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Ethnicising Afghanistan?: inclusion and exclusion in post-Bonn institution building

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ABSTRACT *This article argues that ethnicity has become increasingly salient in Afghan politics and society during the years of war, and discusses how the country's new institutions can be designed in a way that will contribute towards a reversal of this trend. The article examines a series of policy issues with a bearing on inclusion vs exclusion in inter-ethnic relations: political institution building (institutions of government, electoral system, and centre–region relations), land rights, state religion, the census and the new identity document. For each of these the article discusses what outcome would best contribute to longer-term stability and integration by stimulating inclusive, integrative identities—and what the problems and prospects are for these outcomes to be realised. The article specifically discusses warlords' role as spoilers, and the potential and limitations to the leverage on Afghan politics that is held by international actors, above all the USA.*

In conflicts where frontlines coincide with ethnic boundaries, ethnic identities tend to gain in salience relative to other identities. After conflict it is easy to view such identities as fixed; the current picture is projected backwards—also to be seen as a cause of the conflict—and forwards, as displaying essential aspects that will remain with the society in question. In actual fact, however, identities will always be in the process of being influenced and renegotiated. There may be no going back to the pre-conflict situation, but there will be opportunities along the way to confirm and reinforce the particular post-conflict setting, as well as opportunities gradually to reduce the salience of ethnic identities.

The current leadership of Afghanistan, and by implication its international partners, stand before a series of important policy choices that have a bearing on inter-ethnic relations. Each can be made in such a way that it will confirm the salience of ethnicity in politics and fix it institutionally—or that it will provide a step towards reintegration of the country's ethnic groups. This article examines state building and nation building in Afghanistan after November 2001. It surveys a number of the policy choices that are part of the building of Afghanistan's political and other institutions. Starting from the Bonn agreement's emphasis on multi-ethnicity, it discusses what choices can best contribute

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to longer-term stability and reconciliation by stimulating inclusive, integrative identities—and what the problems and prospects are for these outcomes to be realised.

The article argues that given the current salience of ethnicity in Afghan politics and society, ethnic divisions must be addressed in the building of new political institutions. This is important for the legitimacy of political institutions, and thus for social stability. However, there is a danger that institutions may be formed on the implicit assumption that the current pattern and intensity of divisions is permanent. When this happens, important opportunities for peace building may be lost. Instead, political institutions must be built in such a way that they are representative, but also flexible. Ideally, each institution should itself contribute towards de-ethnicisation of politics, and furthermore it should be shaped in such a way that it does not fix the accentuation on ethnicity in politics, or counteract achievements to this effect in other sectors of society.[1]

The article begins with a brief introduction to inter-ethnic relations in Afghanistan, which makes the argument that ethnicity has become more salient in the country in recent years. Thereafter, it brings the discussion up to 2001, outlining the place of ethnicity in the Bonn agreement and subsequent institution building, before three essential dimensions of political institution building—institutions of government, electoral system, and centre–region relations—are discussed with a particular emphasis on inter-ethnic relations. After discussing the political institutions, the article proceeds to discuss questions of alienation and inclusion/exclusion in other arenas: land rights, the census that is under preparation, and the issue of a new identity document for Afghan citizens. Finally, in discussing the problems and prospects for the realisation of policy outcomes beneficial to inter-ethnic reconciliation, the article discusses the role of the still-powerful warlords, and the potential and limitations to the leverage on Afghan politics that is held by international actors, above all the USA.

Background: inter-ethnic relations in Afghanistan

Patterns of kinship and solidarity in Afghan society are complex. Essentialist concepts of 'ethnicity' can easily be challenged; language, religion and descent have all been used to define ethnic groups. Moreover, other identities may have been more important: tribe, region, and sub-groups within the 'ethnic' groups are all very real categories, and rural–urban (and indeed literate (educated)–illiterate) are also highly important dichotomies. The basic category to describe one's affiliation has traditionally been *qawm*—best translated as 'solidarity group'. The content of this denomination, however, varies widely; it is situational and relative, and may thus (alternatively) describe tribe, region, ethnic group or profession.[2] Current attempts to estimate the relative proportion of ethnic groups put the Pashtuns at 44% of the population, while Tajiks, the Hazara and the Uzbeks, represent 25%, 10% and 8% respectively.[3]

The history of inter-ethnic relations in Afghanistan is one of coexistence, tolerance and pride in diversity, but also of unequal opportunities and conflict. Afghans are reluctant to define the conflicts that have riven their country in recent years in ethnic terms. If speaking broadly, they will often distinguish

between the situation among ordinary people, and that on the political level. The reasoning, then, will be that there is no real ethnic conflict in the population *per se*, but that politics, detached from the people, is ethnicised—and has been consciously manipulated to become so by political leaders. This image of inter-ethnic relations is in some respects accurate, and in other respects too positive.

