken as an emergency measure to create central state capacity. Two years later, the state remained heavily dependent upon foreign funds for both its operating budget and reconstruction. State capacity building was based on a policy of subcontracting to foreign firms and agencies, enabling the central administration to claim it had capacity to absorb vast amounts of foreign aid money. In both cases, short-term emergency measures appear problematic when recast as long-term policy. Extensive use of foreign subcontractors raises issues of cost and sustainability. Dependence on foreign funds to pay government salaries also touches on fundamental issues of integrity and legitimacy. By late 2003, the Afghan rentier state - a familiar phenomenon from earlier history - was being recreated.

Large amounts of revenue were in fact collected throughout the country - fed by burgeoning trade, a bumper agricultural harvest in 2003 (including a large increase in poppy production), and reconstruction activities stimulated by the return of peace and influx of funds in many parts of the country. However, most of the surplus continued to be collected and retained by local leaders who thereby shored up their power.

With much international attention focused on Kabul - and the visible signs of a boom economy in the capital - the different realities in most the provinces continue to challenge the centrist approach. It became increasingly clear that the state-building venture in Afghanistan was intimately tied to issues of:

- *legitimacy*, i.e. of ‘who owns the state’. Despite the use of both formal-legal and traditional mechanisms to create authority, the Kabul government still had a legitimacy deficit;

- *governance*, i.e. the ability of the state to provide some security, justice and accountability on the local level. The irony was that Kabul tended to be blamed for local misrule over which it had little influence, while local authorities often got credit for local successes;
- *funds*, i.e. funds for reconstruction that might cement alliances and generate allegiance on the local level. The National Solidarity Program was a step in this direction, but possibly neither sufficiently large nor sustained enough to achieve its political objectives.

State building requiring progress on all these fronts is a long-term process, suggesting a perspective of decades rather than years. Meanwhile, pragmatism suggests greater recognition of local power structures where these seem to function relatively well or are amenable to reform.

3. RELIEF AND RECONSTRUCTION

Wartime destruction in Afghanistan was uneven - some areas had been heavily damaged and depopulated; elsewhere there had been little fighting and less direct damage. The impact of the past 2-3 years of severe drought was more widely spread, although some areas (notably 'the hunger belt') were worse off than others. The indirect effects of war were felt throughout the country and expressed in widespread disrepair, dislocation and lack of development for almost a quarter century. In this situation, 'reconstruction' in effect meant 'development'. Recognizing the enormous needs, the international donor community and the new Afghan authorities created a comprehensive assistance program designed to yield tangible peace dividends to Afghanistan's war-battered population.

3.1. The Aid Presence: a 'Light Footprint'?

A large international aid presence typically has a major, distorting impact on a poor and war-torn society. The assistance mechanism for Afghanistan was intended to be different; it was to be only a 'light footprint' as the Afghans rapidly took charge. Having a UN assistance mission rather than direct international administration was part of this logic, as was the early planning for an integrated UN mission. Yet the vision of a 'light footprint' outlined by Lakhdar Brahimi in Bonn and New York was jeopardized when the international aid community rushed into Afghanistan to resume old or start new operations - attracted by billions of dollars in aid money, massive media interest, and desperate needs on the ground. Designed as a standard UN mission, UNAMA lacked the power to control the agencies and never became the slim integrated structure that Brahimi had envisaged.³¹ Similarly, UNDP declared in January 2002 that the UN would institute a salary regime to prevent qualified local personnel from being siphoned off by the international aid sector (usually to secondary positions such as drivers and interpreters), but no corresponding steps were taken to regulate the aid market, and the familiar distortions appeared.

As a result, the relief scene in Afghanistan resembled other post-war situations. Problems associated with a heavy foreign aid presence were particularly severe in Kabul, where enormous pressure on real estate prices and basic services (water, electricity) hurt ordinary city dwellers. As the number of NGOs increased and over one million returning refugees and IDPs ended up in Kabul, the congestion in the city worsened.³² The so-called 'white vehicle syndrome' led to considerable popular resentment. Tapping into this, the Minister of Finance argued aggressively that donors should channel relief funding through the transitional administration rather than the UN agencies. While using a cost-effectiveness argument, the main purpose of the ministry was to assert its control over the aid money. As noted in chapter 3, to some extent it succeeded. The UN fund raising process was adjusted in mid-2002 to suit the budget cycle of the transitional administration. Likewise, UNAMA abandoned the elaborate aid coordination structure which it had spent considerable time constructing in favor of a Consultative Group (CG) mechanism designed by the Ministry of Finance. The international relief agencies started to support the relevant Afghan line ministries, rather than vice versa. By late 2003, the struggle over funding channels had calmed down. The transitional administration had firmly asserted its primacy in principle, and to some extent also in practice. At the same time, UN agencies continued to control the funding of large aid programs (worth ca 800 million dollars in 2003).

In a more fundamental sense, Afghanistan's extreme dependence on foreign funds and expertise made the term 'light footprint' seem misplaced. Two-thirds of the operating budget for the fiscal year 2003-2004 and the entire first national development budget were financed by foreign aid. International technical advisors were assigned to most of the ministries in Kabul, partly also in the provinces. Donors and NGOs participated in, and sometimes chaired, the CG meetings on aid coordination. Although the total number of aid actors was very large, which in theory should give the ATA considerable room for maneuver, a small number of donors accounted for most of the assistance. By the beginning of the 2003-2004 fiscal year (SY 1832), US funds constituted over one-third of the entire national development budget (\$600 million out of 1.7 billion). A few months later Washington announced that it would add another 1.6 billion under the 'Accelerating Success' program to be disbursed by the middle of 2004. Of this amount, 100 million was allocated for seconding American experts to the Afghan public administration. The other main sources for the national development budget were the EC (210 million), with lesser amounts from Japan, UK, the World Bank, and Canada.³³ The IFIs were initially less important as a source of funding because of uncleared arrears with IDA, and because the transitional administration requested grant money rather than loans. The World Bank, for instance, had a very small project portfolio in Afghanistan (100 million during 2002-2003.). The Bank still played an important role as administrator of the principal trust fund (ARTF) and as advisor on policy reform.

3.2. Relief versus Reconstruction

From the very beginning, both the type and amount of aid were a source of controversy between the Afghan administration and the donors. The government's Afghan Assistance Coordination Authority (AACA) estimated that through March 2003, 54% of the aid money had been spent on humanitarian rather than rehabilitation and development programs, thereby prolonging dependence on external sources.³⁴ There was some merit to the complaint. Much of the humanitarian aid was food distributed through the World Food Program (WFP), a standard US in-kind donation. Although four years of drought being replaced by good harvests in Afghanistan in 2002 and 2003, WFP continued to send in huge amounts of wheat. Wheat prices fell to an all-time low, undercutting efforts to revive local production. In some areas farmers reportedly did not even bother to harvest their crop. By late 2003, both farmers and ATA officials were complaining about the continuing WFP operation, noting that it might encourage cultivation of other crops, especially poppy.

Other activities were much more appropriate. UNICEF's 'back to school' program was frequently cited by Afghan authorities, donors and UNAMA as a major, early accomplishment. The same applied to UNICEF's immunization program and UNHCR support for the return of an estimated 1.8 million refugees. There was widespread agreement that these were priority areas of post-war reconstruction. Aid to returning refugees remained a priority in the planning for the first national program during the fall of 2002, representing almost 20% of the total indicative budget.³⁵ With the exception of the WFP food aid, the discussion of relief versus development seemed to be a proxy debate; in reality the issue was not so much the type or purpose of the assistance, but who should control it.

There was remarkably little debate over the alleged gap between relief and development that had featured centrally in the aid discourse for almost a decade.³⁶ Some transitional programs that contained both relief and reconstruction aspects were started immediately, notably in health and education as noted above, as well as two national programs initiated by the transitional administration. The latter entailed the provision of block grants to local

communities under the National Solidarity Program (NSP), and labor-intensive projects under the National Emergency Employment Program (NEEP). Both NSP and NEEP received rapid funding from donors, including transfers from the World Bank's special Post-Conflict Fund. Support to returning refugees and IDPs - a typical transitional problem area - was incorporated into programs with broader development goals. For instance, a high ratio of returnees was one criterion for selecting areas eligible for NSP grants.³⁷

Massive problems remained in the refugee and IDP sector.³⁸ But the difficulties facing returnees in 2002-3 were not simply, or even primarily, due to a lack of transitional mechanisms or funding, but reflected the enormity and complexity of the problem, including lack of protection (for returning Pashtuns in the North), general insecurity, landmines and unexploded ordnance, property disputes and unemployment.

3.3. Priorities of Reconstruction

Assisted by international experts, the transitional administration produced a National Development Framework (NDF) and a National Development Budget (NDB) in record time. A draft NDF was ready in April 2002, a few months after the interim authority had been established, and an indicative NDB had been discussed with donors by the end of the year. Both laid out priorities for reconstruction that helped shape donor contributions. The coordination structure established first by the UN (Program Secretariats), and reshaped by the Ministry of Finance with a CG label, likewise created some order in an otherwise incoherent aid process. With multiple players and often conflicting interests, such harmonization mechanisms were essential.

The twelve priority areas regrouped under three pillars by the NDF and the NDB were a comprehensive list of development needs rather than an identification of priorities. Donors and NGOs were asked to sign up for three or four sectors covered by the corresponding group in the co-ordination structure (sixteen sectoral groups and five advisory groups for cross-cutting issues). The structure was designed to help match the needs identified by the Afghan ministries with the interests of the aid organizations. In practice, the coordination mechanism performed unevenly, with some groups being more structured and efficient than others, partly depending upon the chairmanship.³⁹ More important was the overall dynamic of supply and demand. The donors initially dominated program identification and project selection. By mid-2003 the process had become less supply-driven as the Ministry of Finance established greater control, partly by imposing greater discipline on the demand side through an established budget process, and by insisting on complete information from aid organizations on the total inflow of aid.

By late 2003 a coherent set of long-term priorities had emerged in the form of development budget projections for three fiscal years (2003-2005).⁴⁰ Here, Pillar 1 - Human and Social Capital - still takes a major part of the budget (from 50% in the preceding budget, down to 43%). There is a significant internal reallocation: aid to refugee return is almost phased out, the health sector remains at the same level, whereas allocations for education and rural livelihoods are more than doubled. The size of Pillar 2 - Physical Infrastructure - is increased from 32% to 54% of the total, mainly due to a huge increase in the transportation sector. For technical budgetary reasons, Pillar 3 - Rule of Law and Security - does not include major items such as support to the new Afghan army, mine action, and counter-narcotics, and has shrunk from about 10% in the first budget projection to only a couple of percentage points of the total in the last projection.

The priorities implicit in the activities undertaken during the first two years (2002-2003) had more of a patchwork quality. Five areas stand out, apart from continuing relief-type operations:

- *building core state capacity*: creating high-level decision-making capacity by putting in place a core group of public servants, supported by international advisors while recognizing long delays in the planned broad-based civil service reform; establishing a budgetary process and identifiable payroll registers for the public service
- *financial and trade reform*: currency reform, banking and investment laws (completed in late 2002); trade and customs rate simplification (initiated in 2003)
- *revitalizing the educational sector*: providing schoolbooks, refurbishing schools and reopening schools for girls
- *national programs to provide equity and 'solidarit'*: the NSP (block grants to communities) and the NEEP (labor-intensive emergency-oriented projects).
- *transportation/communications*: restoration of national trunk road system is delayed, but major parts are completed in late 2003; repair of secondary and feeder roads (NEEP projects, priority area for USAID, and in part as WFP Food-for-Work projects).

The rationale for the first item - creating central state capacity - has been discussed in the previous chapter 2. Financial and trade reforms were necessary to give the state a basic economic infrastructure in lieu of informal banking and currency transactions, multiple issuing of currency and diverse systems of customs collection that were inherited from the past. The importance of secular education, especially for females, was self-evident in view of the Taliban's neglect or denial of this area. The national programs (NSP and NEEP) were designed, it seems, primarily to signal that the administration's commitment to rapidly distribute peace dividends, and to do so in an equitable manner. In economic terms, both NSP and NEEP were initially quite small. By late 2003, two years after the interim authority was formed, NEEP had generated a total of 2.3 million labor days. That was equivalent to about one-third of a day's work per member of the labor force if the latter is estimated at 8 million in a total population of 23.5 million.⁴¹ The NSP, as noted in chapter 2, had just started by end of 2003, with required Village Development Councils elected in only one-fourth of the villages selected for the initial phase of the program.

As for communications, Afghanistan's important transit trade and the significance of a good road net for national integration made restoration of the main arteries an early reconstruction priority. If based on labor intensive schemes, road construction could also provide local employment opportunities of the kind often identified as important for stabilizing an immediate post-war situation.⁴² Initial plans and a division of labor were discussed with the major donors (EC, Japan, Saudi Arabia, the US and Iran) and the ADB, but except for parts of the northern route (the Salang tunnel) and the Iran-Herat stretch in the West, rehabilitation met with serious delays. In part, this was caused by the decision of the Kabul government to switch from discussions of loans (with the ADB) to requests for grant money from donors, which meant delays in project preparations. In the end, the US completed its promised portion in late 2003 - the Kabul-Kandahar stretch - but used on a capital-intensive approach involving international contractors (a US main contractor, with Turkish and Indian sub-contractors).

3.4. Principles of Reconstruction

Despite an apparently patchy quality, the early reconstruction activities are coherent in terms of underlying principles of policy. Most obvious is the centrality of the private sector as the engine of growth. Large-scale public works to generate employment through reconstruction were clearly not consistent with this policy perspective. Rather, promoting policy reforms and establishing a regulatory capacity to stimulate the market constituted logical first steps. Slightly down the line, the infusion of massive funds for infrastructural development would follow, and the emphasis on grant rather than loan money made it possible to escape the debt trap. Poverty reduction was to be realized mainly through the creation of wealth and an 'affordable social policy'.⁴³ The state was to be a regulator rather than an implementer of policy. Moreover, as the Ministry of Finance repeatedly emphasized, the state would follow 'responsible' policies by not running budget deficits or resorting to monetary financing of the budget.

These principles were consistently and coherently articulated by the Minister of Finance. Ashraf Ghani expressed a clear vision of the country's reconstruction and development policy, and played an extraordinarily important role in its formulation. In an unusual move, some core economic principles were also incorporated in the constitution – including the importance of a market economy and a balanced budget. The Minister was of course not alone. The entire ATA operated in an international political context that favored market forces, open economies, and a lean state. Since the end of the Cold War, these principles had formed the framework for economic reconstruction in all 'post-conflict' situations receiving large international aid flows. What distinguished the Afghan case was the radical and coherent form that characterized economic policy from the very beginning. The explanation seems to lie in the ideological coherence between a few influential individuals on the government side (the Minister of Finance was an Afghan-American who had previously worked with the World Bank, and some of his advisors were recruited through the Adam Smith Institute in London) and two institutional aid actors that happened to be critically important at the time (the US government and the World Bank).

In line with the market approach, contracts for projects and services were to be awarded through competitive bidding by firms, NGOs and, the Minister of Finance proposed, the UN humanitarian agencies as well. The principles were partly tested out on the NSP (as discussed in chapter 2) and guided the planned reform of the public health sector. The reforms were modeled on a World Bank supported program in Cambodia, with USAID taking a lead role in the planning. Early assessments suggested that privatized delivery of health services might not be suitable in view of Afghanistan's geographic diversity and difficult access to some areas.⁴⁴ Critics warned that the reform would leave poor and remote villages even worse off than at present. A related issue that indicated problems ahead was the reluctance of international private companies executing current USAID-funded projects in the health sector to share information with the Ministry of Health.

A minimal, regulatory, state is probably preferable if the only alternative is a weak and corrupt state. Yet, even a regulatory state has to ensure certain basic conditions for reconstruction to proceed. It needs to provide sufficient security for the market to function, and it must prevent the most backward areas from falling out in the bidding process on reconstruction projects and social services. It is not clear that these conditions can be met in Afghanistan at present.

Regional inequities in Afghanistan are sharp, not only on a city-village scale but also among provinces. The ratio of doctors to inhabitants in Kabul (1:1000) as compared with the remote province of Ghor (1:500 000) is emblematic of inequities within and among provinces.⁴⁵ Although there is no reliable national data on the geographic distribution of aid and rehabilitation projects, it is a commonly agreed that assistance is unevenly distributed.⁴⁶ Certainly, the large presence of UN agencies and NGOs in major cities leads people to believe that these areas are benefiting more than the rural areas. From the perspective of NGOs or international agencies bidding for government projects, there are obvious advantages to work in easily accessible areas, where they are visible, and where a modicum of infrastructure makes it easier to achieve results. A major concern in Afghanistan at present is insecurity, which is increasingly reducing the ability of aid agencies to operate in the southern and eastern provinces.

Against this background, reconstruction policies that are promoting uneven development, even if only in the short term, are particularly problematic. Afghanistan's situation of 'conflictual peacebuilding' suggests that aid must have a short-term dimension where the critical objectives are to promote consensus and compromise by demonstrating equity in the distribution of goods. Areas where insecurity and backwardness combine to create spiraling dissatisfaction would require special attention. The alternative could be the emergence of 'rogue provinces', and an increasingly divided country between a turbulent South and East, on the one hand, and a more stable crescent stretching from the West to the North where rehabilitation and development can move forward.

The overall reconstruction policy chartered by the ATA and the aid agencies reflects a willingness to accept enormous dependence on foreign funding. Budget estimates in the recent ATA/aid agencies report, *Securing Afghanistan's Future*, project a 1:8 ratio of domestic revenues to external funds over the next 7-year period. The Minister of Finance has requested 28.5 billion dollars in fresh aid money for the same period to generate an irreversible growth spurt. The request may be unrealistic; by comparison the international community pledged 4.5 billion for the first 5-year period after Taliban. That was at a time when Afghanistan was at the forefront of international attention.

The heavy reliance on official aid transfers represents in effect a 'hidden state' in the development strategy. Practicing 'no deficit financing' is easy as long as donor governments continue to provide fresh funds. On the other hand, introducing requests for large amounts of foreign funding into the policy discussion has some little noted but important side effects. It tends to raise popular Afghan expectations of rapid growth and recovery to an unrealistic level. While the international community can be blamed if progress and funding are slow (as is now happening), the result may also be negative attitudes among Afghans towards both the government and the foreign agencies.

Snapshots from different locations in late 2003 illustrate the point:

Reconstruction in Practice

- **Kabul** has the looks of a boom town with attendant large-scale poverty and squalor. There is rebuilding on a large scale and streets with shops selling building equipment are congested with traffic. The foreign presence has visibly increased in step with the inflow of aid money. The bustling activity has attracted numerous internal migrants and returning refugees, who have decided go to the capital rather than their home areas. Over one-third of Kabul's population is estimated to be returning refugees and IDPs. The population of Kabul province has grown to 2.8 million as compared to 1.78 million in 1999.¹ Real estate prices in the best areas of the city approach those of downtown New York, but a few blocks away there is squalor. Trading and movement of people has visibly increased over the past year. Five airlines now serve Kabul International airport, while the national airline, Ariana, flies regularly to the provinces and is heavily booked.
- **In Herat** the international presence is less evident. The number of NGOs and UN staff has only increased slightly compared to the Taliban period, the diplomatic community remains limited, and there is a small contingent of US soldiers (PRT). With general public security, although not necessarily individual security, trade has visibly revived. Large numbers of trucks are arriving from Iran and Turkmenistan, and traders are investing in new buildings in the city. The governor, Ismail Khan, has spent some of his very considerable custom duties to refurbish Iranian style parks and recreation areas. Signboards along the major roads with paintings of 'shahids' – the men killed in the fighting against the Russians – help keep the *jihadi* spirit alive as a foundation for political power. The Pakistani consulate, which was very active during the Taliban regime, remains closed, but there is a long visa queue outside the Iranian consulate, as well as a newly opened Indian consulate.
- **In the Pashtun heartland** in the South and Southeast the situation is very different. The number of NGOs in Ghazni and Wardak has declined, partly due to security concerns. Afghan staff are targeted and accused of being 'agents of foreign powers', whether they work for international or national NGOs. Schools are burnt down, just as as they were during the Soviet period in the 1980s. The Coalition forces patrol the roads and attack-helicopters hover over the Kabul-Kandahar road. The road is also patrolled by the local police, although irregularly. The local administration is virtually non-existent, and what is there is run by mujahedin commanders more used to develop battlefield strategies than rehabilitation plans. Agriculture still suffers from the after-effects of the long drought, and many men seek employment outside the area. Only a few refugees or IDPs have come back to their homes. The villagers watch the trucks heavily loaded with commercial goods that make their way to Pakistan, while trucks with relief assistance pass the other way towards Kabul and central Afghanistan. In some places, villagers struggle to collect enough money to meet the ransom that Generals Dostum and Atta demand for the release of their relatives who were taken prisoner while fighting for the Taliban. There is growing dissatisfaction with both local and national authorities, and a growing feeling that the Pashtun have fared badly in the so-called peace process, the benefits of which many have difficulty identifying.