There are some indicators that are often referred to by Afghans to demonstrate the harmony of inter-ethnic relations in the country. Marriages across ethnic boundaries are one. It appears, however, that such marriages have been much more common in certain circles than in others. Louis Dupree described how intermarriage could develop among two ethnic groups, citing the example of Pashtuns moved to the north under Abdur Rahman Khan (1880–1901). But he also mentioned how new Pashtun migrants later were 'horrified at the Pushtun–Uzbek or Pushtun–Tajik miscegenation'.[4] In later years, the urban, educated elites, in particular in Kabul, have seen few problems in marrying across ethnic boundaries; indeed, in particular during the 1960s and 1970s they probably took pride in disregarding what they saw as outdated, conservative countryside ways. This author's impression from conversations with Afghans suggests that, after the wars, there is today a greater wariness over entering into such marriages than before, and that they remain rare in the countryside.

Another example often used to demonstrate ethnic harmony is the symbiotic relationship between permanent residents and nomads (*kuchi*, who are mostly Pashtuns). While this relationship can testify to trust and accommodation, it has also been one of friction. Since the 1880s Hazaras have been gradually pushed back in the regions of Wardak, Ghazni and Uruzgan. Today we are seeing members of this group turning against the nomads, claiming land that authorities have given to the latter.

In the state administration a certain balance has been struck between ethnic groups, although opinions differ as to just how good the balance has been. Ever since its establishment in 1747 by Ahmad Shah Durrani, the Afghan state has been ruled by Pashtun leaders; the exception being only the nine months of Tajik rule in 1929, the *mujaheddin*'s ('holy fighters' from the war of resistance against Soviet occupation) control of Kabul in 1992–96 and the present, post-Taliban era. Both Pashtuns and non-Pashtuns have been conscious about this state of affairs, and policies favoring Pashtuns have caused resentment among other ethnic groups. The most extreme case, still echoing today, was the repression under Abdur Rahman Khan. His project was to subjugate all internal opponents and complete the centralisation of the state. He did so by settling Pashtuns in the north, and by inciting ethnic and religious hatreds. The divide-and-rule policy found its most extreme expression as the government employed Pashtun tribesmen to repress Hazara resistance, their methods being the confiscation of land, looting and killing. This also marked the beginning of a gradual institutionalisation of discrimination against Hazaras/Shi'ites which has turned the Hazaras into an ethnically defined underclass.[5] Up through the years of Pashtun control of the state non-Pashtun groups would be represented, but the overall pattern was clearly one of Pashtun dominance. Service as high-ranking military officers, and

in the foreign ministry, was reserved for certain groups. Full access to social mobility belonged first and foremost to Pashtuns.

M Nazif Shahrani has pointed out how the emergence of the Afghan state in the mid-18th century coincided with the rise of Pashtun tribal power: '[The] sociology of Pashtun dominance over the other ethnic communities in the country forms the very substance of political developments and state building in Afghanistan', he wrote.[6] According to social anthropologist Ashraf Ghani (at time of writing, Afghanistan's Minister of Finance), relations were more symmetric than that: 'Despite the seeming dominance of the Pashtuns, the actual process of state building entailed the participation of the elite of all the ethnic groups and a prominent role played by non-Pashtuns in both the bureaucracy and the military.'[7]

It should be kept in mind that the Pashtuns, too, are a diverse group. Besides being divided into two main groups—the Durrani (which supplied Afghanistan with leaders from 1747 to 1978) and the Ghilzai—they are also (like other ethnic groups) divided on several other levels, with *qawm* and tribe being very important. In fact, even the communist movement, for all its modernising drive, was split in two rival Pashtun factions.[8]