3.5. Reassessing Needs and Costs

The visible results of the reconstruction activities during the past two years have been relatively few and scattered, leading to a debate about the adequacy of funding. Several types of benchmark have been used.⁴⁷ Comparison of disbursements with pledges is one. However, as one study points out, this standard only measures donor performance in honoring promises, and does not relate to needs or goals on the ground. Similarly, comparison of per capita aid money in Afghanistan with other 'post-conflict' situations (East Timor, Rwanda, Kosovo and Bosnia) does not reflect actual needs – which may vary considerably from one country to another – but measures international equity in post-war aid distribution.⁴⁸ The initial needs assessment prepared for the 2002 Tokyo pledging conference was derived from the specific conditions of Afghanistan, but lacked a clear definition of 'need' and was done in an unsystematic manner.⁴⁹

While previously arguing for large funds on the grounds of international equity and promise keeping, the transitional administration has more recently shifted its ground. In preparation for the next budget and the international conference on Afghanistan scheduled for late March, the administration is linking its reconstruction objectives to the Millennium Development Goals (MDG).⁵⁰ To translate these goals into budgetary figures and assess implications for aid, the MoF undertook a costing exercise with the support of the World Bank, ADB, IMF, UNAMA and UNDP.⁵¹

As the resulting report, *Securing Afghanistan's Future*, shows, this is a politically compelling and technically doable exercise. The World Bank has elsewhere assessed the progress made by low- and middle-income countries towards the MDG.⁵² The Swiss-based Global Governance Initiative of the prestigious World Economic Forum released a study in January 2004 on the aid implications of the MDG, concluding that the international aid community has so far provided only one-fourth of the resources necessary to achieve the goals by 2015, as agreed to at the Millennium Summit.⁵³

At the same time, the MDG focus clearly transforms the discussion of aid to Afghanistan from the context of post-war reconstruction to that of development more generally. Several countries in Africa and South Asia are also far from reaching the MDG.⁵⁴ For donors, this raises some basic questions:

Why prioritize Afghanistan over other countries that are also a long way from reaching the MDG?

The Afghan administration has a ready answer: Unless the international community provides adequate assistance, Afghanistan will become a 'narco-mafia state'. This notion is currently being advanced by administration officials. In its crude form the argument resembles blackmail; even its more sophisticated version misplaces the focus of attention, which surely should be on the possibilities for effectively meeting the most pressing needs of the Afghan people, rather than on counterfactual hypotheses about the sources and costs of a 'narco-mafia state'.

Does Afghanistan have the absorptive capacity to effectively use the almost 30 billion dollars in aid which the administration is requesting for the next 7-year period?

The administration has a ready answer for this as well: Sufficient absorptive capacity can be imported in the short run. The pros and cons of this strategy have been discussed in chapter 2.

3.4. Conclusions

The move from relief to reconstruction has been slow, with few large-scale visible demonstrations of the benefits of peace. This is not merely a matter of shortage of funds, but reflects policy priorities and strategies.

The overall Afghan reconstruction framework holds out a vision for long-term, private-sector driven growth that, even if it succeeds, is very likely to create highly uneven development in the short-run. Implications are particularly negative in the context of ‘conflictual peacebuilding’, which typically requires inclusiveness and equity in the distribution of goods and services. Unless balanced by special countermeasures, a market approach to reconstruction may exacerbate current inequalities. Central in this respect is the role of the Pashtun areas in the South and Southeast.

The 4-year drought that ended in 2002 affected the country unevenly. Among the provinces that suffered most were the Pashtun areas of the South and the Southeast that are now experiencing growing insecurity related to the war. These are also areas with considerable popular alienation from the transitional administration in Kabul. Combined, these factors may produce ‘rogue provinces’ that lie beyond the influence of the central government. This further raises prospect of a country divided between a violent and stagnant part, as against a stable region where development can take place.

Greater influx of foreign funds by itself will not correct current and potential future imbalances. What matters is how available funds are being spent. The current request by the transitional administration for massive inflows to prevent Afghanistan from becoming a ‘narco-mafia state’ does not address the critical, structural imbalance between regions or identify corrective measures.

4. POLITICAL TRANSITION

The Bonn Agreement provided a detailed structure and function for an interim authority and set a clear timetable for the political transition to a “broad-based, gender-sensitive, multi-ethnic and fully representative government.” Power would be transferred from the previous UN-recognized government (with Northern Alliance leader Burhanuddin Rabbani as president) to an Afghan Interim Authority (AIA) on the 22 December 2001. Within six months an Emergency *loya jirga* would be held to “decide on a Transitional Authority.” Within 18 months of its establishment, the Afghan Transitional Authority (ATA) would convene a Constitutional *loya jirga* to adopt a new constitution. General elections to a “fully representative government” to replace the transitional authority would be held “no later than two years” after the Emergency *loya jirga*. The agreement further established a number of commissions that would be part of the political process - an Afghan Independent Human Rights Commission, an Independent Civil Service Commission, a Judicial Commission, a Special Independent Commission for the Convening of the Emergency *loya jirga*, and a Constitutional Commission.

With some exceptions, the process moved like clockwork. The Emergency *loya jirga* took place on time in mid-June 2002, the Transitional Authority was established, a constitution was drafted and a Constitutional *loya jirga* convened in mid-December 2003, only a month behind schedule. Most of the required commissions were formed (although not all were equally operational). By late 2004 preparations for general elections were underway, although it was highly doubtful they would be completed by June 2004 as required in the agreement. Keeping to the timetable laid out in Bonn was rightly considered an achievement, although the way the transition unfolded was probably more important.

4.1. The Transitional Cabinets

The Bonn Agreement specified the composition of the interim authority, and most of the cabinet members had participated in the conference. The main achievement of the short-lived AIA was to establish an internationally accepted Afghan government, the prescribed commissions and to ensure that the Emergency *loya jirga* took place on time. The political infrastructure for the subsequent Transitional Authority was laid down, and Chairman Hamid Karzai emerged as a central figure. Karzai was a domestically unifying force and an internationally respected face for the interim authority. Yet he had returned from exile as the candidate favored by the United States, and his dependence on Washington - symbolized by his American bodyguards - created legitimacy problems from the beginning. The other key positions in the AIA were controlled by a small faction of the Northern Alliance, which had also come to power due to the American military intervention - the Shura-e Nezar troika of Mohammed Qassem Fahim, Abdullah Abdullah and Yunus Qanooni, heading the Departments of Defense, Foreign Affairs and Interior, respectively. With some notable exceptions, the ministers in the AIA were chosen due to their role in the war against the Taliban. The critical task in the transition period was to establish a broader base of legitimacy.

The prominence of the Minister of Defense - whose troops had entered Kabul without waiting for US approval in the last phase of the war - also meant that the Bonn provision specifying the withdrawal of Afghan military units and heavy weapons from the capital was not

implemented.⁵⁵ While the International Security Assistance Force (ISAF) made a significant contribution to creating a neutral political space in Kabul, it nevertheless operated within constraints set by the Minister of Defense. This point was underscored when ISAF was sidelined in a critical dispute during the Emergency *loya jirga*, demonstrating that Kabul was not, after all, an entirely neutral ground (see 4.2 below).

While the Interim Authority had some Pashtun faces - most prominently Chairman Karzai, Finance Minister Ghani, and until his assassination in July 2002, Interior Minister Haji Qadir - the locus of power was clearly the Shura-e Nezar. The *shura* (council) was established by the late Ahmad Shah Masood and remained dominated by Tajik commanders from the Pansjir Valley. This situation created a strong sense of marginalization among the Pashtuns – who were the traditional rulers and Afghanistan’s single largest ethnic group. The uneven power structure was maintained in the subsequent transitional authority and deepened the legitimacy problem.

The uneasy relationship between Pashtuns and the government was also reflected in the debate about the respective roles of the former King Zahir Shah, his family and followers. In exile since 1973, Zahir Shah returned to Afghanistan in April 2002, and agreed to open the Emergency *loya jirga*. The King enjoyed relatively broad support among the otherwise deeply divided Pashtun groups, and was acceptable to many people in other ethnic groups as well. While the Islamist-oriented *mujahedin* groups opposed the King for having distanced himself from the *jihad* against the communists, many Afghans who remembered the subsequent devastating civil war among the *mujahedin* parties supported the King for that very reason. To counter his appeal in the early transitional phase, the Shura-e Nezar used every opportunity to diminish his influence; for example, by not permitting his return to Kabul to be broadcast on national television.

4.2. The Emergency Loya Jirga

The Emergency *loya jirga* that took place in Kabul from 15 to 22 June 2002 was the first milestone in the political transition process. The interim administration selected in Bonn was to be replaced by one mandated by a traditional Afghan grand council, thereby placing the next phase of the transition on more legitimate ground. In retrospect, the Emergency *loya jirga* was important in defining the rules of politics that emerged in the post-Taliban era, and is should be considered in some detail.

It was feared from the start that the *loya jirga* process would be hijacked by existing power holders - including former commanders elevated to positions in the transitional authority, and powerful local commanders. Both the process of selecting delegates (indirect on the district level) and the proceedings of the council meeting were open to abuse. Concern regarding this matter grew as a range of procedural safeguards, that had been established for the Emergency *loya jirga* by the Commission and UNAMA to limit the influence of the military commanders, were bypassed. The Commission had set these criteria for selection: The delegates should not have a record of drug production, abuse of human rights, war crimes, looting of public property or smuggling of items of cultural and archaeological heritage. More generally, “[i]n the eyes of the people, [they must] not have been involved indirectly or directly in the killing of innocent people.”⁵⁶ While not many commanders were elected to the council, they often succeeded in controlling the selection of the delegates from their districts by using threats and bribery.⁵⁷ Moreover, when some former commanders were blocked from

being elected, the number of delegates was increased and a range of warlords and self-appointed governors ended up in the quota of delegates appointed by Chairman Karzai.

The Commission further tried to ensure that the secret service (the Amniat-e Melli, under the direct control of Defense Minister Fahim) was not allowed into the *loya jirga* during the proceedings. While UNAMA had participated in establishing these rules, the head of the mission (the SRSG) backed down when confronted by demands from the secret service to enter. The SRSG evidently feared that Fahim might make good on his veiled threats to shell the *loya jirga* meeting; the inclination of both the SRSG's own senior staff members and the British commander of the ISAF forces in Kabul, however, was to stand firm. The ISAF commander concluded that his force of 5,000 men could serve as a deterrent even if not backed up by US-led Coalition forces operating outside Kabul. US military power had on other occasions been used in tacit communication to discipline unruly warlords in the North and the East, even though the mission of US forces was to crush enemy units, not to influence the political process. In this instance, however, US power was not brought to bear on the dispute.

The results were predictable. In the first days of the council meeting, Afghans freely expressed their views, with many condemning warlords and *jihadis*. Women were particularly active. Intimidation subsequently made delegates much more cautious. Several were advised to keep quiet, receiving messages such as "your family will receive a package with you cut up in small pieces".⁵⁸

Ambiguity surrounding the proceedings and the mandate of the assembly constituted another problem. It was made clear from the start that the delegates would elect a president. The US envoy, Zalmay Khalilzad, at this point intervened blatantly to neutralise the monarchists by calling a press conference where he announced that Zahir Shah was not a candidate. This effectively muted the most serious opposition to Karzai's election. The remaining appointment process was equally manipulated. The Bonn Agreement had mandated the Emergency *loya jirga* to "decide on a Transitional Authority, including a broad-based transitional administration." Given the mood of the assembly, an open election process probably would have excluded all former warlords from the successor administration, creating further concern by the US and the UN that these warlords would become 'spoilers' in the peace process. Thus, the assembly was not invited to decide on the composition of the Transitional Administration. President Karzai merely presented a list with the names of some ministers, but the assembly was not called upon to vote on it, propose changes, or formally authorize Karzai to select his cabinet. Karzai himself was elected in a secret ballot by a large majority, but there were no other serious candidates seeking election.

Having the Emergency *loya jirga* elect an advisory council to serve alongside the transitional administration had also been discussed in Bonn and was certainly possible within the framework of the Agreement. When the *loya jirga* met, however, this option was strongly opposed by the SRSG and the US for fear that it would open up a more uncontrollable process. The SRSG, in particular, was concerned that Islamist groupings would exploit such a forum. While the Islamists included some of the *mujahedin* parties that previously had been allies of the West (Sayaff and Rabbani), these groupings were now recognized as profoundly undemocratic and potential spoilers in the Western-supported peacebuilding process. To contain these forces, the SRSG and the US advised against the formation of an advisory council at that time, and there the matter rested.

As a result, the Emergency *loya jirga* left a mixed legacy. It was praised internationally and approved by many Afghans as a first step towards democracy that simultaneously preserved political stability. Given the nature of the proceedings, however, the assembly did not significantly enhance the legitimacy of the transitional cabinet, which arguably was its main task. Instead, the ability of existing power holders and the US to manipulate the process with the acquiescence of the UN created some additional problems of legitimacy and served to discredit the democratic model more generally. The unwillingness of the US and the UN to face down the warlords on matters of clear procedural violations showed that the two most important international actors in the process chose accommodation with local strongmen over democratic values. The events also revealed that when faced with the familiar problem of how to handle undemocratic forces within a Western democratic system, the US and the UN responded by favoring controls and exclusion.

The Emergency *loya jirga* process created disillusionment among Afghans who took seriously the objectives of the Bonn Agreement and the standards of customary democratic procedures. The potentially strongest constituency for a modern, westernized political development agenda was noticeably angered. Outside Kabul there was criticism as well, and predictably so in the Pashtun heartland. A group of *loya jirga* delegates interviewed in Wardak and Ghazni 2002 agreed with one speaker who said, “Karzai was the loudspeaker and Brahimi was the wire that connected him to the Americans.”⁵⁹

Importantly, the Emergency *loya jirga* was a political primer that affected preparations for subsequent transition events - the constitutional assembly and the general elections. Some Afghans concluded that the power holders would manipulate these events as well, and scaled back their expectations of democratic development. Others – including delegates from Jalalabad and Mazar-e-Sharif - started to organize so as to improve their skills for the next fights in the political arena.

4.3. The Constitutional Process

Not surprisingly, the process of drafting a new constitution became a major political struggle among different Afghan factions. The US envoy, appointed US ambassador by mid-2003, and Brahimi on the UN side, participated actively as well, jointly seeking to promote the modernist and Karzai-led factions of the transitional administration.

To control the drafting process, Karzai and his supporters used procedural techniques that were strongly criticized by civic rights groups.⁶⁰ The draft constitution was only made public on November 3, about a month before the constitutional assembly was to open. This allowed very little time for informed consultation by the public or for delegates to prepare themselves. With UNAMA’s assistance, public hearings were conducted with a sample of focus groups throughout the country before the draft was published. While superficial, the hearings helped educate people about their civic rights and allowed the participants to express their general preferences by filling in questionnaires distributed by the Commission Secretariat. Some 178,000 persons participated, according to UNAMA. Regional disparities in participation were marked: consultations were most extensive in the North, with much more limited participation in the Pashtun heartland in the South and Southeast.⁶¹

The process reflected conflicting views in the Commission, the ATA and the UN community. The spirit of the Bonn Agreement and frequently declared affirmations of democratic norms implied a commitment to open and genuine constitutional consultations. Afghan and

international NGOs strongly lined up in favor of this approach. On the other hand, fears remained that the Islamists groups might hijack a more open process, particularly when it came to questions about the relationship between the state and religion. Some Afghans argued additionally that the common man (let alone woman) had little to contribute to the constitutional process.

A sharp divergence between the penultimate and final drafts was emblematic of the nature of the process. Efforts by the Karzai faction to control the drafting process in the Commission had apparently failed. According to the International Crisis Group, which had access to the penultimate draft, the Constitutional Review Commission had opted for a system of considerable checks-and-balances.⁶² In particular, the power of the president would be curbed by a prime minister and a strong parliament, and a constitutional court would be a check on the Supreme Court (which at the time was dominated by clerics).⁶³ When the final draft was made public two months later, it became apparent that it had been dramatically revised. This draft had a strong presidential system, with no prime minister, no constitutional court, and a weak parliament.

The revisions were undertaken in the office of Karzai and his National Security Council in a process that was not prescribed by the Bonn Agreement. It is widely believed that the key actors behind the change were ambassador Khalilzad and Brahimi, as well as Karzai and his modernist supporters in the government. All were known to favor an institutionally strong president that could provide control and stability, and (presuming Karzai or an equivalent figure would hold the presidency) maintain a pro-Western, modernist direction.

The imprint of Karzai and his supporters was evident elsewhere in the revised document as well. The final draft followed the approach that had been adopted in principle after the Bonn meeting, by affirming that the state administration would be highly centralized. Provincial administration, including governors, would be under the control of the line ministries and the government in Kabul. Provincial-level assemblies were instituted primarily for the purpose of advising the Kabul-appointed administration, while elected district and village councils would serve the same purpose. The draft was a legal frontal attack on the power of the warlords and various self-styled governors in the provinces. The clauses governing political parties (which paralleled the previously promulgated law on political parties) were inspired by secular modernism. Political parties could not be established along ethnic, religious or regional differences (and the president was by law not allowed to act on such considerations). Political parties with links to military or paramilitary groups were prohibited. The provisions formally disenfranchised all the *mujahedin*-based parties that were poised to claim power in the post-Taliban period.

The draft constitution differed so fundamentally from political realities that it raised serious questions about its relevance altogether. The document outlined a strong central state, a strong presidency, demilitarized political parties and the absence of ethnicity and religion in political life. The realities of Afghanistan showed a skeletal central state, a weak president, militarized politics and political allegiance divided along religious and ethnic lines.

As the Constitutional *loya jirga* convened, fierce struggles developed on three main fronts. One concerned Islam versus secular modernism. The role of Islam had been kept under wraps in the drafting process and emerged as a bland principle specifying that no law should be contrary to Islam. Few could disagree. Another key issue was the balance of power between the president and the parliament. The third front concerned the balance among the ethnic

groups, with Pashtun dissatisfaction with the dominance of the Pansjiris rapidly being matched by fears among the minorities of renewed Pashtun dominance.

Uneasy alignments were formed. Those supporting a strong presidency had to compromise with Pashtun *mujahedin* factions who supported Karzai because he might end the marginalization of the Pashtun people, but – unlike the modernists - they wanted a stronger affirmation of Islam in the constitution. On the other side was a curious mix of groups that held very different views on the nature of society and politics, but agreed on the need for a prime minister and a stronger parliament to curb the power of the president. This grouping included Pansjiri Northern Alliance leaders who hoped that a dispersion of power would help to safeguard their present positions, NGOs which wanted checks-and-balances as a guarantee of pluralist democracy, and minorities who feared that a strong presidency would mean Pashtun rule. This grouping represented starkly opposing views on the role of Islam, on human rights and on the role of women in society.

In the end, a modified version of the final draft was approved. Presidential power remained strong, but the parliament was given a greater role (particularly in approving presidential appointments). The language was modified to strengthen the role of Islam and to acknowledge that women were bearers of rights. Some concessions were made on the language rights of minorities (an issue pressed by the Uzbek delegates). Overall, the constitution represented a considerable victory for the centrist approach and for secular modernism. It also demonstrated that despite the genuine parliamentary aspects of the process - the debating, lobbying, bargaining and forming of coalitions among the Afghan delegates - the process unfolded in the shadow of US power. As if to underline the point, the American ambassador was actively ‘working the floor’ during the proceedings.