The years of war have had an impact on the relative significance of different identities, increasing the significance of the ones of larger scale, and in particular that of ethnicity. During the Jihad the different forces would mostly insist that they were united and together in their mission, with ethnic differences being without significance. However, this was precisely the period when the trend towards increased emphasis on ethnicity began. Part of the reason was the impact of outside powers; the enmity between the USA and Iran, for instance, meant that the (mostly) Shi'ite Hazaras would not get any support from the USA and Pakistan. These states instead found favorites such as the radical Islamist and Pashtun supremacist Gulbuddin Hekmatyar. On a societal level, Olivier Roy has described a 'process of ethnicization' playing out in Afghanistan during the Jihad and later: 'Larger ethnic entities, based on linguistic criteria, have developed, crosscut only by the Shi'ite/Sunni dichotomy'.[9]

As the civil war unfolded—in particular with the fighting for control over Kabul (1992 onwards)—ethnicity rose to become the prime factor in political actors' claim to legitimacy. Judging by these actors alone, it is indeed easy to define the conflicts of the 1990s as ethnic. At the frontlines all participating factions could be easily identified in ethnic terms: Hekmatyar's Hezb-e-Islami (and later the Taliban) as Pashtun, Rabbani's and Massoud's Jamiat-e-Islami as Tajik, Hezb-e-Wahdat as Hazara, and Dostum's Jumbesh-e-Melli Islami as Uzbek. Moreover, each of these leaders exploited ethnicity for his own gain, encouraging spirals of ethnicised violence.

The rise of the Taliban constituted yet another serious step towards ethnicising conflict in the country. The movement rose from Kandahar, the conservative heart of Pashtun lands, and remained completely dominated by Pashtuns. Its initial, amazingly rapid spread—explained by its missionary zeal, people's longing for law and order, but also Pakistan's hidden hand—slowed significantly as it reached non-Pashtun areas. And Taliban's take-over of Kabul in 1996 'clearly changed the conflict into an ethnic power struggle of Pashtuns against

non-Pashtuns', suggested Amin Saikal. It caused Hazaras, Tajiks and Uzbeks to join forces.[10]

During the 1990s the tolerance and appreciation of diversity that had been an important part of Afghan culture was severely affected. In the opinion of Ahmed Rashid, Massoud's massacre of Hazaras in Kabul in 1994, the Hazaras' massacre of the Taliban in Mazar in 1997 and the Taliban massacres of Hazaras and Uzbeks in 1998 'has no precedent in Afghan history and perhaps has irreparably damaged the fabric of the country's national and religious soul'.[11] The fact that the war has frequently been conducted along ethnic lines, wrote Mohammed Haneef Atmar and Jonathan Goodhand, 'has had a corrosive effect on Afghan society and impedes the search for a solution to the conflict'.[12] Nancy Hatch Dupree, a long-time specialist on Afghan affairs, also acknowledges the current emphasis on ethnicity in Afghan society. But at the same time she finds that a search for unifying indicators today reveals that 'a sense of belonging, of being Afghan, is evident among the population at large'.[13] In other words, the identities are not static.

After Bonn: a new push for inclusiveness

Traditionally, when power has changed hands in Afghanistan, it has signified a change in conditions for different groups: control of the capital has been an opportunity for self-enrichment, and little effort has been made by power holders to appeal for endorsement from groups outside their own. With Pashtuns no longer dominating the state institutions, Afghanistan today is a historical anomaly and the Panjsheris in Shura-e-Nazar, who stood out as victors after the fall of the Taliban, carried forward by US power, have been ready to exploit the situation and reluctant to share power. Controlling the Ministry of Defence and (initially, after Bonn) the Ministry of the Interior, as well as the Ministry of Foreign Affairs, they are very well positioned.

Despite this dominance of one group—and a fairly narrow one at that—the post-Bonn reality has a dimension of inclusiveness never before seen in Afghan politics. In contrast to political tradition, but in line with recommendations from the United Nations and other agencies, the institutions created in Bonn were uniquely diverse. Similar to other attempts at peace building by international administrations in recent years, the post-conflict period has been characterised by efforts to involve broad segments of the population and political forces.

The leverage held by the international powers enables outcomes of political decision making that are different from the 'winner-takes-all' ones, and it provides a potentially better opportunity for peace as it can break deadlocks that may occur in a situation where a peace agreement hinges more exclusively on the local actors. If we consider—quite reasonably—that these powers do not wish to be involved in a long-term, even oppressive, occupation of Afghanistan, we could expect them to be particularly attentive to policy choices that would facilitate peace building within the country. At the heart of such policy choices would be those that increase the legitimacy of the new political institutions of the country. How to achieve this? One possibility is to identify traits by which the population has been divided during conflict, and make sure each group

defined by such traits is proportionally represented in new state organs. Such variables could be everything from geography to gender to religion; but in Afghanistan as in so many other conflicts, ethnicity has been identified by international intervening actors as the key dividing factor.