As during the Emergency *loya jirga*, serious, and in some areas widespread, intimidation occurred during the selection of representatives. The flawed process was reflected in the composition of the delegates. The main *mujahedin* parties that were connected to military factions and their commanders accounted for almost 70 percent of the 344 elected delegates, according to some estimates.⁶⁴ Virtually all of the delegates from Herat were closely tied to the powerful governor of that province, Ismail Khan, despite significant opposition in the run-up to the elections. The newer reformist and democratic forces were few and fragmented. In this situation, the military groups and related political parties found that instead of openly violating the rules (as during the previous *loya jirga*), they could use the parliamentary procedures to their advantage. Thus, the *mujahedin* parties not only secured the chairmanship of the assembly (Sigbatullah Mojadeddi), but also the chairmanship of more than half of the committees.

To hail the constitution as the outcome of a truly democratic process would be an exaggeration. Yet it was a sign of democratic maturity that deeply divisive issues in a society newly emerged from repeated civil wars were actually slugged out in the political arena. The test of relevance remains. The constitution may be observed, ignored, or violated. For instance, factions around the Defense Minister were in October 2003 rumored to be planning a coup d'état, and may consider that option again if pressured. In addition to his local forces, the Defense Minister has been reported to be receiving covert aid from Russia, thus balancing the Karzai-US axis. Despite this undertone of internationally supported internal competition, the constitution is an added tool in the legal web of constraint that the international community collectively has been promoting as a critical tool of peacebuilding in Afghanistan.

The shortcomings of the process - particularly when viewed against the rhetoric of democratic principles - are obvious. The constitution is certain to be viewed by many as another US-UN influenced exercise in affirming the power of their preferred candidate. The limited involvement of the general public underlined the lack of countervailing political power to check the role of the commanders and the exiles that returned with foreign support.

4.4. Elections

By late 2003 there was serious discussion in the international community and the ATA about whether to hold a Bonn II meeting to escape from the strictures of Bonn I regarding the timetable for elections. The wisdom of inserting a precise date in the Agreement was questioned. It had been argued in Bonn that a fixed date was a guarantee that elections would in fact be held. Moreover, it was hoped that by mid- 2004 – which lay more than two years in the future - demobilization would have advanced sufficiently to permit a meaningful election. A reasonably early election was also part of what had become the standard UN package for post-conflict operations.

By early 2004, the proponents of flexibility seemed to have gained ground. UNAMA, which was to supervise voter registration as well as the elections, reported administrative delays, shortage of funds, and security concerns. It was improbable that registration could be completed on time even in relatively secure parts of the country. At the same time, increasing attacks on Afghan aid workers and international civilian personnel in the second half of 2003 had de facto placed large parts of the South and Southeast off limits to foreign personnel, making a foreign-supervised registration and election process in these areas doubtful. Slow progress in demobilization reinforced the point.

Whether to hold a presidential election alone, or to link it to parliamentary elections, was also up for discussion. The Bonn Agreement permitted either option, while the new constitution required that ‘every effort’ be made to hold the first round of parliamentary and presidential elections at the same time. Consonant with its preference for a strong presidency, the US took the position that presidential elections should be held around June 2004. By late January 2004, William Taylor, the State Department’s coordinator for Afghanistan, admitted to the US Senate Foreign Relations Committee that the June election deadline might not be met due to security concerns, though a presidential election only might be feasible.⁶⁵ This was also the position of SRSB Brahimi, as by late January only 0.6 million voters had registered themselves out of an expected 10.5 million.⁶⁶ Washington pointedly authorized an additional 1.2 billion dollars in reconstruction aid to be spent in 2004, openly identifying the funds as support for the central administration and Karzai’s candidacy.⁶⁷ Those arguing for inclusive politics and checks on presidential power, including some EU members, favored holding presidential and parliamentary elections simultaneously if elections were to be held at all. The prominent Kabul-based think-tank, AREU, argued cogently for postponing the elections altogether.⁶⁸ In addition to logistical and security concerns, it was anticipated that elections - above all for president - would follow the earlier pattern of the political transition by mainly serving to legitimize the existing power holders. It would also be expensive - UNAMA was approaching donors with funding requirements of 78.2 million dollars.⁶⁹

The present condition of political parties in Afghanistan limits the democratic meaning of elections if they are held in the very near future. The principal political parties today have roots in the *jihad* period, when they were formed in exile in Pakistan and Iran.⁷⁰ Historically these *mujahedin* parties have had a predominantly military orientation, an authoritarian

internal organization centered on a strong leader, have been influenced and funded from abroad, and have developed a long record of misuse of power and abuse of human rights. The parties are now positioning themselves to contest for power in the political arena.

Other political parties with reformist-democratic, ethnic-nationalist or leftist orientations (the latter including cadres from the former Maoist and Soviet communist parties) started to form in the post-Taliban period but were reluctant to go public until the role of political parties was clarified by law (the decree of 11 September 2003 and the new constitution).⁷¹ The poor showing of persons associated with the new groupings, or seen as independent in the elections to the constitutional assembly, is indicative of their weaknesses. This also reflects a more fundamental condition: Because of the recent history of communist and *mujahedin* parties, many Afghans view political parties as tools for oppression and as sources of violence, rather than as instruments of peaceful competition.

4.5. Conclusions

The constitutional delegates that assembled two years after the Bonn Agreement showed that that the political-military groupings were willing to contest their positions in a political arena. This was a major achievement in a society that had just emerged from repeated wars and was still enveloped in a culture of violence. Use of the traditional *loya jirga* institution greatly helped the process along; so did close and sustained international attention to see the implementation of the Bonn Agreement. The international community collectively left little doubt that the Afghan parties had to ‘play by the rules’ if they were to receive continued international aid, support and recognition.

Problems remained. The intention of the transitional mechanism laid out in Bonn was to create an effective interim administration while simultaneously subjecting it to a democratizing process that in theory, at least, could put it out of business. By early 2004, the transitional dynamic had largely affirmed the position of the key power holders on both the national and local levels. Democratic processes on both levels were manipulated in favor of those with money, guns, or significant international support. Given the obvious limitations of legal-formal mechanisms for generating legitimacy, some observers called for the scheduled elections to be postponed while making more use of traditional means of establishing legitimacy through power-sharing and contractual compromises.

If Western formal-legal instruments are to remain central, emphasis on substance over form will make them more meaningful. In this perspective it would make sense to postpone elections - estimated to cost almost 80 million dollars – while improving the underlying conditions that affect empowerment. These include not only physical security in the South and Southeast, but also greater efforts to create a rule of law, observe human rights and facilitate new political associations.

On the other hand, Western-style elections have been so firmly established in international peacebuilding practice over the past decade that it would be difficult to postpone them for long. If presidential elections are held first, considerations of power sharing suggest that parliamentary elections follow as soon as possible, as the new constitution mandates. This is particularly important given the conflictual dimension of peacebuilding in Afghanistan.

Neither the Bonn Agreement nor the new constitution provides particularly useful scripts for promoting inclusive politics in divided societies, nor for societies remaining in a situation of

low-intensity armed conflict. The promulgation of an entirely new constitution, as Bonn called for, brought out deeply divisive issues. To manage this process within a very tight timeline, the reformist-modernist faction of the transitional administration, strongly supported by the US and the UN mission, imposed controls that conflicted with the democratic ideals entailed in the declared policy and lofty goals of Bonn. The constitution itself, based on a strong presidency and a centrist approach, established a framework for dealing with diversity and conflict by means of winner-take-all strategies rather than inclusive power-sharing mechanisms. Under the best of circumstances, the result might be a military regime of the kind that repeatedly has ruled in neighboring Pakistan.

By early 2004 the political transition had all the marks of being pulled in many different directions. The lofty goals of the Bonn Agreement acknowledged the right of the Afghans to “freely determine their own political future in accordance with the principles of Islam, democracy, pluralism and social justice. The Western international community was initially most concerned with promoting a stable government, and subsequently a modernist, pro-Western government, even if this trampled on democratic niceties and on the principles of Islam as conservatively interpreted. The Afghans themselves disagreed on both goals and modalities. In this situation, the challenge of keeping the contest in the political arena remains formidable.

5. RULE OF LAW

The importance of the rule of law has long been recognized as essential not only for the development of democracy, but more fundamentally for placing the state on a legal and moral foundation. Studies of peacebuilding further stress the importance of starting immediately to build the rule of law, although noting that this is often neglected in practice even when security conditions are favorable, as in East Timor and Kosovo.⁷² Given Afghanistan's recent history, establishing the rule of law will be a long and difficult process. Precisely for that reason, state-building efforts arguably should be anchored early on in a firm commitment to law, above all at the central level.

5.1. Rule of Law and the State

While defined in different ways, 'rule of law' means fundamentally the establishment of a rules-based administration as the basis for government. Most importantly, it means that the state and its agents are not above the law.

The behavior of state actors is particularly important at the national level insofar as the reconstruction efforts in Afghanistan seek to strengthen the central state. By late 2003, the relationship between the law and the state showed a mixed picture. Two murders of cabinet ministers in Kabul were not officially resolved. Corruption appeared to be rampant, feeding on both the illegal economy (drugs and smuggling) and large transfers of aid money. Several government members were commonly seen as linked to the illegal economy. An incident of land grabbing in Kabul, involving all but two of the cabinet ministers, came to light in September 2003. It was a grim illustration of deceit and arrogance at the highest political level in the country.⁷³ Indicative of the depth of the problem, a clause in the draft constitution (chapter 4, art.3) obligated the government to eliminate 'administrative corruption.'

While deplorable, political violence associated with the evolving political contest (elections and participation in the two *loya jirgas*), was by the standards of some post-conflict elections relatively limited. Threats and intimidations were common, but there were few deaths directly associated with the elections or with the council meetings - these occurred at the local level.⁷⁴ In Herat, for example, widely perceived to be the most stable area of Afghanistan during this period, there were several cases of serious violence against political opposition figures and *loya jirga* candidates. Manifestations of political freedoms at the central level, including criticism by the press and public demonstrations, as permitted by the 1964 constitution, were mostly allowed to proceed.⁷⁵

The degree of the rule of law at the central level was all the more noteworthy in a society that was just emerging from two decades of war, with an associated culture of violence, and which remained wracked by intense rivalries. The greater observation of the rule of law at the central level compared to some regions partly reflected the foreign presence in Kabul, not only militarily, but also in terms of economic and political influence.

The rule of law is particularly important in the security sector. Using state force outside the realm of the law generates greater *insecurity*, erodes legitimacy and typically provokes escalating violence. Two years after Bonn, problems of abuse of police power remained common throughout Afghanistan. Illegitimate or illegal use of military and paramilitary

power was a challenge as well, mainly in the provinces, but also involving figures in the national government (e.g., the use of intelligence services to intimidate opponents, and failure to comply with the Bonn Agreement clause regarding the withdrawal of troops from Kabul). Critics noted that the US forces in Afghanistan did not set a good standard by seeming to violate the laws of war by detaining and killing civilians, even if the latter was inadvertent.

5.2. The Bonn Agreement and the Rule of Law

The Bonn Agreement is framed in the language of establishing the rule of law. The agreement emphasizes the formation of a legitimate government through elections and the promulgation of an entirely new constitution, and contains specific provisions promoting judicial reform and human rights. Related UN Security Council Resolutions and the UN Secretary-General's reports to the Council strengthened this orientation by calling for democratic development, which implies accountability under the law, demilitarization, and respect for human rights.⁷⁶ Already in April to May 2002, donors agreed on a division of labor for security sector reform - defined to include major rule of law issues - which helped institutionalize commitments of support. Individual nations took responsibility for particular areas, notably legal reform (Italy), police reform (Germany), and demobilization and reintegration (Japan).

At the outset, then, a design was put in place that identified key structural elements to establish the rule of law. Of these, we will here examine judicial reform, police reform, and human rights.

Judicial Reform

The formal legal system was mostly shattered by the time the Afghan Interim Authority was established in December 2001. As in the rest of the state apparatus, civil war and Taliban rule had wreaked institutional havoc. The Taliban's brand of justice had been dispensed outside what remained of the secular court system. The Bonn Agreement envisaged a process of legal reform to be spearheaded by a Judicial Commission, operating within the framework of the 1964 Constitution. Meanwhile, donors enabled the interim administration to restore the basic structure of a functioning legal system by funding the salaries of government officials. This included the salaries of officials in the Justice Department both at the central and local levels, in addition to the Attorney General's office.

Legal administrative structures soon resurfaced in the provinces, where judges had remained on the payroll and often (at least nominally) in their offices. For instance, an AREU/World Bank study on provincial administration estimated that the staff within the judicial sector in the two western provinces of Faryab and Herat numbered respectively, 108 and 137 persons.⁷⁷ The problem, however, was that the local structures were generally controlled by local commanders or self-appointed governors. In such circumstances, the courts were more often instruments of injustice than of justice.⁷⁸ To reform the legal system on the provincial level through new appointments, retraining and monitoring consequently depended upon the course of political reform in relations between central and local authorities. In this area, there had been very little progress (see chapter 2).

The Judicial Commission established by Bonn had a wide and unspecified mandate "to rebuild the domestic justice system."⁷⁹ The Bonn Agreement did not specify which principles

of law were to be applied - that was left to the constitutional process - and the Commission was initially paralyzed by the conflict between Islamic principles and secular law.⁸⁰ After some delays, a reconstituted and renamed Commission - the Judicial Reform Commission - was formed in early 2003 with a preponderance of modernists, a move that reflected the wishes of the government's reformists, as well as major donors.

By late 2003 the Commission's achievements remained quite modest. It had rebuilt some courthouses, and started training or assigning advisers to a small number of judges. A study was commissioned to examine traditional mechanisms of mediation and adjudication on the local level. The official Consultative Group for coordinating government, donor and NGO activities in the justice sector was barely functioning. Chaired by the Commission, the CG held only two meetings in 2003, had no plans for a budget meeting, and had by late 2003 not formalized its terms of reference.⁸¹

Part of the problem was local vested interests, as noted above. Equally important was the power of Islamic conservatives in both the Ministry of Justice and the Supreme Court, representing a structural obstacle to modernist legal reforms. For instance, while the Commission defined its agenda, the conservative Chief Justice of the Supreme Court oversaw the appointment of 137 judges. Secular critics claimed this was "128 more than [the Supreme Court] is arguably competent to appoint."⁸² The expectation that fundamental questions regarding the role of Islam in Afghan law and society would be addressed in full during the Constitutional *loya jirga* was a further damper on the work of the Commission. Yet - as might also have been expected - questions concerning the role of Islam touched upon deep-seated social differences that could not be resolved by a textual exercise. In the end, the question was merely glossed over in the constitutional process and in the new Constitution itself. That left the agenda of judicial reform, including the planned review of the country's existing legal codes, to an uncertain future.

Reform of the Police

In recognition of the importance of law and order, donors agreed early on to finance and rehabilitate the police. A Law and Order Trust Fund (LOTFA) to pay police salaries was established under UNDP already in December 2002. Subsequently, Germany (which had trained the Afghan police under the country's modernizing monarch in the 1920s) took lead responsibility for retraining the officer corps. The program got off to a quick start; already in late 2002 the new officers were visible in Kabul (with shining new anti-riot equipment). A new national police school supported by the US was established in May 2003, intended for rank-and-file retraining.

As in the Ministry of Defense, reforms were initially hindered by vested interests at the central level. Members of the Northern Alliance inner core, the Shura-e Nezar, controlled the police department in the Ministry of Interior. This meant, inter alia, that admission to the German-supported program at the Kabul Police Academy favored Tajiks, rather than being ethnically balanced as formally required. The German mission in Kabul was unable or unwilling to do anything about it, awaiting reforms at the ministerial level. These reforms started in early 2003 with the appointment of an Afghan-American, ex-Afghan army officer - Ali Ahmad Jalali - who was brought in from the United States to serve as Minister of Interior. Jalali soon produced a comprehensive 5-year plan for restructuring the police force, including a reformed national police of 50,000 persons, a border patrol police, a highway

patrol unit, and a Quick Response Unit consisting of 3,000 to 4,000 men based in Kabul for deployment to trouble spots throughout the country.

With a reformed ministry and a comprehensive plan, the UN and some observers urgently called for additional aid to finance the recurrent budget of police salaries as well as new equipment.⁸³ LOTFA was chronically under funded. By mid-2003, only 40 million dollars of the 120 million requested had been pledged, and few pledges had actually been paid. “Donor contributions are urgently needed,” the UN Secretary-General pleaded in July.⁸⁴

Other observers doubted that the lack of funds by itself was the most pressing issue. While not paying the police could lead to corruption, intimidation and harassment, simply adding funding without commensurate institutional change was unlikely to solve such problems. Throughout the country, the police - like the courts - were generally controlled by local commanders or other strongmen.⁸⁵ They acted with impunity (or not) depending on their relations with the local power brokers. In Herat, for instance, a police chief reportedly involved in assassination attempts on critics of governor Ismail Khan was merely posted to the neighboring district when the incidents became known and the central government demanded that he be sacked. In Kabul, crime had become a major problem in 2003, and the police was widely seen as being among the culprits. Yet when the chief of police was fired after the land grabbing incident in September, he reportedly remained free to organize ‘his’ men in theft raids in the city.

In this situation, additional funding by itself simply risks inflating an already corrupt structure. For this reason, Amnesty International has called for full funding of LOTFA *provided* there is sufficient transparency and professionalism in the police sector.⁸⁶ A recent review by a Geneva-based law center found that the payment of police salaries was held up by confused procedures in the Ministry of Interior rather than due to the lack of LOTFA funds. More generally, the review noted that few if any respondents cited lack of funds as a problem for either judicial or police reform.⁸⁷

Human Rights

Violations of human rights in Afghanistan are “unfortunately, routine”, the UN Secretary-General reported to the General Assembly in December 2003.⁸⁸ The task of spinning ‘a web of constraint’ on those who wield power has largely fallen to civil society - both national and international. The transitional administration, the aid agencies and UNAMA have toned down human rights issues. It is indicative that the report by the ATA and the aid agencies in preparation for the international conference on Afghanistan in early 2004 devotes 1 page out of 102 to human rights.⁸⁹

The development of Afghan human rights mechanisms has been positive. A human rights oversight office was recently established in the Ministry of Interior. The more important mechanism, the Afghan Independent Human Rights Commission (AIHRC), was formed on schedule as provided for in the Bonn Agreement, but was initially hampered by a cumbersome structure of international supervision. Two years after Bonn, however, the Commission had become a much stronger institution, with a geographically diversified structure and a growing activity of monitoring and education. It was a tribute to its centrality in Afghan society that it registered more than twice the number of complaints in 2003 as compared to 2002.

Greater visibility notwithstanding, the AIHRC remained highly vulnerable, the more so the more active it chose to be. Strong and credible international support can reduce its vulnerability, as demonstrated by the land grabbing case in Kabul. The AIHRC here took a public high profile in exposing the culprits, all of whom were high government officials. A main reason that it could do so was that the UN Rapporteur on Housing was in Kabul and had already breeched the wall by calling attention to the case. International media attention provided further security for the AIHRC.

International NGOs, particularly Human Rights Watch, have kept a close focus on human rights in Afghanistan. Its reports have been instrumental for documentation and advocacy purposes, and for lending support to AIHRC in its work.

The UN mission, by contrast, has moved in the opposite direction. Despite the centrality of human rights in its mandate, UNAMA started out with a weak human rights section. The function was divided in a way that deprived human rights of a strong institutional advocate within the mission.⁹⁰ Subsequent organizational change and staffing decisions weakened the human rights component further. Two years after Bonn, UNAMA had only one official dedicated to human rights work in the Kabul office. The investigative unit had been dismantled and the position of the special human rights advisor to the SRSG had been left vacant. A new position for a Rule of Law advisor had long remained unfilled. In the regional offices of UNAMA - which have a vital reporting and monitoring function for the entire UN system - only a couple had officers with human rights as their primary focus, as against a majority of the offices a year earlier. By default, UNHCR ended up monitoring human rights in areas where it had protection officers. Yet, general human rights monitoring was not part of the agency's mandate, nor could it be a substitute for regular UNAMA monitoring as it occurred only in areas where the UN High Commissioner for Refugees (UNHCR) happened to be present (e.g., in connection with the large-scale return of Pashtun IDPs to the North).

In retrospect, UNAMA's role in the human rights sector appears as a consistent strategy to complement the political objective of creating stability in the short run, and strengthening the centrist-modernist orientation of the government in the longer run. The strategy was crafted by the SRSG, who by virtue of his stature wielded an extraordinary influence on the mission (including staffing policy). The priorities were evident in the language of the SRSG - which was an 'order and stability' rather than 'rights' language - as well as in his actions. For instance, when challenged by the dominant military-political faction of the interim authority, Brahimi had chosen to accommodate rather than confront violations of the rules governing the Emergency *loya jirga*. More than a year later, he again chose accommodation on a rights issue - the land grab incident - and this time in public.⁹¹ Similarly, he consistently recommended caution with respect to transitional justice.

The stability argument evidently carried great weight in the complex issue of how to address past human rights violations.⁹² Key members of the transitional administration were suspected of war crimes and crimes against humanity. Investigation would have meant a major operation involving police or military personnel to secure sites and protect witnesses as well as investigators. If opened, it was unclear how far back in history investigations should go in order to create a balance of sorts. These considerations became arguments invoked by UNAMA against launching a process of transitional justice. In sum, as a UNAMA official said, transitional justice belongs properly to a post-conflict situation, and Afghanistan is not there yet.⁹³ Ranged on the other side were the UN Special Rapporteur on Extrajudicial,

Summary or Arbitrary Executions, Asma Jahangir, and international human rights organizations. In Geneva, however, the UN Human Rights Commission decided in March 2003 not to establish an independent commission of inquiry as Jahangir had recommended, and since then the matter has rested there. On the Afghan side, the AIHRC has understandably been unwilling to move independently on a course that could put the lives of their members at great risk.⁹⁴

In the framework of international assistance to Afghanistan, human rights is a 'cross-cutting issue'. As such it has a slot in the Advisory Group (AG) part of the aid-coordination structure, which appears to function similarly to the Consultative Groups. Nevertheless, by not being a distinct sector for program support, human rights may well be further marginalized in the reconstruction process. Given the political sensitivity of the issues, many donors find this unfortunate, yet believe it is necessary. This applies above all to questions of transitional justice. The US, in particular, opposes investigation and made this clear in the Geneva round of the Human Rights Commission in March 2003. But the European Union has also downplayed human rights in the current reconstruction context. The aid strategy adopted by the Commission in February 2003 mentioned human rights as one of several cross-cutting issues but singled out four other cross-cutting areas for support: women's rights, unexploded ordnance, drug production and refugees and IDPs.⁹⁵

The centrality of women's rights in the international hostility towards the Taliban regime made this a priority area for donor support under the new regime. The Afghan transitional authorities have expressed commitment to women's rights in principle as well. As a result, important institutional changes have occurred. Women were guaranteed a certain participatory quota in the constitutional process in 2003, a quota of reserved seats in the future parliament (64 of 250 seats in the lower house), ministerial representation in the cabinet (with a Ministry of Women's Affairs and a State Minister for Women), and a semi-formal caucus in the government-donor aid structure. In tradition-bound rural areas, however, the realities of women's rights have barely changed as a result of the regime change, and there is considerable resistance to pursuing the issue across all levels. The obstacles ahead were indicated by the struggle over the language in the new Constitution, where a neutral non-gender language ultimately had to give way to one that specifically identified women as bearers of rights.

5.3. Conclusions

Given the enormous challenge of rebuilding a shattered legal system in conditions of sharply contested traditions of law, it was to be expected that judicial reform in Afghanistan would progress slowly. Forging legal norms is part of a broader process of political and social change that cannot easily be subjected to a schedule set by donors or international meetings. To impose modernism in this area may be irrelevant or counterproductive, as the experience of the Judicial Reform Commission indicates. In this area, incrementalism may be more appropriate.

Two years after Bonn, reform of both the courts and the police remain hampered by the presence of power brokers that have generally set themselves above the law, both at the local and central levels. Structural obstacles of this kind suggest that increased funding, as called for by both the UN and transitional authorities, is not by itself a solution. On the contrary, unless carefully calibrated with institutional change, greater aid transfers may simply inflate a corrupt structure.

Human rights have to some extent been orphaned in the reconstruction process. UNAMA has a clear mandate to promote human rights, but has effectively been winding down its function. No donor (or group of donors) has a similar mandate, and none has taken on a strong advocacy role. On the Afghan side, the Afghan Independent Human Rights Commission has been quite active despite its inherently vulnerable position. It desperately needs political support from the international community to continue its work without jeopardizing the security of its staff.

There are obvious reasons why the ATA and the international aid community have assigned a low priority to human rights, with the exception of women's rights. Considerations of short-term stability, and the priorities of major donors (particularly the US), represent real constraints. Heavy-handed interventionism risks being counterproductive. Yet these constraints are endemic to post-war situations of conflictual peacebuilding such as in Afghanistan. They were undoubtedly obvious at the time of the Bonn Agreement as well. Yet by announcing principles of high standards, the UN Security Council – although to a lesser extent the Bonn Agreement itself – prepared the ground for a huge gap between ideals and reality.

The discrepancy between the map and the terrain, so to speak, raises fundamental questions that have no obviously correct answers. Was it wise to impose an ambitious human rights language on a peacebuilding mission of this kind? The UN was asked to simultaneously supervise reconstruction, lay the foundations for Western-style political democracy, and introduce a human rights regime as well. Would it have been better to explicitly announce the sequential approach that appears to have evolved in practice? Or does a declaration of principles constitute a necessary basis for progressively constraining all actors concerned according to the standards of the rule of law?

6. SECURITY

Moving from a security environment in which various armed actors constitute the major threat in the life of most Afghans, to one where there is a legitimate authority controlling the means of coercion, is at the core of peacebuilding. No recipe exists for the sequencing of security reforms in relation to other reforms – particularly those in the political domain – and Afghanistan remains a particularly challenging case in that the success of peacebuilding hinges on bringing aboard many of the forces that also constitute the major threats to security. The policies of the US, as the dominant external actor, has been a prime obstacle in this regard through its support of the warlords that helped to topple the Taliban regime, through its repeated offensives in the South and East, which are becoming a security problem in their own right, and, some observers would add, by initially preventing the expansion of an international security force beyond Kabul. Building or reforming a new Afghan security sector has been slow. The process gained some momentum in the latter half of 2003 despite a deteriorating security situation which threatens to undermine the political process stipulated in Bonn. By early 2004, the prospects of holding elections with even some minimum of legitimacy by the middle of the year were looking increasingly grim.

6.1. Security in the Bonn Agreement

The Bonn Agreement provides only a vague framework for addressing the security situation. The Agreement was negotiated at a time when the armed forces of the Northern Alliance had gained full control in Kabul, despite some warnings from the US not to enter the capital. Equally important, the US was intent on maintaining the military capacity of the Northern Alliance and its constituent groups for their continuing warfare. In this environment, the Treaty negotiated at Bonn became conspicuously vague on security issues. It contains only a declaration of intent, rather than a detailed agreement that would identify mechanisms for the transfer of authority, the composition of a future security apparatus, and clear timelines.

Four provisions of the Bonn Agreement address security issues.⁹⁶ In the body of the text, there is the principal statement that all armed forces will come under the command of the Afghan Interim Authority, to be reorganized in line with the needs of its future security apparatus. Appendix I on the 'International Security Force' has three more provisions. Firstly, the international community is asked to assist in the establishment and training of new forces. Secondly, the UN Security Council is asked to authorize a security force which 'will assist in the maintenance of security in Kabul and its surrounding areas', opening the way for expansion at a later date. Thirdly, the Afghan parties agree to pull all their armed forces out from Kabul (or other areas) as the international security force is deployed.

Except for the international security force in Kabul, all of these provisions would prove difficult to implement.⁹⁷ The absence of a clear framework on security stands in clear contrast to the much more concise formulation for the political process, a tension that is at the heart of the troubled of transition. While it would have been unrealistic to expect rapid reform of the armed forces in a situation where the national authority is deeply disputed, it has proved virtually impossible to encourage popular participation in the political process as long as political influence largely remains the equivalent of military power, still held largely by local and regional warlords. The problems of meeting upcoming deadlines in the political process –

particularly holding popular elections – seem to go hand in hand with a gradually declining security situation.

6.2. The Security Situation

There is no consensus on what it is that constitutes the dominant security threat in present day Afghanistan. This is partly a question of divergent perspectives: who you identify is largely a reflection of what your mission is, as reflected in the Coalition's preoccupation with Al Qaida and the Taliban as the major threat. Also, in Afghanistan's increasingly troubled security environment, it is worth being reminded that security is as much about not having to take precautions, about people's ability to move about and express their opinions freely, issues that proved critical in both the Emergency *loya jirga* (summer 2002) and the Constitutional *loya jirga* (December 2003), and are equally so with regard to holding general elections in 2004.

The southern and eastern parts of the country, which together constitute the Pashtun heartlands from where the Taliban emerged, have seen a dramatic worsening of security, particularly through the latter half of 2003. There are frequent attacks on aid workers, the government and the national army, as well as on Coalition forces. A significant share of those incidents is politically motivated, and are executed by fragments of the Taliban, or by international Al Qaida elements. Across the border in Pakistan, there is significant support for those groups, both from the provincial governments of the bordering provinces, Baluchistan and the North West Frontier Province (NWFP), and from elements within the army and the intelligence services. A recent report indicate that bases are increasingly being set up in Afghanistan.⁹⁸ One of the fundamental mistakes of the US-led Coalition is probably its insistence that the Taliban and Al Qaida are one and the same, which is contrary to local knowledge and is likely to generate support for Taliban in Afghan villages targeted in Coalition forces campaigns.

From the perspective of a common citizen in the major Pashtun belt, the presence of Coalition forces – which they encounter mainly in the context of highly insensitive house searches or when delivering deadly air cargo – may be the major security threat. Linked to the virtual absence of aid or economic progress in the same areas, and to a feeling of losing out in the fight over positions and political influence in the future Afghanistan, this has undermined popular confidence in the peace process. Remnants of the Taliban, of whom people do not necessarily have particularly fond memories, stand out as the only alternative. While communities often have the capacity to prevent armed incidents in their areas - unless they have been forcibly disarmed by the Coalition forces - they do not have a motive for putting themselves at risk. As a result, they end up by de facto endorsing the attacks. Simultaneously, there are multiple reports from aid agencies which have found that host communities have mediated deals with the Taliban groups that enable them to continue work.

In the North, there is a different pattern. Consistent tension and occasional battles between armed groups associated with the government is one problem, such as between Abdul Rashid Dostum and Mohammad Atta in the areas around and to the West of Mazar-e Sharif. In the latter case, this has led the UN to initiate a Security Commission that includes representatives of the major parties in the area. The commission has proved unable to significantly disarm the units in the area, as is its stated objective, but has had some success in preventing outbreaks of armed conflict.⁹⁹

In the Northwestern province of Herat, ruled by old-time mujahedin commander Ismail Khan and seemingly the least conflict-prone area of the country, a relative calm is only disturbed by occasional attacks on political opposition figures that are widely believed to be part of a local power game. For example, Herat's long term chief judge, Khodaidad, was hit by a car in the city's main bazaar in early October 2003, but only lightly injured. Khodaidad was the head of the Herat professional shura, which has been the most visible corrective to Ismail Khan's leadership.¹⁰⁰ The incident is just one in a series that has effectively curbed the activities of the professional shura, and sent a strong signal to others carrying similar ambitions.

Carefully measured and targeted violence, or even subtle threats, are quite effective in curbing political dissent, as is evident also in Kabul. Oral harassment, threats, and physical 'warnings' form part of the political game and were particularly frequent in the context of the two *loya jirga* gatherings. There may be a decline in overt physical violence while political debate continues to be repressed - even when battles are resolved without a shootout, the specter of deployable armed capacity remains the key factor.

Crime is another component in the post-Taliban security tableau. It is not always easily distinguishable from political acts, particularly because the disorder created by the latter is easily exploited to engage in the former. In Kabul, crime has become a major problem. The lines between crime, politically motivated resistance and legitimate government are blurred, as SRSB Brahimi made clear in his speech to the National Symposium on Security Sector Reform in Kabul in late July 2003:

(...) we continue to receive daily reports of abuses by gunmen against the population – armed gangs who establish illegal checkpoints, tax farmers and traders, intimidate, rob, rape and do so – all too often – which wielding the formal title of military commander, police or security chief.¹⁰¹

This is just another side of the problem of installing and continuing to support many of Afghanistan's pre-Taliban rulers. It is one reason why many Afghans with first-hand experience of crime, power abuse and fighting were only reservedly enthusiastic in late 2001. The warnings were many, yet the will of the international community to constrain destructive forces on the anti-Taliban side has proved limited.

Operation Enduring Freedom

A key challenge to the overall peacebuilding process has been the fact that the US, as the dominant actor within the armed coalition, has seen the military struggle against remnants of the Taliban and Al Qaida as the task with the highest priority.

The way events have unfolded on the political scene has to a large extent reflected the alliance between the Coalition forces and Afghanistan's former warlords. Seeing them as useful instruments also after the collapse of the Taliban regime, the US continued to provide a number of these once powerful figures with money, finance and – ultimately – political legitimacy. Attempts by the central government to coopt the warlords were largely unsuccessful, as the warlords preferred strengthening their local power base rather than moving on to a highly uncertain position in the government (the major exception being Fahim, who joined the government as a Minister of Defense at a time when he controlled almost all armed forces in the capital).¹⁰² In those few cases where the government was able

to sideline or transfer former mujahedin commanders, support from the Americans was important. This was the case in Khost, where Padsha Khan Zadran – a US ally challenging the appointed governor - was effectively dethroned when the US forces started to see him as an obstacle to the war on Al Qaida and the Taliban. When Gul Agha Shirzai, the governor of Kandahar, was transferred to Kabul and replaced with Eng. Pashtun, a close ally of Karzai, this complied with Coalition priorities – although the primary cause may have been Shirzai realizing he was gradually losing strength.

Overall there has been considerable consistency in the Coalition's endorsement of the warlords over the whole post 9/11 period. The policy of supporting local warlords was brought one step further when a US military spokesman announced on 7 February 2004 that US forces had begun training and equipping 'a new Afghan militia force' to help in operations against Taliban and Al Qaida. The force was distinct from the planned Afghan National Army (ANA), and was characterized as a temporary force.¹⁰³ The announcement came at a time when President Karzai, the UN and the international donor community were urgently trying to accelerate demobilization of militia forces in time for the planned elections.

While there were plenty of predictions that the Coalition forces would be met with a reaction similar to that of the Soviets in the 1980s or the British long before that, the reality proved much more nuanced. Initially, the Coalition forces were greatly helped by the massive popular frustration with the Taliban, as well as their increasingly influential guests. The US-led war fought to defeat the Taliban in 2001 had a high human cost; by the best available estimate, about 5,500 civilians were killed and 5,100 injured, not counting soldiers hastily conscripted to serve on the Taliban side.¹⁰⁴ Many Afghans nevertheless seemed to conclude that the benefits outweighed the costs. This picture is gradually changing, especially in the South and the East, as a result of the US support to warlords, its intervention in politics, and the continuation of a war effort that is increasingly unpopular. The last major campaign was launched to keep the Constitutional *loya jirga* in check, and included two heavily publicized incidents in which a number of children were killed in aerial bombardment.

At the same time, and perhaps paradoxically, there is a general sense that the Coalition forces are part of an international commitment to support a united and peaceful Afghanistan. That commitment – symbolized by international forces, including those of the US – is seen as a guarantor against renewed civil war.

'Peacebuilding' actors are operating in an environment where the present OEF intervention, and the continuing warfare, are dominant facts of life – a reality that has come to be symbolized by the B-52 bomber. UN negotiators and others have adapted to the context by including the specter of the B-52 in their diplomatic toolbox, although using it only carefully, realizing that their ability to request armed intervention is very limited. As the Coalition forces have demonstrated, their task is to pursue the war against the Taliban and Al Qaida, not to facilitate a political process of peacebuilding. Nonetheless, the practice of carefully pressuring non-compliant actors into line by displaying (or just recalling) an image of what may fall from the sky has come to be known as 'B-52 diplomacy'.

6.3. The ISAF Force

In line with one of the provisions in the Bonn Agreement, the Security Council passed a resolution on 20 December 2001 authorizing the deployment of the International Security Assistance Force (ISAF) to Kabul and the surrounding areas (Res. 1386/2001). The force was

set up as a 'coalition of the willing', allowing for greater speed and flexibility in comparison to a force set up by the UN.¹⁰⁵ Its relationship to the UN mission was formulated as one of 'close consultation'.

The Northern Alliance was militarily in control of Kabul from 13 November 2001 and had made it clear that they saw no need for an international security force.¹⁰⁶ The controversy over this in Bonn led to the provisions on security outlined above, including a limited international force.

The Security Council resolution clearly confined the mandate to Kabul and the surrounding areas, whereas the text from Bonn had opened the way for an expansion. The limited mandate represented was acceptable to the Northern Alliance and, more importantly, the US, which did not want an international security force outside of Kabul where it could become an obstacle to the continued war on Al Qaida and the Taliban.

The UN Secretary General, Kofi Annan, as well as his Special Representative, Lakhdar Brahimi, have consistently advocated an expansion of the security force. While this was effectively precluded by the US position, it was also unclear how such a force would operate. Specifically, given the entrenchment of old-time warlords, it was difficult to see how to avoid the uncomfortable choice between cooperation (which would legitimize them) and confrontation (which carried the prospect of military confrontation).¹⁰⁷ In the absence of a political will to expand among the major actors, confronting this dilemma was not necessary. Meanwhile, the local commanders rebuilt their military, economic and political strength.

Most observers agree that the ISAF force has played an important role in preventing violent acts and in securing a necessary minimum of 'neutral political space' in Kabul.¹⁰⁸ ISAF's policy, in line with that promoted by SRSG Brahimi, has been to maintain as low key a presence as possible. The dilemma is that this policy may inadvertently come to be seen as an endorsement of military pressure from the Northern Alliance. The now classic example occurred during the Emergency *loya jirga* in June 2002, when Defense Minister Fahim, who controlled the bulk of armed force in Kabul, demanded access for the intelligence service to the meeting hall. The decision by Brahimi to yield to Fahim's demands resulted in a council meeting characterized by threats and intimidation, and, more generally, served to endorse the use of military threat to limit the democratic process.

In November 2003, the Security Council passed a new resolution which opened the path for the expansion of ISAF beyond Kabul. This preceded the deployment of a German force to Kunduz in the North-East, and by January 2004 a further expansion of ISAF was under serious debate in NATO circles. Another possibility is placing the Coalition force under ISAF's NATO command. The NATO takeover of the ISAF command from last summer has laid the foundations for such a move, although this has contributed further to confuse the distinction between the war-making and political stabilization functions of the military. Being the first NATO assignment outside Europe, the Afghanistan engagement is a test case for an alliance still struggling to define its post-Cold War role, and is therefore 'condemned to success'. The NATO engagement significantly decreases the likelihood that ISAF will be short-lived, while placing Afghanistan at the crux of debates about NATO's future (and US-European relations).

The Provincial Reconstruction Teams

Afghanistan has become a testing ground for new roles played by the military in peace operations, most prominently through the so-called Provincial Reconstruction Teams (PRTs), launched at a Coalition press conference in November 2002 (initially under the name 'Joint Regional Teams'). Other actors, including the Afghan transitional administration, the UN and NGOs, were largely taken by surprise. Initially the teams were to consist of up to 100 men, combining combat forces, military assistance personnel and civilian expertise. The tasks included coordination of assistance, needs assessments, liaison with regional commanders, implementation of assistance, and security, with an emphasis on preparing the ground for the assertion of the authority of the central government in the provinces. This blend of military, economic and political functions provoked strong reactions from other actors, NGOs in particular, who saw it as a dangerous confusion of roles.¹⁰⁹ NGOs were also concerned that the American PRTs, as part of OEF, would be an instrument of intelligence-gathering, as well as exerting some control-through-coordination over allegedly unruly humanitarian organizations.

The PRTs have been much discussed in the aid community, and the Coalition has responded by developing a more nuanced concept that would receive wider recognition. Yet, contradictory statements from the Coalition side have continued to create confusion.¹¹⁰ As it stands, the PRT concept refers to a variety of different mandates and forms of organization, and is as such difficult to pin down. Essentially, however, this is a debate that is driven by the need to find new forms of military engagement in international peace support operations that are encountering increasingly grave constraints in terms of both financing and personnel available.