This approach to Afghan affairs is complicated by the problem of assessing contradictory descriptions of what the conflict is truly about. Different actors will have different reasons to present a certain picture of reality. Timothy D Sisk has put forward as a policy recommendation for conflict management in deeply divided societies, that mediators conduct specialised assessments of the cleavages in a given society, and of how the introduction of democratic institutions relates to these cleavages.[14] The level of sensitivity to conflict patterns can indeed make or break a peace process. And being 'sensitive' of course does not mean simply accepting every claim of difference and systematic injustice.

Even if we accept that ethnicity is a major factor in Afghan politics for the time being, we still face the question of how to address these divisions. We may consider them to be 'ancient hatreds' and permanent features of society. Or we may—as this article does—consider them to be real enough for the time being, but also as flexible and possible to build over with proper policies implemented over time.

Building the new political institutions

The Bonn agreement speaks to the ambition of facilitating peace building in part by referring to the proportional representation of different groups, including ethnic ones, in state organs. In the agreement signed on 4 December 2001 the interim arrangements were described as being 'intended as a first step toward the establishment of a broad-based, gender-sensitive, multi-ethnic and fully representative government'.[15] Since Bonn the international leverage has ensured that the cabinet has a very visible profile of *ethnic* diversity.[16] Also, the different commissions that have been set up have been composed to reflect the (estimated) ethnic composition of the population.

Implemented without an eye to the specifics of the situation, however, a model such as this is has the potential to create new problems. A fair spread of ethnic groups must be an essential part of efforts towards representativeness in Afghanistan's state institutions. Ethnic representation can be expected to contribute towards increased legitimacy for these institutions among the population. But there are also other mechanisms at play on the ground in Afghanistan, complicating this picture. We may assume also that *legality* (law and order) is a source of legitimacy for state institutions. But what happens in a case like Afghanistan, where legality has been played down for the sake of short-term stability? More specifically: where a substantial number of seats in the government has been filled by people who have comitted serious crimes, and continue to do so? Many Afghans consider the *Mujaheddin* leaders to have lost honour as they fought out their civil war; the warlords are highly unpopular, and have kept their power primarily because they have kept their guns. The issue of ethnicity provides them with a legitimating discourse, and it suits them well to serve in the government also as representatives of their respective ethnic groups.

Given that the efforts to achieve a sustainable peace are not aimed at resting on military might and oppression, but on popular approval, one might argue that ethnic representation in state institutions was necessary to ensure a level of approval from a wary population. Problems first appear when this well intentioned beginning meets political practice. The government is more than ever marked by this policy of ethnic representation. While all actors speak to the concern for inclusiveness and the need for professional leadership, the reality is that the ministries have been expanding rapidly in numbers, but much less in abilities, as the old culture of patron–client relations reasserts itself. Many ministers lack basic skills for managing a bureaucracy, and as they themselves were hired as a reward for services delivered, or in an effort to represent an ethnic group or co-opt a warlord, they fill up the ministries with their own people—defined by clan, ethnic group or region.

Problems such as these may readily appear when ethnicity is rigidly institutionalised. Avoiding such unintended effects may be particularly difficult in a post-conflict situation. Still, some choices in institutional design can be identified as better than others. In the following section, I will consider how the current ethnic divisions may be addressed in the building of Afghanistan's new political institutions.

Institutions of government

Most ordinary Afghans would prefer to see state institutions staffed by meritocratic principles, if they could trust those in position not to exploit their power. To reform the Afghanistan Transitional Authority (ATA) in such a direction after its establishment has proved very difficult, not least because of the lack of concerted pressure from outside powers, first and foremost the USA. However, an opportunity for a new beginning arrived with the gathering of the Constitutional Loya Jirga (CLJ) in December 2003. After three weeks of sometimes very heated deliberations, the 502 delegates approved a draft constitution. The Constitution approved on 4 January 2004 provides for a strong presidency—but not as strong in relation to the (two-chamber) National Assembly as the original draft had suggested. There will be two vice-presidents, presumably representing other ethnic groups than the president. On the other hand, there is no mention in the Constitution of ethnic quotas, as there was in the Bonn agreement.