At the core of the debate about PRTs is whether the primary mandate lies in reconstruction or in security. US officials have tended to emphasize the former, while the British, who launched their first PRT in Mazar-e Sharif in July 2003, have emphasized the latter. The British model includes various contributions to security sector reform. With PRTs so far operating mainly in the safer areas of Afghanistan, where other actors also operate, they have added little value on the reconstruction scene, where they lack adequate experience and tend to be expensive. Additionally, operating in the same domain as humanitarian agencies, PRTs contribute to a blurring of the distinction between military and aid personnel, which the latter see as a great risk, citing the rise in attacks on aid personnel during 2003.

By early 2004, PRTs had not been deployed in the most insecure areas, and it remains to be seen whether they can function there. The PRTs are light units even when security is their primary mandate. Rather than keeping peace through deterrence, the objective is to manage conflicts through presence, observation, negotiation and selective protection. The idea is to create 'islands of stability', where people can start reaping the peace dividend and hence set an example to be emulated. The viability of this idea has not been convincingly demonstrated in the safe areas where the PRTs work today, which makes it even more unlikely that the teams can make much difference in the more insecure areas. The PRTs may also act as magnets for militant attacks. In early 2004, the US announced its plan to launch PRTs in Khost, Asadabad and Ghazni, adding to the ones operating already.¹¹¹ In those areas, the PRTs will be working close to the Coalition forces, which are already a target for attacks.

So far, the PRTs have operated under an OEF mandate, except for the Germans in Kunduz who are part of the NATO-led ISAF force.¹¹² New PRT deployments, including an expected

Nordic team (possibly in cooperation with the UK), may be set up under ISAF leadership. Over time, it may also be that OEF teams (from the US, UK and New Zealand) will come under ISAF command. Inadvertently, the use of the same concept to connote an element in the widely differing OEF and ISAF operations adds to the confusion.

The PRT concept, aimed at opening up a debate on redefining the use of military capacity in peacebuilding contexts, has been bogged down by its close association with the war effort through the OEF, but also by the tensions inherent in its definition. Before moving on to make PRTs the cornerstone of ISAF's presence outside Kabul, one ought to take a solid step back so as to sum up the experiences so far and to clarify mandates (including the interface with other actors), which is ultimately likely to lead to a new concept more in line with what the teams should do – which ought to have security at the centre.

Reforming the Security Sector

Before the ink of the signature to the Bonn agreement was dry, the one concrete security provision in it was violated – the Northern Alliance, with Defense Minister Fahim at the helm, refused to withdraw its forces from Kabul. The soon-to-be-deployed ISAF force was not in a position to do anything about it. The US policy was that Fahim was an important ally in the overall war against Al Qaida and the Taliban, and that – as a potential spoiler – he must be kept within the political process at the centre. Even if the ISAF deployment was significant, the entrenchment of Fahim's forces in the capital prevented Kabul from becoming the complete 'neutral political space' envisioned by the Bonn Agreement.

For similar reasons, the much more ambitious aim of bringing all armed forces under the command of the transitional administration proved difficult to implement. With a government consisting of opposing armed factions whose leaders had little trust in each other, with regional militia commanders who wanted to have as little to do with the centre as possible, integrating the armed forces and making them subject to one command was difficult. Moreover, if it had been partly successful at that stage in the political process, it would have meant the strengthening of one party at the expense of others. An alternative approach would have been to aim at demobilization first – ensuring parity between groups – and then move on to integrating the forces, which would probably have required the presence of an international stabilization force (or observer units) in all the major towns.

The building of the Afghan National Army was at first closely linked to the quest to bring militia fighters under central authority, with commanders encouraged to introduce candidates. By late 2003, some 10,000 soldiers had been trained in the new program, but there were reports of desertion rates in the 25-50 percent range. The high rates were partially attributed to poor wages, but more importantly to the issues of having been forcibly recruited and having maintained allegiances to their original group.¹¹³ The slow pace of building a national army, combined with doubts about its competence, means that more will be required from the international presence in resolving urgent upcoming security challenges, such as the 2004 election. Arguably it will also require a longer term ISAF presence.

The fact that the Ministry of Defense (MoD) quickly became factionalized added to the problems. Fahim, the minister, appointed 100 generals during the interim administration period (December 2001-June 2002), of whom 90 were of Pansjiri Tajik origin.¹¹⁴ Later efforts to redress the imbalance have been partly successful in broadening the representation,

but at least one close observer has concluded that the main authority remains with Fahim and others from the Pansjiri group.¹¹⁵ The increasing international interest in investing in the police, as discussed in chapter 5, reflects the fact that the international community has more confidence in Minister Jalali, who is one of the major reformists in the government and reliably pro-Karzai. On security reform, then, progress has been piecemeal and slow, yet one could argue that simply keeping Fahim aboard, considering his potential for undermining the process, is a success in its own right.

Specific provisions for the Disarmament, Demobilization and Reintegration (DDR) of soldiers were not included in the Bonn Agreement due to the reluctance of the Northern Alliance, but also reflecting the fact that this was not an agreement between parties to a war, rather an agreement between victors only. At the security sector donor conference in Geneva in April 2002, however, DDR was formulated as one pillar, with Japan being allocated a primary role.¹¹⁶ Despite ambitious plans, progress has been slow on the DDR front, which again brings questions of appropriate sequencing to the fore. In a situation where insecurity is on the rise, where there has been little progress in effectively ameliorating tensions between various armed factions, and where the international actors have proved their unwillingness to confront power abuses, serious incentives to disarm do not exist. By late October 2003, DDR was starting in three carefully selected areas of the country (Gardez, Bamyán, Kunduz), all of which were relatively peaceful, in addition to hosting PRTs.

The DDR program has other critical components.¹¹⁷ Community capacity, including employment, is one such factor. The slow pace of economic reconstruction, and the pressure from a population (including a large group of returnees) eager to rebuild their lives, means that militia engagement may for now seem the best option for many individuals. A different, yet essential concern, has been the inability to collect heavy arms, which – in a country where small arms are likely to remain a household necessity – is the critical issue. By January 2004, there was seemingly some progress in Kabul in this regard, and while critics would argue this simply concerns inoperable equipment, this may also prove to be the first step to disarmament proper.¹¹⁸

6.4. Conclusions

With the exception of Kabul, the security environment in Afghanistan remains as fragile as when the new interim authority was installed, while in a large area in the South and the East the situation has deteriorated. The international military presence – ISAF in Kabul and Kunduz, and the US-led Coalition elsewhere – is probably essential for maintaining confidence and momentum in the political process, thereby preventing renewed armed conflict. At the same time, the Coalition forces also contribute to general insecurity in areas where they operate, and their military offensives in the South and East have not prevented, and might have stimulated, a rise in terrorist activity in 2003.

Enhancing security by military means without progress on the economic and political fronts is difficult. Economically, there needs to be sufficient progress for people to uphold the expectation of a peace dividend, whereas politically, tensions need to be addressed in a manner that contravenes the double game that is still being pursued by most of the warlords. There has been a fundamental unwillingness by international actors to confront those who continue to undermine the peace process, and this has contributed to diluting confidence in the peace process, which again contributes to escalating insecurity in some areas. At the same

time, there has been little effort to address the Taliban problem through political means, although Karzai held out the incentive of negotiating with ‘moderate Taliban’.

The Coalition’s response to terrorism in Afghanistan – seeing international radicals and indigenous opposition such as the Taliban as one and the same – has proved counterproductive. A possible reorientation, which is likely to be widely supported amongst most Afghans, would be to address Taliban remnants and related Afghan opposition primarily by political means, while working closely with Afghanistan’s new army to fight the internationals. Recent signals from the US and NATO about bringing OEF and ISAF closer together, expanding the use of PRTs to troubled areas, and expanding ISAF generally, may be steps in the right direction.

7. THE REGION

It is commonly agreed that the regional environment is critical for progress in peacebuilding. For Afghanistan, conflicts and alliances in the larger region, within as well as between states, have interacted with internal Afghan divisions and form an integral part of the domestic conflict scene. The fact that the states surrounding Afghanistan do not come together in any organized security forum, nor for that matter constitute a 'security community' in even its loosest sense, adds to the problem.¹¹⁹ In the past, Afghanistan has often become the scene for the playing out of conflicts elsewhere, such as the India-Pakistan dispute over Kashmir, which has shaped the Afghan engagement in both countries.

At present, the regional dimension does not figure prominently on the peacebuilding agenda, partly because it has been consciously toned down by key actors including the Afghan government, partly because the US presence serves to contain overt involvement of states in the region. Although alignments in the region have been considerably altered by post-9/11 developments, most regional actors maintain and cultivate their networks in Afghanistan. There has been only partial progress towards converting harmful interference into constructive engagement for the rebuilding of the country.

7.1. *The Framework*

In the political climate surrounding the US-led intervention, there was a widely shared sense that the intervention offered an opportunity to alter the course, not only of Afghan polity, but also of the larger region. It therefore seems paradoxical that the regional context is referred to in the Bonn Agreement only in the form of introductory phrases on self-determination and independence. Compared to the past two decades of political talks and settlements relating to Afghanistan, the role of Afghanistan's crucial neighborhood received scant emphasis in the Bonn talks, as well as in the resulting text.

It was widely considered as a major step forward when Lakhdar Brahimi, the head of the UN Special Mission to Afghanistan (UNAMA), in 1997 initiated the so-called Six Plus Two Group, which included all Afghanistan's neighbouring states, as well as Russia and the US.¹²⁰ The current UNAMA policy, under Brahimi's second term in the country, is largely to consult individually with the relevant countries, rather than retain the Six Plus Two as a common institutional forum.

In this respect, UNAMA's policy harmonizes with policy instincts in the Afghan Cabinet. As Barnett Rubin and Andrea Armstrong have pointed out, Afghans tend to 'attribute their country's misfortune to interference by their neighbours ... and are wary of engaging them, at least without adequate security guarantees from third parties.'¹²¹ While this may be understandable, as a policy it is hardly sustainable. Arguably, it would have been wiser for UNAMA to take a more proactive role in bringing consultations with the states of the region into a common institutional framework. Instead, inter-state relations in the region largely unfold on a bilateral basis, between neighbouring states, between Afghanistan and its neighbours, and in relation to states outside of the region.

The reluctance of the government to address directly the issue of formalized regional cooperation reflects the sensitivity of the issue. Various players in the government continue to

cultivate individual relations with their respective patrons, and addressing the regional dimension may be further divisive.

The disinclination to address regional relations in a common policy was evident in the formulation of the National Development Framework in May 2002, which made no reference to the regional context, e.g. , in terms of trade, investment, or exchange of competence.¹²² More recently, the regional dimension has not been entirely neglected. In December 2002, the Karzai government invited representatives of the six neighbouring states to sign the Kabul Declaration on Good-Neighbourly Relations, which is a “commitment to constructive and supportive bilateral relationships based on the principles of territorial integrity, mutual respect, friendly relations, cooperation and non-interference in each other’s internal affairs.”¹²³ The declaration, however, is formulated in very general terms and does not mention the possibility of formalizing multilateral relations.

7.2. Changing Alignments

The importance of 9/11 in the regional perspective is clear: the reentry of the US in Afghanistan has been the driving force behind most other changes in the political and security architecture.

Pakistan’s strongman, General Musharaf, has become a central ally in the US war on terrorism, and has cleverly been using this to strengthen his power domestically and gain legitimacy internationally. By early 2004, there was little left of the central role Pakistan had earlier played in Afghanistan. This has created considerable resentment in parts of the Inter Services Intelligence (ISI), the Army, and some of the religious parties, who allegedly are instrumental in supporting Al Qaida, and Taliban leaders and activists in Pakistan. Musharaf’s strategy of aligning with the US is widely contested in Pakistan. Additionally, indications are that central actors increasingly doubt that even relative peace will prevail in Afghanistan. Recent signs of a rapprochement with India over Kashmir is likely to further stimulate tension in Pakistan, yet could in the longer term have positive implications for Afghanistan.

The strong positioning of India in post-Taliban Afghanistan is striking, and particularly so if seen from a Pakistani perspective. The Indian engagement is part of a larger strategy, which has resulted in an Indian presence in much of Central Asia, drawing on the country’s long-standing collaboration with Russia and emerging relationship with Iran. While India was a key supporter of Afghanistan’s so-called communist regime (1978-1992), its role during the mujahedin and Taliban eras of the 1990s was far less prominent. Over the past two years the Indian government has firmly established itself in Afghanistan, both diplomatically (with four consulates and a large Kabul embassy) and in reconstruction activities. Many of the projects in which Indians are involved are in the Pashtun belt close the Pakistani border, and include such highly sensitive projects as dam construction on the Kunar and Kabul rivers which flow into Pakistan and are major sources of water for agriculture there.

With its own intense power struggle between radicals and reformists, Iran is strongly affected by the US reentry in the region. Yet the Iranian government expresses strong support for the new Afghan administration in Kabul, in words and deeds, balancing that against a perceived need to continue courting its major protégés, Ismail Khan in Herat, the Shiite parties in the centre, and partly the Pansjiri faction in the government. In a similar vein, Iran has participated in the reconstruction process, most visibly by rebuilding the road from the

Iranian-Afghan border to Herat. Iran is actively marketing itself, based on linguistic and cultural affinities, as a source of competence, partly through seconded Iranian professionals, partly through returning Afghans. In the Kabul administration, many suspect that these offers are Trojan horses, and that the major objective is political influence rather than economic reconstruction.

To the north, where Afghanistan borders on the three former Soviet republics of Tajikistan, Turkmenistan and Uzbekistan, it is the latter that has emerged as the main ally of the US. Amongst these three, Uzbekistan has the largest population, is economically the most significant, and while its border with Afghanistan is relatively short, it has inherited attractive Soviet military infrastructure from the 1980s. The new importance of President Islam Karimov was underscored by the fact that within a span of 6 months from October 2001 to March 2002, he was visited by Secretary of Defense Donald Rumsfeld, Secretary of State Colin Powell, and was invited to Washington to see President George W. Bush. Human rights groups have been extremely critical, arguing that Washington condones Karimov's political repression and severe human rights violations at home, which is bad enough in its own right, and contributes to the recruitment of radical Islamist groups as well.¹²⁴

Afghanistan's two powerful neighbors, Russia and China, have both met the new situation with extreme caution. China continues to have a minor presence in Afghanistan (merely some small businesses). Russia pushed hard just after 9/11 to play a major role in Afghanistan's future, both in the security and economic domains, but with little success. Currently, it is a low-visibility actor, although serious concerns remain regarding its relationships with former protégé groups, including unreported arms supplies to Kabul's defense minister. The overarching concern of Russia's leadership seems to be Russian relations with Europe, which makes the (possibly temporary) loss of influence in Afghanistan acceptable.

7.3. Conclusions

Regional cooperation among Afghanistan's neighbors is complicated by the multitude of foreign policy and security interests, many of which have nothing to do directly with Afghanistan. Sharp differences in political cultures and administrative systems form another obstacle to regional cooperation.

Against this background, Kabul's strategy of largely bilateral engagement with its neighbours may be understandable, but it has obvious shortcomings. A multilateral forum might ease mutual suspicion and create a structure for sustained positive involvement. This of course would be even more important in the future, when international interest in maintaining a military presence and in funding the reconstruction tapers off. At that time, Afghanistan will again become heavily dependent upon relations with its neighbors. At present, the involvement of Afghanistan's neighbors seems to be aimed as much at maintaining options in case of renewed conflict as it does at contributing to peacebuilding and reconstruction.

Ultimately, the challenge is to build relations between Afghanistan and its neighbors that are sufficiently strong to function independently of US policy and a possible reduction in US forces. In this perspective, current policies that focus on building a viable political system in Afghanistan, while – at least temporarily – isolating it from its regional context, seem short-sighted.

8. NORWAY'S ROLE

While Norway had maintained a considerable humanitarian program in Afghanistan throughout the 1980s and 1990s, the onset of the 'global war on terror' marked a watershed in the significance of its engagement. Overnight, Afghanistan moved to the core in the discourse on how Norway should position itself in the rapidly shifting politics of global security, particularly in view of its longstanding relationships with the US and NATO. With Norway's positioning in the global security system at stake, the military engagement became more significant than the humanitarian one. Afghanistan assumed a central role in the debate on reforming the Norwegian military to adjust to global security developments.

Simultaneously, Norway upgraded its humanitarian engagement, gradually converted it into more long-term forms of assistance, and designated Afghanistan as one of its development 'partner countries' from 2004 onwards. On the assistance front, Norway has first and foremost emphasized support to the transitional administration, both directly and through its engagement in donor coordination. Otherwise, Norway as a donor is engaged in a variety of areas. Norway was also at the forefront in re-establishing a diplomatic presence, with representatives in place in time for the inauguration of the Afghan Interim Authority on 22 December 2001.

8.1. The Military Engagement

The Norwegian government was fully behind the US-led war against the Taliban regime and Al Qaida, and moved quickly to offer Norwegian military resources, including special forces, F-16 jet fighters, and one Hercules C-130 transport aircraft with personnel (see table 7.1).¹²⁵ There was no precedent for deploying Norwegian military forces beyond Europe other than in peacekeeping operations. The underlying premise of Norway's engagement, however, was the same that had informed the country's security policy since the late 1940s, i.e. that full support to the US and to NATO was essential for a reciprocal security guarantee.

The Norwegian engagement in Operation Enduring Freedom (OEF) was endorsed by the overwhelming majority in parliament. In and out of parliament, public debate was surprisingly limited given the dramatic reorientation of Norwegian defense policy signaled by the Afghanistan deployment. Some argued that the intervention itself was not in accordance with international law, and there was some debate about whether Norwegian personnel on the ground operated under US command in engagements that might violate the rules of war regarding injuring and killing civilians. By the autumn of 2003, Norway quietly wound up its engagement in OEF, while simultaneously endorsing the need for the operation to continue. The government subsequently focused on its contribution to the now NATO-led ISAF force.

Table 8.1: Budget allocations for Norwegian military engagement in Afghanistan, 2001 – 2003 (in million NOK).¹²⁶

Special forces (90 million in 2003**)	190
Mine clearance experts	29
National support unit (Kandahar)	2
Transport aircraft Hercules C-130 (Kirgizistan)	105
Armoured personnel carriers (15)	24
Jet fighters F-16 (incl. ammunition costs)*	564
Additional costs – extended deployment period*	29,5
Total – OEF	943,5
Transport control unit (Kabul)	12
Explosive Ordnance Disposal (EOD) team	5
Additional costs – extended deployment period*	13
CIMIC**	25
Surgical unit**	35
Telemark Task Force**	50
Total – ISAF	140
Liaison officers (Tampa, Florida)	38
Strategic communication units (2)	120
Procurement and adaptation of equipment	26
Additional costs – extended deployment period*	42
Total – shared resources OEF/ISAF	226
Sea patrolling, Mediterranean (NATO support)	16
GRAND TOTAL	1325,5

Note: Costs marked * refer to *Stortingsproposisjon nr. 80*, where 300 million out of a total of 648 million was covered through an extraordinary grant; the remaining 348.5 million were covered through reallocations within the ordinary budgets (including the state budget for 2003). Costs marked ** refer to allocations for 2003 and 2004, which were part of the ordinary state budget, with the CIMIC team running till February 2004, the Surgical unit to March 2004, and the Telemark Task Force to July 2004. Costs for the participation in a British-led PRT (see below) are not included.

Norway's contribution to the ISAF mission in Kabul started in early 2002, and was strikingly modest compared to the OEF contribution. The mission basically included a transport control unit and an Explosive Ordnance Disposal (EOD) team. By March 2003, Norway had deployed a Civil-Military Cooperation (CIMIC) unit, by August the same year a surgical hospital unit, and by November – in time for the Constitutional *loya jirga* – a company that could function as a so-called Quick Reaction Force. The CIMIC deployment – with the traditional mandate of 'winning hearts and minds' for the larger security force – engaged in some minor reconstruction projects in the surroundings of Kabul.¹²⁷ The projects were financed from the budget for humanitarian activities in the Ministry of Foreign Affairs. The Ministry exercised tight control by insisting on approving each and every new project. The surgical hospital unit formed part of ISAF's larger medical capacity and was set up to serve ISAF personnel.¹²⁸ Both the CIMIC team and the surgical unit were clearly at the 'soft end' of ISAF's responsibilities; Norway's 'sharp end' contribution had mainly been to the OEF.

Having wound up its OEF engagement in early November 2003, the government announced its intention to strengthen the ISAF contribution by sending a company from the so-called Telemark battalion – which consists of professional soldiers trained for international

peacekeeping missions – initially to contribute to security during the Constitutional *loya jirga*, but with an eight-month mandate.¹²⁹ The decision was taken swiftly, in response to a request from NATO’s secretary-general during a meeting of NATO defense ministers. It was clearly at the ‘sharp end’ of ISAF’s responsibilities, for which it had often proved far more difficult to find volunteers than for the softer end. In view of the experience of threats and intimidation during the Emergency *loya jirga* in the summer of 2002, it was also a symbolically important decision, despite the fact that the mandate was limited to security at the perimeter of the meeting tent. At the conclusion of the *loya jirga*, the company took responsibility for security in parts of Kabul.

The question of a possible Norwegian contribution to the Provincial Reconstruction Teams (PRTs) moved to the top of the policy agenda in the latter half of 2003. When the Defense and Foreign Affairs ministers spoke in parliament on 15 December 2003, they left little doubt that Norway would contribute to a PRT, and this was confirmed during the meeting of NATO defense ministers in Munich on 6 February 2004.¹³⁰ Norway, alongside Sweden, would contribute to a UK-led team of an estimated 200 persons, of whom 30 would be Norwegian. The clear Norwegian wish to work closely with the UK is significant in that the British PRT model was seen as being much less problematic than the US one (see chapter 6). From Norway’s side, there is insistence that a PRT should first and foremost focus on security (possibly including security sector reform), while liaising with NGOs and government agencies that will implement reconstruction programs. Norway’s contribution is also conditional on being under the ISAF mandate, governed by NATO. While acknowledging some of the weaknesses of the PRT concept, Norwegian defense circles view the PRTs as a potentially new model for peace support operations that require less money and personnel than conventional operations.

8.2. Assistance

Afghanistan had been a major recipient of Norwegian humanitarian aid throughout the 1980s and 1990s, with the funds divided about equally between the UN and Norwegian NGOs. However, the events of 9/11 changed Norwegian engagement on the assistance side as well.

Norway held the chairmanship of the Afghanistan Support Group (ASG) in 2002, a donor coordination forum established in 1997 in the absence of an internationally recognized government in Afghanistan. With the defeat of the Taliban, ‘Afghan leadership’ became the new guiding principle in the international aid community, and the ASG was dissolved at the end of 2002. The Afghan government played a central role in the new Consultative Group (CG) structure for aid coordination.¹³¹ The Norwegian government early on argued that the trust funds established to support the transitional administration and reconstruction were an important vehicle for realizing the principle of ‘Afghan leadership’, and set a positive example by channeling a large part of its own support through the trust funds.

The overarching priority for Norwegian assistance has been to move from humanitarian aid to more long-term assistance for reconstruction and development. Here, Norway’s new budget line for transitional assistance, instituted in 2002 as a response to the need for flexible funds at the interface between emergency and development assistance, was put to test.¹³² From the time of the Bonn meeting onwards, Norway has given considerable sums to support the new Afghan administration, including funding of salaries and other operating costs. While this demonstrates a useful flexibility in assistance programming, it is unclear to what extent

Norway has simultaneously pressed for necessary reforms of Afghanistan's public sector. By late 2003, it was clear that badly needed public administration reform had hardly started.

Table 8.2: Norwegian Assistance to Afghanistan 2001 – 2004 (in million NOK)

	2001	2002	2003	2004 (budget)
Humanitarian assistance; peace & reconciliation; emergency	293	220	120	approx. 80
Transitional assistance		90	120	120
- <i>Multilateral assistance</i>		20	35	10
- <i>Clearance of arrears to the IFIs</i>			75	
- <i>NORAD: long term development assistance to NGOs</i>	18	20	25	25
- <i>Regional allocation for long term development assistance (partner country)</i>				68
Total: Long term assistance	18	40	135	103
TOTAL	311	350	375	303

Examining the CG structure in late 2003, we find that Norway had announced its interest in the following sectors:¹³³

- Education and Vocational Training
- Livelihoods and Social Protection
- Public Administration and Economic Management
- Returnees and IDPs
- National Police and Law Enforcement
- Mine Action

In addition to these, Norway is listed on three cross-cutting themes: gender, humanitarian affairs, and monitoring and evaluation. As a whole, this suggests, for a small donor, a quite broad engagement that raises concern about strategy, effectiveness and potential impact. The formal guidelines of the ATA call on donors to sign up for only 3-4 groups.

After the Taliban was defeated, the international aid community generally and consciously toned down the human rights issue. Norway initially, and still in principle, has not done so. In October 2002, at a time when the Afghan Independent Human Rights Commission (AIHRC) suffered from financial problems, Norway disbursed a sum of NOK 4 million directly to the commission. The money would ordinarily have gone through UNAMA (or UNDP), but UNAMA had already taken a low profile on human rights and reconciliation issues, and the Norwegian disbursement could well be seen as a serious critique. Subsequently Norway continued to promote human rights issues in a variety of forums, but appears to have fallen more into line with UNAMA, where human rights are toned down in the interest of stability. Norway's support to the AIHRC, to the Constitutional *loya jirga*, and to the UNDP-organized voter registration may nonetheless be seen as a larger package of support to human rights and democracy building, albeit being both gradualist and low-key in its approach.

The engagement of Norwegian NGOs in Afghanistan dates back to the early 1980s. By September 2001 only the Norwegian Afghanistan Committee and Norwegian Church Aid had a presence in Afghanistan. These NGOs had a variety of project activity in many parts of the

country, with NCA primarily implementing their projects through Afghan NGOs. During 2002, the Norwegian Refugee Council and Redd Barna established themselves in Kabul, addressing rights and protection issues for, respectively, refugees and children. Thus, the Norwegian government's policy is that the continued engagement of NGOs provides an essential complement to a currently weak Afghan government administration and is likely to be a vital resource for reconstruction.

From 2004 onwards, Afghanistan is designated as one of Norway's development 'partner countries'.¹³⁴ Given the fragility of the peacebuilding process, which was acknowledged in the 2004 state budget of Norway, this is a high-risk decision that must be understood in a broader context.¹³⁵ The decision was taken in a situation where Norway's engagement in Iraq was politically controversial at home, and reflected the need to demonstrate to the US a Norwegian commitment to the 'war on terror' without engaging heavily in Iraq. Additionally, the government pointed to the strong tradition and experience of Norwegian assistance in Afghanistan through a long-term humanitarian engagement (particularly via Norwegian NGOs) and its ASG chairmanship, arguing that this would translate into a trusting relationship with key actors in the Afghan cabinet.

8.3. Conclusions

Norway's engagement in Afghanistan, both militarily and in other forms of assistance, must be understood in a post 9/11 context when a contribution to the US-led 'war on terror' was seen as a key element in the country's security and foreign policy. This largely explains why, from late 2001 to early 2002, the OEF engagement was relatively extensive, but also why, following a reconsideration of the difficulties associated with a possible contribution to the US occupation in Iraq, Norway opted for a broad and long-term engagement in Afghanistan and a very small military contingent in Iraq.

In the security sector, the first, and very costly engagement, was mostly within the framework of the US-led Coalition forces. In a second phase, from the autumn of 2003, Norway ended its OEF involvement and upgraded its involvement in ISAF, most importantly by sending a small contingent to assist with security duties during the Constitutional *loya jirga* (CLJ). This was a significant decision in that it was important to safeguard the proceedings of the CLJ and was in line with Norway's overall objective of providing support to the political transition arrangements. As for the proposed PRTs, which are likely to be deployed in 2004, the mandate remains poorly defined, making it difficult to foresee what the impact – positive or negative – will be on the ground.

On the humanitarian side, Norway has a strong profile of supporting the transitional administration, and a gradually waning profile on human rights issues. Generally, the government strives to be a constructive and flexible aid donor in its support for the transitional administration. However, the Norwegian assistance is currently spread over a large number of sectors, raising issues of effectiveness and impact. With the recent designation of Afghanistan as a 'partner country', maintaining a sharper profile in priority niches may be a wiser strategy. One such niche – where Norway already has a certain basis – is human rights and reconciliation issues. This is obviously a demanding portfolio, yet an area that requires consistent attention for the peace process to move forward.

9. CONCLUSIONS

By what standards should the peacebuilding policies pursued in Afghanistan during the past two years be judged? Three standards are relevant, ranging from the simple to the complex:

- The text of the Bonn Agreement itself: Were the goals outlined in the Agreement met and the strategies followed? Was the timetable adhered to?
- The relevance of the Bonn Agreement to the Afghan situation: Was the Bonn Agreement a good script for creating security and rebuilding the Afghan state and economy?
- The implicit political and ethical standards of intervention to change a regime: Did the intervention and related assistance strategies improve the political, socio-economic and security situation of Afghanistan?

9.1. *The Bonn Agreement*

The Bonn Agreement has two distinct parts. The preamble sets out the overriding goals of the transition process, i.e. the reconstruction of Afghanistan as a society with a fully representative government “in accordance with the principles of Islam, democracy, pluralism and social justice.” As ideal guides for the transition process, these goals have no timetable for implementation. The second and main part of the agreement is a precise outline of structures and processes to be realized within two and a half years. This is a strategy of action and is described as a “step towards” the ultimate goals.

Much of the political debate over developments in Afghanistan in the two years after Bonn reflects the uncertain relationship between these two parts of the Agreement. Advocates of modernism, human rights and rapid democratization point to the preamble and fault the transition process for being far from the ideals. They note that human rights violations remain a nationwide problem. There is no accountability mechanism for addressing massive human rights violations and war crimes in even the recent past. Democratic procedures have been manipulated, especially at the first Emergency *loya jirga*, and the selection of candidates to both assemblies was tainted by intimidation. The constitutional process had the character of a quick-fix legitimacy exercise. The rights of women - while formally acknowledged in law and some public institutions - continue to be sharply constrained by tradition, religion and politics.

On the other hand, it is noted, a strategy of action differs from ultimate goals. The main part of the Bonn Agreement, and arguably its spirit, was to provide for a transitional mechanism to fill the void after US intervention brought down the Taliban regime. The main concern then, as now, was to maintain the momentum of the political process, and above all to prevent backsliding to the conditions of civil war that had preceded the rise of the Taliban and Afghan-based international terrorism. In this perspective, to have established a functioning interim government that operates within a framework of legal legitimacy, while simultaneously moving from relief to reconstruction, is a major achievement. To have accomplished this within the two and a half year time-frame stipulated in the Agreement is even more so.

The movement from armed conflict to political competition - while incomplete - has by any standard been the most important achievement in the past two years. The political arena has been reestablished and functions. Alongside it are other tell-tale signs of peace – a 20-30% economic growth rate in 2003 (although greatly helped by good rainfall in two successive seasons), burgeoning trade, a construction boom in the capital city, an energized civil society, and reopened schools. The achievement is in no small measure due to the investment of the international community in promoting peace and stability in Afghanistan. The international commitment is expressed in military, political and economic terms and, despite a controversy over the adequacy of external funding, shows little sign of abating. Another main cause of progress is the widespread war-weariness of the Afghan people, and a related determination by many to use the last, US-led war as a stepping stone towards a better future.

On the negative side of the balance sheet are problems related to the security situation and the decision of the US-led coalition to continue to wage war on unspecified elements of the Taliban and Al Qaida in the southeastern region of the country. The continued low-level war has complicated virtually all aspects of the peacebuilding agenda implicitly endorsed in Bonn. US forces collaborate with local militia commanders in hunting down suspected enemy units, thereby nurturing the warlord phenomenon and related problems. The practice was reconfirmed as policy in early 2004, when it was announced that the US would train and equip Afghan militia forces to help fight terrorism. In pursuit of the war, the US has subordinated matters of democratic development and human rights to the needs of a close working relationship with Afghan military commanders on both the national and local levels. Far from subduing the militants, however, the Coalition forces have faced increasing attacks, as have 'soft targets' in their areas of operation. The result has been generalized insecurity in large parts of the area bordering on Pakistan.

The contradictions between waging war and simultaneously trying to build peace are clearly manifested with respect to elections and reconstruction. Growing insecurity had in late 2003 led to the suspension of international aid activities and UN missions in many parts of the South and Southeast. For similar reasons, it was uncertain if the planned registration of voters and the 2004 elections could be held as scheduled in these areas. The affected provinces constitute the Pashtun heartland, where many people feel they have lost out in the political transition. By early 2004, there was mounting concern that insecurity, suspension of reconstruction projects, and political suspicion that villagers were Taliban sympathizers might generate a sharply negative dynamic and effectively create 'rogue provinces'.. In this respect, the ideals in the preamble of the Bonn Agreement appear to have become more distant over the past two years.

By the standard of Bonn 'as a strategy of action,' the main shortcomings during the past two years have been on the security front as well. The military forces of the Northern Alliance faction did not withdraw from Kabul as required by the Agreement. This circumscribed the role of the international peacekeeping force (ISAF), deployed in Kabul to prevent the capital from becoming a battlefield for competing military factions as had happened with devastating consequences in 1992-96. Although Kabul remained generally peaceful, it was not quite the neutral political ground envisaged in Bonn. The presence of the Northern Alliance forces intimidated both Afghan critics, who feared physical harassment, and members of the international community who worried that the powerful defense minister would become a 'spoiler' and withdraw from the political process.

A related shortcoming has been the extremely slow pace of demobilization of the factional armies and the formation of a new national army. By early 2004, only some 2,700 of an estimated 100,000 soldiers had surrendered their weapons. While the Bonn Agreement attached no timetable to demobilization, it was hoped that the process would be well under way by the time of the elections, scheduled in or before June 2004. Experience from similar situations demonstrates that holding Western-style elections in the presence of competing and fully armed militias is meaningless or counterproductive. The limited progress towards demobilization has added to concerns about the wisdom of holding elections as scheduled.

9.2. A Script for Peacebuilding

As noted at the outset, conflict was embedded in the very process of rebuilding the Afghan state and economy. The defeated party – the Taliban – was not brought into a peace settlement when the war ended. Large populations associated with the regime were excluded from national power and treated with suspicion. Questions of integration, representation and distribution of benefits – central but difficult issues in the aftermath of most civil wars – consequently became particularly problematic. They were further complicated by the lack of agreement among the Afghan people on constitutive principles of state and society. Views differed on fundamental issues regarding the structure of the state (degrees of centralism), the relationship between state and religion, the nature of rights and the role of women, and the position of the monarch. The conflict generated by these divisions was sharpened by the continued low-level war in the South and Southeast. Hence, the period after Bonn clearly has not been a ‘post-conflict’ situation. Applying this widely used paradigm to Afghanistan, as many did, risks using ill-fitting strategies and creating unrealistic expectations. ‘Conflictual peacebuilding’ is a more appropriate term, and raises the question as to whether the Bonn Agreement and related instruments were suitable for a situation of this kind.

The Political Transition

The Bonn Agreement provided a feasible and widely accepted mechanism for bringing the principal armed factions, except the Taliban, into the political arena, and simultaneously permitted new political forces access. The mechanisms were partly taken from the standard inventory of Western democratic instruments (elections, watchdog commissions, constitutional process), but wisely used traditional Afghan institutions as well (the *loya jirga*).

The very success of bringing groups that lacked liberal traditions into the political system – old *jihadi* parties, self-styled warlords and conservative Islamists – made Afghan modernists and some of their international supporters fear that Islamists might use the parliamentary process to assert their political power, as had happened previously in Pakistan’s NWFP and, until the process was aborted by the military, in Algeria. It was the classic dilemma of a democratic system: how much freedom to participate should be allowed? The single most important external actor – the United States - favored strong leadership over inclusive participation, a preference that reflected Washington’s interests in having a firm and reliable regime that would support its war against the Taliban and Al Qaida.

A textbook recommendation would recognize the importance of inclusive political mechanisms in situations of conflictual peacebuilding. The lack of agreement among Afghans on what kind of polity should be formed - modernist-reformist? Islamist? conservative-

traditional? - suggested the need for an open and inclusive political system where greater consensus on constitutive issues gradually could be forged over time. If properly used, instruments such as parliament, power-sharing formulas and appointments to state positions might produce a measure of power-sharing, accountability and recognition of group interests among all parties concerned.

The two divergent views were played out in the constitutional debate on the balance of power between the president and the parliament, and again in the matter of the elections scheduled for mid-2004. The Bonn Agreement, perhaps unwisely, set a fixed timetable for the first elections, thereby depriving the process of some flexibility. The principle of inclusiveness implied that parliamentary elections be held as close to presidential elections as possible (as the new constitution states). Advocates of strong presidential leadership were willing to split the two. In a third perspective, postponing elections was seen as a reasonable option provided a serious commitment was made to develop institutional democratic capacity and proceed with demobilization in the meantime.

The principle of inclusiveness applies to the Bonn Agreement itself. The Bonn meeting was highly unrepresentative, dominated by the Northern Alliance and the Pashtuns in exile. The traditional-conservative Pashtun society was mostly excluded, as was everybody that had been even remotely associated with the Taliban. No efforts were made to deal politically with the defeated regime and its supporters. Not surprisingly, core Taliban elements withdrew, regrouped and resumed the armed struggle. Much of the conservative Pashtun tribal society felt alienated and excluded. The transitional administration in Kabul found itself facing a major legitimacy problem. Arguably, a more inclusive approach at the beginning would probably have made for less conflict.

A similar perspective is relevant to the difficult relationship between the center and the provinces. While not directly discussed in Bonn, the state-building policy charted by the UN and the international community has been modernist-centrist in orientation. Apart from conforming to the pre-war formal structure of state administration, the approach was based on the assumption that the central state would be a more legitimate and benevolent power than the warlords. It has become increasingly obvious, however, that the desirability of building a central state cannot be divorced from the question of 'who owns the state'. Key figures in the transitional administration are likely to remain in power well after the scheduled transition ends, and deep legitimacy problems persist. Until conditions for meaningful elections are met, an alternative approach would be to rely more on traditional modes of establishing legitimacy and influence vis-à-vis the provinces, including distribution of rewards, and schemes for revenue sharing.

The Bonn Agreement called for an entirely new constitution to be written within a very short timeframe. A constitution was duly produced in about 6 months time. By comparison, a similar process in South Africa - which is held up as model of participatory constitution-making in deeply divided societies - took 6 years. Not surprisingly, the Afghan case became a quick-fix, only nominally democratic process with superficial 'public hearings' and closed-door, last-minute revisions in the office of the incumbent president. A longer timeframe might have turned the constitutional process into a genuine consensus-producing exercise. In the meantime an amended version of the 1964 Constitution could have remained in force.

Security

The main role of military forces in a peacebuilding operation is to provide support for the political process. The adequacy of the force assigned to Afghanistan for this task – and the type of force deployed – have been much discussed. Often lost in the discussion is the central point that the medium-sized international force deployed to the capital was a critical demonstration of international support for the political transition, which helped avert a return to civil war. Given the varied security situation in the provinces, it does not necessarily follow that a deployment outside Kabul would have yielded commensurate benefits.

Designated a ‘stabilization’ rather than a classic peacekeeping force, ISAF did not expand beyond Kabul for almost two years. The decision to initially limit its deployment to the capital was one of the most controversial clauses of the Bonn Agreement. In retrospect, it seems that an early deployment to other main cities would have strengthened Kabul’s position in relation to the local power holders. Even a low-level military presence in the main cities would likely have created a more neutral political space and less intimidation. Road patrols might well have reduced robberies of relief trucks. However, as the experience of ISAF in Kabul also demonstrated, the international force would likely have operated with some deference to the local power holders, and the impact on the general security situation seems uncertain. By the time expanded deployment was no longer opposed by the US (fall 2002), and authorized by the UN Security Council (late 2003), the security situation had further deteriorated in ways that made ISAF contingents in whatever place and form more vulnerable. In the escalating war between the Coalition forces and the militant Islamists, all foreign military personnel were equally targeted, as suicide attacks against ISAF personnel in Kabul showed.

The Provincial Reconstruction Teams (PRT) were initially a US initiative undertaken in the ‘winning-the-hearts-and-minds’ tradition. The PRTs encountered massive opposition from the NGO aid community, and doubts about the cost-effectiveness of mixing military and reconstruction tasks inspired an alternative British model where the teams mainly have security and intelligence functions. The impact of small and widely scattered teams of this kind remains to be seen. They can potentially contribute to the creation of islands of stability, thereby demonstrating that peace pays.