It appears that the Constitutional Commission had earlier dropped plans to create the post of prime minister, fearing that the prime minister could become a rival to the president, causing political deadlock or worse. According to the Constitution, the (first) vice president shall not step in to complete the term if the president should die while in office. This will reduce the danger of assassination or a *coup d'état* and make a candidate more inclined to run for election with a vice-president candidate from a different (ethnic) group.[17]

Clearly, Afghanistan's constitution describes aspirations more than realities on the ground. What will be the actual power relations between institutions remains to be determined. Formally, particular uncertainties surround the rules determining that the Wolesi Jirga (lower chamber) shall 'confirm' key presidential appointees, and the National Assembly approve of the nation's 'basic policies',

as well as of the role that may be claimed by the (largely conservative) Supreme Court on the basis of the statement that no Afghan law can be 'contrary to the beliefs and provisions' of Islam.

Within these limitations many opportunities remain that could make the institutions more or less integrative. A direct election of a president will necessarily be the outcome of a majoritarian election. But there are several models to make the presidency less of a winner-takes-all affair: in terms of institutional design there are different ways to split powers and build in checks and balances in the relations between the president, the parliament, and also the judiciary. The decision to introduce two vice-presidential positions speaks precisely to the concern for ethnic balance. Further opportunities may be found within the framework of the new Constitution.

Hamid Karzai has already stated his intention to run for president in 2004, and he would have few if any competitors with the same general approval. Moreover, he is a Pashtun, and thus belongs to the largest population group. It is likely that Afghanistan's first elections will have a fairly evident 'ethnic census' character, meaning that support for parties or candidates will follow ethnic lines, with voters throwing their vote in support of 'their own' (even if the constitution explicitly prohibits 'formation and functioning' of a party based on ethnicity, language, Islamic school of thought and region). The current level of ethnicisation of politics in Afghanistan points towards such an outcome, as does the fact that thus far those who seem best prepared to mobilise before the elections (besides Karzai and cabinet members in general) are the commanders—all of whom, to varying degrees, define their platform in ethnic terms.

In a deeply divided society it is difficult for someone from a small group to be elected president. Similarly, in a parliament where representatives are elected according to an ethnic census scenario, one could imagine the minority being constantly overrun by the majority group. A traditional perspective in the literature on constitutional and electoral design argues that proportional representation (PR) in elections is essential for stability in divided societies. One particular expression of this perspective is that of consociational democracy, pioneered by Arend Lijphardt. This model emphasises the role of various ways of power sharing between political elites, such as grand coalition governments and proportional representation in the legislative. However, while majoritarian solutions clearly do not appear as a better option than PR, situations with one dominant group indicate the limits to PR. In this case, as in the setting of distrust and conflict that characterises Afghanistan, something more is needed. This is where 'centripetal' mechanisms can make a positive difference. These are structural arrangements that encourage co-operation by parties and politicians across ethnic boundaries—drawing them away from the extremes and closer to a moderate political centre. From a perspective of ethnic relations, this could signify a de-ethnicisation of politics.

Electoral system

Although mechanisms applied, for example, to the operation of a parliament could be described as centripetal, this phenomenon has mostly been discussed in

relation to the issue of electoral systems design. Here, centripetal effects are specifically seen in systems that ask the voter not only to tick off his preferred candidate, but also to rank candidates. This improves the chances for 'least disliked'—and presumably moderate—candidates to be elected. Three different 'preferential' systems are in use in the world today: the alternative vote, the supplementary vote and the single-transferable vote.[18] What makes centripetal mechanisms particularly beneficial in a divided society is that they do not treat the divisions they speak to as being permanent and unchangeable, but on the contrary may contribute towards a long-term reduction in their salience.

There is no single perfect all-purpose electoral system: the suitability of a given system must be seen in the light of the goals it is meant to achieve.[19] In a post-conflict situation elections are very different from what they are in one of stable, established democracy. Not only are the stakes higher, the requirements for electoral system design and administration are not the same. To highlight only some key differences, a post-conflict situation requires a stronger emphasis on inclusiveness, proportionality, the minimisation of conflict, and transparency—elements an established democracy can afford to balance against requirements for accountability, 'clean politics' and efficacy of government.[20] Benjamin Reilly, an advocate of centripetal electoral system design, argues that certain electoral systems, under certain circumstances, 'will provide rational political actors with incentives towards cooperation, moderation and accommodation between themselves and their rivals, while others will lead logically to hostile, uncooperative and non-accommodative behavior if individuals act rationally'.[21] In order to avoid the latter outcome, it is essential to break the pattern where parties or candidates have little or no incentive to appeal outside their core (ethnic) audience.