Economic Reconstruction

The guiding principles for reconstruction were laid down in a sequel to Bonn in meetings of donors and the new Afghan authorities. The standard paradigm for internationally-supported reconstruction in post-war situations that had developed during the 1990s was adopted, based on market-driven growth, an open economy and a minimalist, regulatory state. The paradigm was given an additional, neo-liberal twist by the powerful Minister of Finance in the transitional administration.

The transitional administration has identified economic growth as the principal strategy for combating poverty, and for alleviating the sharp inequalities in wealth between as well as within provinces. National programs (NSP, NEEP) are small and slow in implementation. The major public works program to address immediate reconstruction needs and mounting unemployment, NEEP, had by late 2003 generated the equivalent of about one-third of a workday per member of the labor force. While the administration frequently blames

inadequate donor funding for the slow pace of reconstruction, its policy framework does not give priority to programs that could yield a tangible or highly visible demonstration of the benefits of peace.

Sharp geographic differences in wealth were a major argument for creating a central state, which could undertake redistributive policies. For instance, Herat province last year generated revenues five thousand times greater than the poor province of Bamyan and about two thousand times the amount generated in the province of Wardak, just south of Kabul. The administration is anxiously trying to control locally generated revenues, but has not made an equally strong commitment to regional redistribution. Instead, the central ministries have been advised to use market mechanisms for distributing reconstruction projects and social services. There are no reliable figures on the aid pattern so far, and at least one poor area (Bamyan) has attracted numerous foreign NGOs. Nevertheless, the competitive bidding process will exacerbate rather than diminish present inequalities if NGOs, firms and aid agencies bid last on projects in backward, insecure or inaccessible areas, as they might be expected to do.

A similar market approach has been used to build absorptive capacity in the public and private sector. The transitional administration has made extensive use of foreign expertise to quickly enhance the capacity to administer and implement reconstruction programs and deliver social services. While capacity enhancement will enable the government to effectively channel large amounts of foreign aid into the reconstruction process, the strategy is costly and hardly sustainable in the long run. Building local capacity – as distinct from enhancement through import - is a long-term and more difficult task and has not received similar attention.

The consequences of an unmodified market approach have been studied in other countries where not only the economy, but also the society, had to be reconstructed. Typical findings include limited provision of social goods, large pockets of poverty, and high levels of violence (in the form of crime). A pure market approach to reconstruction is also inadequate because it fails to incorporate political factors that affect the peace process, notably issues of equity, inclusion, political accountability and legitimacy.

The magnitude of aid has become an increasingly controversial issue in relations between Afghanistan's transitional administration and international donors. The administration maintains that donors should channel huge amounts of funds into the reconstruction process in order to prevent Afghanistan from becoming a 'narco-mafia state'. Yet it is highly questionable that an infusion over the next few years of say, nearly 30 billion dollars as now requested, would by itself bring peace. *How* the aid is being spent is more important, as is the institutional context of local capacity and reform. Large inflows of aid raise another fundamental issue. The Afghan state is fast becoming a rentier state funded by foreign governments. Dependence on foreign funding of the kind envisaged in the next seven-year period will necessarily generate primary accountability of the Afghan government towards its foreign patrons. As such, a rentier structure works fundamentally at cross purposes to the main political objective of Bonn, which is to create a government that is accountable to its own people. As an Afghan observer asked: "How can we Afghans claim to be in the driver's seat when there is someone in the backseat that both draws the map and tells us where to go?"

9.3. The Responsibilities of Intervention

The firm commitment by the international community to create a stable and peaceful Afghanistan has helped prevent a return to protracted civil war, but creating conditions for economic, political and social progress have been more difficult. In parts of the country the fall of the Taliban has meant relative peace and promise of prosperity. In other parts, life has not changed dramatically. The civil wars of the 1990s, it will be recalled, entailed a devastating battle for Kabul and intense fighting as well as massacres in the central region (Bamyan) and the North (Mazar). Outside these areas, people lived, as they do now, locked in a grinding battle with poverty and disease, ruled by tradition and the local community, subject to abuse by local power holders and exposed to natural disasters. Partial surveys and anecdotal information on the concerns of ordinary people identify three top priorities: security, employment and more accountable authorities.

Progress towards establishing a political arena for resolving conflicts and affirming principles of human rights and political liberalism has been noted. In practice, however, human rights have been neglected by the international community, including the UN mission, which has a clear mandate in this area. This neglect contrasts markedly with the Taliban period, when human rights violations attracted great international attention and outrage. One reason, of course, is that some types of rights violations have disappeared with the fall of Taliban (such as restrictions on education for girls, employment of women and certain civil and political rights). Yet it is widely acknowledged that a multiple abuses continue despite a formal commitment to the contrary. As a local policeman in Wardak who had been through a German-financed training program said, “We learn about human rights, but we don’t practice it.” Multiple armed factions roam the countryside. Furthermore, and in contrast to the late Taliban period, drug production has sharply increased despite major international efforts to prevent it.

As noted above, rebuilding the Afghan state and economy has been complicated by the continuing and recently escalating war with Taliban remnants and other militant Islamists. Some close observers express growing pessimism about the entire peacebuilding undertaking.¹³⁶ The violence underscores the difficulties of effecting regime change through armed intervention, particularly when undertaken as part of a global ‘war on terror.’

9.4. The Policy Agenda Ahead

A continued international commitment seems necessary to prevent a return to civil war in Afghanistan, but there is no clear recipe for how to move from preventing war to creating a better peace. The analysis so far suggests a few guidelines:

- Refocus and limit the war against the militants so as to reduce the negative impact on the peacebuilding agenda. Distinguish between the ‘national terrorists’ (the Taliban) and the ‘international terrorists’ (which the Afghans call ‘the Arabs’), and to the extent possible address the grievances of the former with political means.
- Emphasize institutional reforms and local capacity building as a prerequisite for a large influx of new funds. Focus on the effective use of funds to alleviate current problems rather than on counterfactual scenarios of Afghanistan becoming a ‘narco-mafia state.’ Recognize that the dividing line between ‘reconstruction’ and

‘development’ is becoming very thin, particularly when planning is linked to the Millennium Development Goals.

- Address issues that have been relatively neglected in the reconstruction process so far, including human rights, anti-poverty programs, and regulatory policies that promote greater equality and equity in sharing the benefits of reconstruction. This is especially important to reduce the likelihood that poor and insecure areas will become ‘rogue provinces.’
- Anchor the peacebuilding process more firmly in the regional context, *inter alia* by creating an institutional forum for cooperation between Afghanistan and its neighbors.

As for the role of Norway, the government should consider consolidating its present aid portfolio - which judged by CG membership is rather dispersed for a small actor on the Afghan scene - and concentrate on an identifiable niche where the Norwegian contribution can make a difference. This strategy was followed with some success earlier, when Norway chaired the Afghan Support Group in the transition from humanitarian aid under the ostracized Taliban regime to a comprehensive assistance under the new authorities collectively supported by the international community. At the present juncture, a niche that would harmonize with overall Norwegian aid policies would be one that gives voice to the relatively neglected areas in the present reconstruction policy.

NOTES

¹ This report was later incorporated as part I in: Astri Suhrke, Kristian Berg Harpviken, Are Knudsen, Arne Strand and Arve Ofstad, *Peacebuilding: Lessons for Afghanistan?*, CMI Report no. 9, 2002. (<http://www.cmi.no/publications/publication.cfm?pubid=831>, accessed 7 February 2004)

² *Securing Afghanistan's Future: Accomplishments and the Strategic Path Forward*, 29 January 2004 (<http://www.af/recosting/index.html>, accessed 7 February 2004). Hereafter referred to as SAF.

³ Agreement on the Provisional Arrangements in Afghanistan Pending the Re-establishment of Permanent Government Institutions (the 'Bonn Agreement'), (www.uno.de/frieden/afghanistan/talks/agreement.htm, accessed 12 January 2004). Hereafter referred to as the *Bonn Agreement*.

⁴ *Report of the Panel on UN Peace Operations*, 21 August, 2000 (A/55/305-S/2000/809).

⁵ See Astri Suhrke, Jolyon Leslie and Arne Strand, 'Afghanistan', chapter 5 in *A Review of Peace Operations: A Case for Change*, King's College, London, 2003, particularly pp 338-341. Hereafter referred to as KCL.

⁶ The US in November 2003 announced that 1.2 billion dollars in aid would be disbursed in the months preceding the scheduled presidential election in June 2004. The transfers were seen as a vital support for Karzai's election.

⁷ UNHCR set the number of Afghan refugees in Pakistan at 1.1 million while the Iranian government's Bureau for Aliens and Foreign Immigrants Affairs (BAFIA) estimated there were 2.3 million refugees in Iran.

⁸ Alexander Thier and Jarat Chopra, *Considerations for Political and Institutional Reconstruction in Afghanistan*, Report, January 2002; Farahnaz Karim and Gregory Hess, *Thinking about Aid Management and Peace Building in Afghanistan*, Peacethink Discussion Paper, November 2001; A. Suhrke et al, *Peacebuilding: Lessons for Afghanistan?*

⁹ KCL, section 5.9.

¹⁰ UNICEF, *Afghanistan: The Big Picture* (<http://www.unicef.org/infobycountry/afghanistan.html>, accessed 8 February 2004)

¹¹ IMF, *Islamic State of Afghanistan: Rebuilding a Macroeconomic Framework for Reconstruction and Growth*, Country report, 03/29, International Monetary Fund, September 2003. (<http://www.imf.org/external/pubs/cat/longres.cfm?sk=16881.0>, accessed 8 February 2004)

¹² Within this overall framework of dependence, the proportion of domestic revenues to total financing was projected to increase from 1:12 to 1:6, as is also discussed in *Securing Afghanistan's Future*, the paper produced in preparation for the March 2004 conference.

¹³ This is a main theme of Barnett Rubin's seminal book, *The Fragmentation of Afghanistan: State Formation and Collapse in the International System*, New Haven, Yale University Press, 1995.

¹⁴ Ashraf Ghani, *A Report on the Accomplishments of the Government of Afghanistan, September 2002-2003*, p 10. Documents for the Dubai meeting are available at www.af/. See also Clare Lockhart, 'The Road to State Building', *Afghan Monitor*, no. 5, October 2003.

¹⁵ SAF, chapter 7.

¹⁶ The costing of the investments needed to implement a reform program in Public Administration and Economic Management (PAREM) is estimated at \$1 billion over the seven-year period; of this, \$33 million is designated for capacity building. The bulk of the estimated budget would be block grants to the provinces, i.e. by nature unspecified.

¹⁷ In some cases the ministries concerned did not participate in the selection of consultants, which was decided by the foreign companies.

¹⁸ Those with mixed ethnic identities are here referred to by the group with which they allied themselves (e.g. Foreign Minister Abdullah as a Tajik although his mother is Pashtun).

¹⁹ AREU, *How Government Works in Afghanistan: Summary of Findings and Recommendations*, Kabul, October 2003 (<http://www.areu.org.pk/>, accessed 8 February 2004)

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- ²⁰ Note for instance Karzai's much-publicized decision in May 2003 to summon ten of the country's most powerful provincial governors and two regional commanders to Kabul, where he demanded compliance with a thirteen-point manifest of policy guidelines.
- ²¹ Kandahar was considered a path-breaking case when the local strongman who had arrived with US forces in 2001, Gul Agha Shirzai, was persuaded to take up a high-level position in Kabul.
- ²² Arne Strand, Hege Toje, Alf Morten Jerve and Ingrid Samset, *Community Driven Development in Conflict Contexts*, Report no. 13, Bergen, Chr. Michelsen Institute, 2003 (<http://www.cmi.no/publications/publication.cfm?pubid=1727>, accessed 8 February 2004)
- ²³ Sippi Azarbaijani-Moghaddam and A. Bhattacharjee, *Security of Livelihoods for Afghan Returnees Project (SoLAR II)*, Evaluation report, October 2003, Kabul: CARE International
- ²⁴ UNDP, *The National Area Based Development Programme of Afghanistan*, September 2003 (<http://mirror.undp.org/afghanistan/projects/Update-Sep-03/The-National-Area-Based-Development-Programme-of-Afghanistan.html>, accessed 8 February 2004)
- ²⁵ Action Aid, *What Poor Afghans Think: The New Afghan Constitution - A Need for Consultation and Participation*, London: December 2003. See also: Chris Johnson, William Maley, Alexander Their and Ali Wardak, *Afghanistan Political and Constitutional Development*, Report prepared for ODI, London, January 2003 (<http://www.odi.org.uk/hpg/papers/evaluations/afghandfid.pdf>, accessed 15 February 2004)
- ²⁶ *What Poor Afghans Think*, *op.cit.*
- ²⁷ Paper presented by Anne Tully at the conference 'State Reconstruction and International Engagement in Afghanistan'. Cited in Report of the Symposium, 30 May-1 June 2003, Bonn, Zentrum fur Entwicklungsforschung, p 8 (<http://www.crisisstates.com/download/afghan/report.pdf>, accessed 15 February 2004)
- ²⁸ *How Government Works in Afghanistan*, *op.cit.*, chapter 2. p.2
- ²⁹ UN Office on Drugs and Crime and Government of Afghanistan Counter Narcotics Directorate, *Afghanistan: Opium Survey 2003*, October 2003. (http://www.unodc.org:80/pdf/afg/afghanistan_opium_survey_2003.pdf, accessed 8 February 2004)
- ³⁰ James Astill, 'US Plans War on al-Qaida's Afghan Opium', *Guardian*, 24 November 2003, (<http://www.guardian.co.uk/international/story/0,3604,1091681,00.html>, accessed 8 February 2004)
- ³¹ *KCL*, chapter. 5.
- ³² By November 2003, 1692 Afghan and 295 International NGOs had registered with the Ministry of Planning. On refugees and IDPs, see <http://www.unhcr.ch/cgi-bin/texis/vtx/home/opendoc.pdf?tbl=SUBSITES&id=3f1cf64f4>, accessed 2 February 2004.
- ³³ *Summary of Confirmed Support for National Budget 1382*, (www.afghanistangov.org/mof/adf-meting.html, accessed 5 February 2004)
- ³⁴ The figure includes aid for coordination and refugees outside Afghanistan. Barnett R. Rubin, Humayun Hamidzada and Abby Stoddard, *Through the Fog of Peace Building: Evaluating the Reconstruction of Afghanistan*, June 2003, New York: CIC, 2003.
- ³⁵ Ministries of Planning, Reconstruction and Finance, *Working Draft. Plan and Budget for 1381-82 National Development Programme*, Kabul, October 2002, Indicative Budget Summary. (www.afghanistan.gov/mof/, accessed 16 December 2003)
- ³⁶ On 'the gap', see Shepard Forman, Steward Patrick and Dirk Salomons, *Recovering from conflict: Strategy for an international response*, New York: Center on International Cooperation, 2000.
- ³⁷ The returnee factor had also been central in choosing the older UNDP P.E.A.C.E. program, now reborn as the National Area Based Development Program. (http://mirror.undp.org/afghanistan/projects/nabdp_mar.html, accessed 12 January 2004)
- ³⁸ David Turton and Peter Marsden, *Taking Refugees for a Ride*, Kabul: AREU, 2002.
- ³⁹ The summary status of CG activities on the government's website indicates uneven progress (<http://www.af/cg/index.html>, accessed 8 January 2004)

⁴⁰ *Development Budget Projects – Overview*, (www.afghanistangov.org/mof/adf_meeting.html accessed 8 January 2004)

⁴¹ The program had until September 2003 financed 3,600 km of (secondary/tertiary) roads, 40 water supply systems, and over 16 schools, cited by Minister of Finance, Ashraf Ghani during Dubai Conference; see ‘A Report of the Accomplishments of the Afghan Government, September 2002-2003’, 21 September 2003, and also the World Bank’s Afghanistan Transitional Support Strategy, March 2003 (<http://lnweb18.worldbank.org/sar/sa.nsf/Countries/Afghanistan/AB39A88B9D9FC1EA85256D030052EF21?OpenDocument>, accessed 14 February 2004)

⁴² See Susan L. Woodward, ‘Economic Priorities for Successful Peace Implementation’, in Stephen John Stedman, et al., *Ending Civil Wars: The Implication of Peace Agreements*, Boulder: Lynne Rienner, 2002.

⁴³ Ashraf Ghani, *A Report on the Accomplishment of the Afghan Government, September 2002-2003*, 21 September 2003, Dubai Conference (<http://www.af/dubai%20conference/Dr%20Ashraf%20Ghani.pdf>, accessed 14 January 2004)

⁴⁴ Ronald Waldman and Homaira Hanif, *The Public Health System in Afghanistan*. July 2002, Kabul: AREU, 2002.

⁴⁵ Farouzdin Farouz, Improving the Health of Afghans, *Afghan Monitor*, Issue 5, October 1, 2003

⁴⁶ By January 2004 the Donor Assistance Database did not yet provide any information on geographical assistance distribution. While data is available on number of projects per province an attempt to use such data for a comparison was made impossible due to double reporting by donor and implementer, difficulty in differentiating between ended, ongoing and planned projects, and, moreover, both an uncertainty as to whether all projects were being reported and whether those reported had actually been implemented. Attempts to compare the DAD data with the ACBAR Activity Directory failed due to different reporting forms.

⁴⁷ See Barnett R. Rubin, Humayun Hamidzada and Abby Stoddard, *Through the Fog of Peace Building: Evaluating the Reconstruction of Afghanistan*, New York: CIC, 2003, and CARE and CIC, *Good Intentions will not Pave the Road to Peace*, Afghanistan Policy Brief , 15 September 2003, (http://www.careusa.org/newsroom/specialreports/afghanistan/a_policypositions.asp accessed 12 January 2004)

⁴⁸ CARE, *Rebuilding Afghanistan: A Little Less Talk a Lot More Action*. Care Policy Brief, 1 October 2002, Kabul: 2002.

⁴⁹ See Chris Johnson, “Needs analysis and decision-making in Afghanistan post-9/11,” p 61, in James Darcy and Charles-Antoine Hofmann, *According to need? Needs assessment and decision-making in the humanitarian sector*, London: ODI, HPG report 15, September 2003

⁵⁰ The MDG were endorsed by 147 heads of state and government at the September 2000 UN Millennium Summit as desirable goals that all low- and middle-income nations should achieve, mostly by 2015. For details see <http://www.un.org/millennium/declaration/ares552e.pdf>

⁵¹ *Costing the public investment needed for a politically and economically sustainable Afghanistan*, (www.afghanistangov.org/mof, accessed 12 January 2004)

⁵² See www.developmentgoals.org, accessed 12 January 2004

⁵³ For details on MDG, see <http://www.un.org/millennium/declaration/ares552e.pdf>, accessed 12 January 2004

⁵⁴ Ibid.

⁵⁵ ‘The participants in the UN talks on Afghanistan pledge to withdraw all military units from Kabul and other centers or other areas in which the UN mandated force is deployed.’ Bonn Agreement, annex 1 (4). As it turned out, ISAF was only deployed to Kabul.

⁵⁶ ‘Procedures for the Elections of Members of the Emergency *loya jirga*.’, article 14, (http://www.eurasianet.org/loya_jirga/election.shtml, accessed 14 January 2004)

⁵⁷ One independent observer explained that Hadji Qadir had announced in the election meeting in Jalalabad that that there was no need for them reading all the documents and following the deliberations, since he would do that for them and then let them know for whom to vote accordingly. Generous amounts of money were then exchanged to the delegates. See also: Human Rights Watch, *Afghanistan: Loya Jirga Off To Shaky Start. Delegates Coerced, Threatened, Spied On*, Kabul, June 13, 2002, (<http://hrw.org/press/2002/06/jirga061202.htm>, accessed 13 December 2003)

⁵⁸ Such threats were received by outspoken *loya jirga* members and by members of the *loya jirga* Commission. Two persons were evacuated abroad by UNHCR due to the risk to their life.

⁵⁹ Interviews by the authors in Gilan and Moqor, Ghazni, November 2002.