A number of studies have made the point that the efforts to secure a fair representation in a volatile post-conflict situation could institutionalise ethnic divisions and in turn serve to uphold them. George Tsebelis argues that 'in the longer term proportional arrangements may serve to reinforce and perpetuate rigid segregation along narrow ethnic–cultural, religious and linguistic cleavages'.[22] Andreas Wimmer and Conrad Schetter have made this point very specifically with regard to Afghanistan. They warned against a system of ethnic representation, with fixed quotas for ethnic groups at the centre of power, yet found that steps towards such a system had been taken in the creation of the transitional government. This was done regardless of the fact that, in Afghanistan's complex setting of group loyalties and associations, 'ethno-religious groups have so far not established a tradition of coherent political organization'.[23] In other words, the Bonn model signified an ethnicisation of Afghan politics.

Centre–region relations

Formally, the 1964 constitution describes an extremely centralised political system. Notwithstanding legal texts, however, the reach of the central power in Kabul has always been limited in Afghanistan. During much of 2003 there was great speculation in the country as to whether the Constitutional Drafting

Committee would adjust to reality and recommend a federal model to the Constitutional Loya Jirga. As it turned out, however, the constitution that was approved in January 2004 laid dead all speculation about federalism. Its Article 1 describes Afghanistan as an 'independent, unitary and indivisible state'.

Most analysts hold that there is a broad consensus among Afghans that federalism with strong regions is not what the country needs now: 'the only exception [is] political factions that stand to gain from decentralization', found the International Crisis Group (ICG).[24] The main protagonists for a federal model have been the warlords themselves—notably General Dostum and Ismail Khan, who have tried to sell this to their local audiences in the north. Hezb-e-Wahdat leaders Khalili and Muhaqiq have also spoken in favour of federalism, but later modified their position. Their turnabout—which is interesting in light of the wider ambition to create an inclusive system of government—has been explained by Barnett Rubin by the unprecedented degree of Shia participation in the central government, and by the resistance to federalism among Pashtuns.[25] To the sceptical majority, the most important concern is probably the country's neighbours: The warlords' client relations with neighbouring states—Iran, Uzbekistan and Russia, and above all Pakistan, have had an immense impact on the conflicts in Afghanistan.[26] To Pakistan, concern about territorial claims from Afghanistan (where Pakistan's Pashtun-inhabited neighbouring provinces are often spoken of as part of a 'Pashtunistan'), and ideas about 'strategic depth' in a scenario for war against India, have inspired policies that have proved extremely destabilising to Afghanistan. Separatism with a view to (re)uniting with an 'ethnic homeland', such as Iran, Pakistan or Uzbekistan, has not been a serious factor in Afghan politics. Different warlords have developed strong client relationships with neighbouring states—Ismail Khan escaped from the Taliban to Iran and came back a different man; Hekmatyar grew powerful more from (US and) Saudi and Pakistani money than from successes on the battlefield—but their dependence has not resulted in real separatism. It remains true, however, that these client relationships are a major reason why most Afghans fear that the country's new constitution will provide for a federal order. Surveys that exist of the popular mood suggest that Afghans want to live in what is today Afghanistan: its borders may be 'artificial' imperial ones, but identities are flexible and form also around structures. 'Afghanistan' is real and desirable to Afghans.

The current situation on the ground is perhaps best described, in the words of James Purcell Smith, as 'an imperfect version of asymmetric federalism',[27] and some might see simply confirming this situation constitutionally as the easiest solution. If this situation were institutionalised, what we would get would be a federal state with seven to eight entities, delineated according to what territory each governor/warlord controlled, largely according to their possession of soldiers and weapons. Furthermore, each of the regions (with the exception of the capital area) would have the appearance of an ethnically defined region. From a perspective of peace building, it would be extremely unfortunate if regional leaders were to succeed in selling a default federalism in such a way, and formally, through the new Constitution, they have not succeeded. The realism of hoping for a significant *centralisation*, on the other hand, is disputed.

Anatol Lieven has made the case for very modest ambitions: 'The melancholy truth is that for the foreseeable future, Afghanistan cannot be governed, either by the "international community" or by Afghans themselves.'[28] Nevertheless, in a situation where local governors and leaders look set to become just the same old warlords, ruling at their own discretion and for their own crude benefit, the situation obliges outside forces to work towards something better.