⁶⁰ The process was delayed, then split into a two-step process that ensured greater control over membership, as well as less transparency. Instead of a Constitutional Commission as envisaged in Bonn, a 'technical' drafting commission was established, to be followed by a broader Review Commission. The drafting Commission was chaired by Vice-President Professor Naematullah Sharahni, and was not officially inaugurated until 3 November 2002. A decree of 28 October established a Secretariat, later to be directed by Farooq Wardak, a senior UNDP official. The thirty-five member Review Commission was appointed on 26 April 2003, whereas the public consultation process did not start until early June 2003. See the Constitutional Commission's website (www.constitution-afg.com/resrouces/Constitution-Making%20Process%20Final.doc), particularly these documents: 'The Constitution Making Process' prepared by the Secretariat of the Constitutional Commission of Afghanistan, 10 March 2003; Farooq Wardak (undated), 'The Management of the Constitution-Making Process in Afghanistan', Kabul, Secretariat, Constitutional Review Commission. With reference to the drafting Commission, the International Crisis Group concluded that "a non-transparent process, manipulated by *Shurya-yi Nazar* and its allies, has yielded a group ill suited to its tasks and without popular legitimacy" *Afghanistan's Flawed Constitutional Process*, 12 June 2003, ICG Asia Report no. 56, Kabul/Brussels, p 17 (<http://www.reliefweb.int/library/documents/2003/icg-afg-12jun.pdf>, accessed 6 February 2004)

⁶¹ Report of the UN Secretary-General to the General Assembly, *The Situation in Afghanistan and its Implications for International Peace and Security*, (A/58/616.), 3 December 2003 (<http://ods-dds-ny.un.org/doc/UNDOC/GEN/N02/651/06/PDF/N0265106.pdf?OpenElement>, accessed 6 February 2004)

⁶² International Crisis Group, *Afghanistan: The Constitutional Loya Jirga*, , Kabul/Brussels, 12 December 2003 (http://www.crisisweb.org/library/documents/asia/2_afgh_the_constitutional_loya_jirga.pdf, accessed 6 February 2004)

⁶³ The 1964 constitution, by contrast, was much less pluralist and closer to the subsequently revised draft.

⁶⁴ Herve Bar, 'Mujahedin Candidates Dominate Afghan Loya Jirga Elections', *Agence France Press*, 9 December, 2003. Fifty delegates were appointed by Karzai, sixty-four slots were reserved for women, and forty-two were chosen to represent refugees in Iran, Pakistan, displaced persons, nomads and Sikh and Hindu minorities, making a total of 500 delegates.

⁶⁵ BBC News, 'Afghan attack shows "tactic change"' (http://news.bbc.co.uk/2/hi/south_asia/3436043.stm, accessed 6 February 2004)

⁶⁶ See 'Brahimi Outlines Afghanistan's Security, Election Challenges', *U.N. Wire*, 28 January 2004, In this interview, Brahimi argued for a slight postponement of the Presidential elections but with Parliament elections to take place in 2005 (http://www.unwire.org/UNWire/20040128/449_12540.asp, accessed 14 February 2004)

⁶⁷ Adam Entous, 'Bush to Propose New Aid Afghanistan – Sources', *Reuters*, (<http://www.alertnet.org/thenews/newsdesk/N08171512.htm>, accessed 6 February 2004)

⁶⁸ *Afghan Elections: The Great Gamble*. Kabul: AREU, November 2003 (<http://www.areu.org.pk/publications/elections%20brief/areu%20elections%20brief.pdf>, accessed 6 February 2004)

⁶⁹ By November 2003, UNAMA had received only 15.5 million in commitments and 3.8 million in pledges. By comparison, the overall ATA budget of the entire justice sector (including the court system) for the fiscal year 2003-2004 was 27 million dollars. See Rama Mani, *Ending Impunity and Building Justice in Afghanistan*, AREU Issues Paper Series, December 2003, p 15 (<http://www.areu.org.pk/publications/justice/Ending%20Impunity%20and%20Building%20Justice.pdf>, accessed 6 February 2004))

⁷⁰ The 1964 Constitution had allowed for the establishment of political parties, and although the parties act was never ratified by the King, a range of parties started to emerge from 1965 onwards broadly divided between traditionalists/monarchists, Islamists and Soviet and Chinese oriented communists. Kabul University became an arena for political struggle, where both lecturers (as Rabbani and Sayaff) and students (as Hekmatyar and Masood) engaged. The 1977 Constitution introduced a one party state, which was maintained under the communists until the mujahedin takeover in 1992. During the war against the Soviet-backed PDPA regime, seven Afghan parties were approved by the Pakistan government for registration there, all with a Sunni Islamic

and militant orientation. Other parties, notably the social democratic (and Pashtun nationalist) *Afghan Mellat* and various parties with a Maoist orientation, could no longer operate in public either in Afghanistan or Pakistan. A large number of Shia-based parties operated from Iran, but the majority of these merged into *Hezb-e Wahdat* in 1989, which split in two factions a few years later. Both the Hazara dominated *Wahdat* and the Tadjik dominated *Shura-e Nezar* combined a military agenda with a concern for social welfare.

⁷¹ ‘Political Parties Law’, English translation by UNAMA, Kabul, September 2003, (<http://bglatzer.de/aga/files/partylaw-engl.htm> accessed 14 December 2003)

⁷² *KCL*, op.cit.

⁷³ Land in Shirpur, a choice location of Kabul, was bulldozed and distributed to government members and a number of their family members. The incident occurred while the UN Rapporteur on Housing was visiting Kabul, and provoked a strong rebuke (but not reversal), see <http://www.hrea.org/lists/hr-headlines/markup/msg01219.html>, accessed 10 January 2004

⁷⁴ On the Emergency *loya jirga*, see: International Crises Group, *The Afghan Transitional Administration: Prospects and Perils*, Kabul/Brussels, 30 July 2002. On intimidation during the election of representatives to the constitutional *loya jirga*, see: Human Rights Watch, *Open Letter to President Karzai*, October 29, 2003.

⁷⁵ Some critical editors were arrested but subsequently released. One person was evacuated by UNHCR due to death threats related to charges of blasphemy. A student demonstration over housing in October 2002 resulted in four people killed by the police, was a major embarrassment for the government. This in itself is indicative of the low threshold of tolerance of political violence.

⁷⁶ See Security Council Resolutions 1378 (2001), 1883 (2001) and 1386 (2001) as well as UN Secretary General’s Report to the Security Council of 6 December 2001 (A/56/681-S/2001/1157) and 18 March 2002 (A/56/875-S/2002/278) (<http://www.unama-afg.org/docs/index.html>, assessed 9 February 2004)

⁷⁷ *A Guide to Government Functioning Outside of Kabul*, Kabul: World Bank and AREU, Working draft, March 2003, p 23. ([http://lnweb18.worldbank.org/sar/sa.nsf/Attachments/guide/\\$File/Afgh+Guide+Report.pdf](http://lnweb18.worldbank.org/sar/sa.nsf/Attachments/guide/$File/Afgh+Guide+Report.pdf), accessed 15 February 2004)

⁷⁸ Human Rights Watch, *Killing You is a Very Easy Thing for Us: Human Rights Abuses in Southeast Afghanistan*, New York, vol. 15, no. 5, July 2003 (<http://www.hrw.org/reports/2003/afghanistan0703/>, accessed 15 February 2004); Amnesty International, *Afghanistan: Restoring the Rule of Law*, London, August 2003; AREU, *Ending Impunity and Building Justice in Afghanistan*

⁷⁹ *Bonn Agreement*, section II(1)

⁸⁰ *KCL*, op.cit. paragraphs 56-57

⁸¹ See <http://www.af/cg/justice/index.html>, accessed 10 January 2004

⁸² Amnesty International, 2003, op.cit., cited in AREU, 12/2003, op.cit., p 16

⁸³ Mark Sedra, ‘Police Reform in Afghanistan: An Overview’, in *Confronting Afghanistan's Security Dilemma*, Brief no. 28, Bonn, BICC, 2003, pp 34-35 (<http://www.bicc.de/publications/briefs/brief28/content.html>, accessed 15 February 2004)

⁸⁴ *The Situation in Afghanistan and its Implications for International Peace and Security*, paragraph 30

⁸⁵ Rama Mani, *Ending Impunity and Building Justice*, op.cit.

⁸⁶ Amnesty International, *Afghanistan: Restoring the Rule of Law*, op.cit. in recommendation,

⁸⁷ *Practical Review of Rule of Law and Justice Sector*, draft report, Geneva: Centre for Humanitarian Dialogue, December 2003

⁸⁸ *The situation in Afghanistan and its Implications for International Peace and Security*, paragraph 39

⁸⁹ *SAF*, op.cit.

⁹⁰ *KCL*, op.cit.

⁹¹ See: Press briefing by Manoel de Almeida e Silva, UNAMA Spokesman 14 Sep 2003 (<http://www.reliefweb.int/w/rwb.nsf/0/b52149cfed206120c1256da200324f39?OpenDocument>, accessed 15 February 2004)

⁹²The Bonn Agreement gives the UN the right to investigate human rights violations generally, although does not specifically mention past human rights abuses. However, the Secretary-General's report to the Security Council on 6 December 2001 stated that "the Afghan people and their international partners must commit themselves to addressing the problems of the past by ending impunity and ensuring accountability for past abuses, including gross and systematic violations of human rights." A/56/681-S/2001/1157, paragraph IV (<http://www.unama-afg.org/docs/sc/sgreports/2001-1157.pdf>, accessed 16 February 2004)

⁹³ *KCL, op.cit.*, para. 82.

⁹⁴ Rama Mani, *Ending Impunity and Building Justice*, op.cit. section 3.1.2

⁹⁵ European Commission, *Country Strategy paper: Afghanistan 2003-2006* (http://www.europa.eu.int/comm/external_relations/afghanistan/csp/, accessed 12 January 2004)

⁹⁶ *Bonn Agreement*. We here refer to paragraph V.1, and to paragraphs 2-4 in Appendix I

⁹⁷ Alex Thier, 'The Politics of Peacebuilding - Year One: From Bonn to Kabul', pp 39-60 in Antonio Donini, Norah Niland and Karin Wermester, *Nation-Building Unraveled? Aid, Peace and Justice in Afghanistan*, Bloomfield: Kumarian Press, 2004

⁹⁸ See for example Massoud Ansari, 'On the Job with a Taliban Recruiter', *Asia Times Online*, 26 November 2003, http://www.atimes.com/atimes/South_Asia/EK26Df03.html, accessed 14 February 2004

⁹⁹ International Crisis Group, *Disarmament and Reintegration in Afghanistan*, ICG Asia Report no. 65, Kabul/Brussels, 30 September 2003, pp ii-iii; 8-9 (<http://www.crisisweb.org/home/index.cfm?id=2292&l=1>, accessed 28 January 2004)

¹⁰⁰ See for example Human Rights Watch, *All Our Hopes are Crushed: Violence and Repression in Western Afghanistan*, Report no. 7 (C), vol. 14, pp 21-22 and 30-32 (<http://hrw.org/reports/2002/afghan3/>, accessed 28 January 2004)

¹⁰¹ Lakhdar Brahimi, *Address to the National Symposium on Security Sector Reform*, Ministry of Foreign Affairs, Kabul, 30-31 July 2003

¹⁰² For more on the discussion on 'spoilers' in post 9/11 Afghanistan, see Astri Suhrke, Kristian Berg Harpviken and Arne Strand, 'After Bonn: Conflictual Peacebuilding', *Third World Quarterly*, no. 5, vol. 23, pp 875-891, 2002; Mark Sedra, *Afghanistan: Between War and Reconstruction - Where Do We Go From Here?*, Special Report, Foreign Policy in Focus, March 2003 (<http://www.fpif.org/papers/03afghan/index.html>, accessed 28 January 2004)

¹⁰³ Xinhuanet 8 February 2004, and UNAMA press briefing, Kabul, 8 February 2004, (http://www.unama-afg.org/news/briefing/spokesman/2004/04feb08_davidsingh.htm, accessed 12 February 2004)

¹⁰⁴ Aldo A. Benini and Lawrence H. Moulton, *The Distribution of Civilian Victims in an Asymmetrical Conflict: Operation Enduring Freedom, Afghanistan*, Working Paper, Washington, 2003.

¹⁰⁵ A. Suhrke et al., 'After Bonn'.

¹⁰⁶ An earlier resolution (1378), on 14 November, which had carefully suggested an international security force, had been rejected by the Northern Alliance (A. Thier, 'The Politics of Peacebuilding', p 45)

¹⁰⁷ Suhrke et al., 'After Bonn: Conflictual Peacebuilding', pp. 883-884

¹⁰⁸ See e.g. A. Thier, 'The Politics of Peacebuilding', p 51

¹⁰⁹ Alexander Costy, 'The Dilemma of Humanitarianism in the Post-Taliban Transition', pp 143-165 in Antonio Donini, Norah Niland and Karin Wermester, *Nation-Building Unraveled? Aid, Peace and Justice in Afghanistan*, Bloomfield: Kumarian Press, 2004

¹¹⁰ See for example Integrated Regional Information Network, 'Debate over Relations between Aid Community and the Coalition', 24 December 2003, UN Office for the Coordination of Humanitarian Affairs

¹¹¹ Carlotta Gall, 'U.S. Expanding G.I. Presence in Afghanistan to Permit Aid Work', *New York Times*, 21 December 2003.

¹¹² Jochen Buchsteiner, 'Entwicklungshelfer-Helfer? Die Rolle der Bundeswehr in Kundus', *Frankfurter Allgemeine*, 20 September 2003

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- ¹¹³ Ann Scott Tyson, 'Desertions Deplete Afghan Army', *Christian Science Monitor*, 17 December 2003; IRIN, 'Afghanistan: Thousands of Soldiers Forsake the New Army', 12 January 2004
- ¹¹⁴ Mark Sedra, *Challenging the Warlord Culture: Security Sector Reform in Post-Taliban Afghanistan*, Paper no. 25, Bonn International Centre for Conversion, October 2002, p 30 (<http://www.bicc.de/publications/papers/paper25/content.html>, accessed 15 February 2004)
- ¹¹⁵ International Crisis Group, *Disarmament and Reintegration*, pp 6-7
- ¹¹⁶ Mark Sedra, 'New Beginning or Return to Arms? The Disarmament, Demobilization & Reintegration Process in Afghanistan', presentation to the workshop on State Reconstruction and International Engagement in Afghanistan, Bonn, 30 May – 1 June 2003
- ¹¹⁷ The Transitional Islamic State of Afghanistan, *Partnership for Peace: Afghanistan's New Beginnings Programme, March 2003- February 2006; Afghanistan's New Beginnings Programme: Programme Overview*
- ¹¹⁸ Crispin Thorold, 'Afghan Disarmament Accord Signed', *BBC News*, 12 January 2004 (http://news.bbc.co.uk/2/hi/south_asia/3390157.stm, accessed 1 February 2004)
- ¹¹⁹ Kristian Berg Harpviken, 'Afghanistan: From Buffer State to Battleground – to Bridge between Regions?', in James J. Hentz & Morten Bøås, eds, *Beyond the Nation State: New and Critical Security and Regionalism*. Aldershot: Ashgate, 2003, pp 152–176.
- ¹²⁰ Mathew B. Fielden and Jonathan Goodhand, (2001), 'Beyond the Taliban? The Afghanistan Conflict and United Nations Peacemaking', *Conflict, Security and Development*, vol. 1, pp. 5-32.
- ¹²¹ Barnett R. Rubin and Andrea Armstrong, 'Regional Issues in the Reconstruction of Afghanistan', *World Policy Journal*, Spring 2003, p 35
- ¹²² *National Development Framework (draft)*, Afghan Assistance Coordination Authority, April 2002 (accessed 28 January 2004 at: [http://lnweb18.worldbank.org/sar/sa.nsf/Attachments/frame/\\$File/ndf.pdf](http://lnweb18.worldbank.org/sar/sa.nsf/Attachments/frame/$File/ndf.pdf))
- ¹²³ Available at: <http://www.unama-afg.org/docs/Good%20Neighbourly%20Relations/KABUL%20DECLARATION%20ON%20GOOD%20NEIGHBOURLY%20RELATIONS.html> (accessed 28 January 2004)
- ¹²⁴ See e.g. the commentary by two Human Rights Watch staff: Tom Malinowski and Acacia Shields, 'Uzbekistan's Empty Promises', Commentary, *The Washington Times*, 12 March 2002
- ¹²⁵ 'Norge tilbyr militære styrker til kampen mot internasjonal terrorisme', pressemelding, Forsvarsdepartementet, 30 November 2001. Interestingly, some of these resources were offered to operations initially described as humanitarian support operations ('humanitære støtteoperasjoner'), a concept that in 2003 would become heavily disputed as the Norwegian government used the humanitarian label for personnel deployed with the occupation forces in Iraq (following an intervention that Norway did not support).
- ¹²⁶ *Stortingsproposisjon nr. 39(2001-2002)*, 15 February 2002 (<http://odin.dep.no/fd/norsk/publ/stprp/010001-030016/index-dok000-b-n-a.html>); *Stortingsproposisjon nr. 80*, 30 August 2002 (<http://odin.dep.no/fd/norsk/publ/stprp/010001-030019/index-dok000-b-n-a.html>).
- ¹²⁷ By the end of October 2003, the CIMIC team consisted of 14 people; the surgical unit had 39 members of staff. The company deployed in November consisted of approximately 200 people in total.
- ¹²⁸ A few Afghan patients were taken on, partly as a token of goodwill, partly to keep the system in running order.
- ¹²⁹ 'Telemark Task Force', (http://www.mil.no/haren/fist_h/afg/start/styrken/ttf/, accessed 28 January 2004)
- ¹³⁰ Aasmund Willersrud, 'Norge utvider Afghanistan-innsats', *Aftenposten*, 7 February 2004 (<http://www.aftenposten.no/nyheter/uriks/article.jhtml?articleID=725448>, accessed 8 February 2004)
- ¹³¹ 'Chairman's Summary: Afghanistan Support Group Annual Meeting in Oslo', 17-18 December 2002. (Accessed 24 January 2004 at www.unama-afg.org/docs/Oslo)
- ¹³² Wenche Hauge, *Norwegian Peacebuilding Policies: Lessons Learnt and Challenges Ahead*, Contribution to the Joint Utstein Study of Peacebuilding, Norwegian Ministry of Foreign Affairs/PRIO, November 2003, pp 12-14 (accessed 28 January 2004 at http://www.prio.no/files/file44564_norwegian_nationalpaper.pdf)

¹³³ Government of Afghanistan, *Consultative Group Structure*, updated 3 July 2003. As a guideline, the Afghan government wants donors to focus on a maximum of three sectors. The three latter themes on the list of Norway's priorities, however, are considered essential by the Afghan administration, hence engagements in these sectors are considered exceptions to the three-sectors rule

¹³⁴ In 2004, Norway will have eighteen development partners, in addition to seven main development partners, Afghanistan belonging to the former group. These are countries with which Norway has entered into a comprehensive and long-term partnership

¹³⁵ 'Stortingsproposisjon nr. 1: For budsjetterminen 2004', Det kongelige Utenriksdepartement. p 114

¹³⁶ Barnett R. Rubin, *Edited Transcript of Remarks Delivered at Seminar Sponsored by the Swedish Committee for Afghanistan*, Stockholm, November 20, 2003 (<http://www.cic.nyu.edu/pdf/Barnett%20Rubin%20Stockholm%20talk.pdf>, accessed 14 February 2004); Ahmed Rashid, 'Afghanistan: A Rocky Year Ahead', *BBC*, 29 January 2004, (http://news.bbc.co.uk/1/hi/world/south_asia/3421259.stm, accessed 14 February 2004)

Summary

This report charts the aid policies pursued in Afghanistan since late 2001 aimed at building peace in a country devastated by two decades of conflict.

The report presents the four pillars of the peacebuilding design and examines the national and international context for what is termed as a 'conflictual peacebuilding.' The state-building process as well as the relief and reconstruction policies are discussed in more detail, followed by an examination of the political transition process and how the rule of law has been established. The national security situation and the international and regional contexts are reviewed as is Norway's role in the peacebuilding process.

The report proposes policy guidelines for the policy agenda ahead:

- Refocus and limit the war against the militants so as to reduce the negative impact on the peacebuilding agenda.
- Emphasize institutional reforms and local capacity building as prerequisites for a large influx of new funds.
- Address issues that have been relatively neglected in the reconstruction process so far, including human rights, anti-poverty programs, and regulatory policies that promote greater equality and equity in sharing the benefits of reconstruction
- Anchor the peacebuilding process more firmly in the regional context, *inter alia* by creating an institutional forum for cooperation between Afghanistan and its neighbors.

Norway should consider consolidating its present aid portfolio and concentrating on an identifiable niche where the Norwegian contribution can make a difference.

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