Extending the real reach of the central government, while allowing responsible local authorities more formal powers, should be the goal. Once again, these are ambitions that require a sophisticated approach and long-term engagement. Already some things are being done through institution building that contribute to this end. Under Finance Minister Ashraf Ghani, the government's so-called reformists are making significant moves to reassert the country's old structure of provinces and districts. By making regional leaders adapt to the system of 32 provinces, the government has made some inroads into their power bases. Another institutional reform, which may serve to root democracy at a local level and sideline local warlords, is the introduction of the National Solidarity Programme—an aid project that is to be implemented by village councils elected by secret ballot.[29]

Reforming centre–region relations is a difficult task, and at present it is severely obstructed by the short-term demands of the continuing war on terror, by which the Pentagon is arming and supporting warlords whose disarmament (and persecution) is necessary for long-term stability and peace building.

Arenas of alienation

The changing position of the Pashtuns

Since the fall of the Taliban Afghanistan has seen new patterns of ethnic differences appear. Discrimination and ethnic violence, first and foremost driven by commanders, reflect the shift in power relations. Most striking is the impact on the Pashtuns: in the north, Pashtun minorities have suffered a large number of attacks; in Kabul they are sidelined by Panjsheris. The traditional 'underclass', the Hazaras, have gained in political influence and, at the grassroots level, some are trying to reverse gains made by Pashtuns favoured most recently by the Taliban.

After the Taliban fell Pashtuns living in pockets in predominantly Tajik and Uzbek areas in the north were repeatedly subject to violence. Interviews Human Rights Watch (HRW) conducted with victims show that the perpetrators justified their violence in ethnic terms: the Pashtuns had collaborated with the Taliban, now they had to face the consequences. HRW gathered testimonies from more than 150 separate incidents of anti-Pashtun violence and looting in the north, from Faryab to Baghlan, during a mission in early 2002. The researchers found many Pashtun villages looted in their entirety. A 46-year-old Pashtun man, living in a village in Faryab, was severely beaten and robbed by men from the (predominantly ethnic Uzbek) Jumbesh-e-Melli Islami. 'When the Taliban fell, all of the Uzbek villagers from Faizabad came to invade the village and looted everything.' A 70-year-old Pashtun from Balkh province was beaten, and his

home looted, by armed Hazaras and other armed groups. The Taliban had taken his land, and told him to go and farm Hazara land instead. Now the Taliban's favouring of his village was held against him and others.[30] In the north, which remains mostly out of reach for the central government in Kabul, the warlords are both the key security problem—and the main providers of security. By accepting their hegemony and paying tribute and taxes, one can expect a security of sorts in return. When the Taliban were defeated, the Pashtuns in the north lacked a warlord willing to provide them with protection. Ironically, one reason why the violence against Pashtuns in the north ceased towards the middle of 2002 was that the local warlords admitted Pashtuns as lower-level commanders. Thus, the Pashtuns had protectors among the commanders, and the top commanders, as an added value, could tell the outside world that their forces were multi-ethnic and inclusive.[31]

In many parts of the country land disputes are playing out with an ethnic dimension. The Pashtunisation of Hazarajat and the north from the 1880s onwards remains one foundation for current disputes. Under Zahir Shah large dam and irrigation projects brought the resettlement of people (often Pashtun nomads). Drastic redistribution of land was initiated by the communists in 1978. As recently as under the Taliban, Hazara land was opened up to *kuchi* for pasture. In the 1990s a new trend began, with the appropriation of lands by warlords.[32] Such is the backdrop when Pashtuns are driven from their land in villages in the north, or Hazaras reclaim land from *kuchi* in Hazarajat. Land rights are also a conflict issue in Kabul. Returnees find that commanders refuse to leave houses they have occupied, and some areas now have a different ethnic profile.[33] Further problems and discontent have been created by the large-scale buying-up or confiscation of properties in Kabul by Marshal Fahim and other commanders, and by corruption in the government, which has had a large number of land slots handed out to sub-commanders, as well as friends and family members of politicians.[34]

Some land disputes have to do with the clearly illegal occupation of land. But often the problem is that there are two or more competing but equally legitimate claims on the same land. How far back in time does one go, for example, to identify the real owner of land where Pashtuns have been settled—often against their own will? And, as local authorities have begun to redistribute part of the land abandoned by Pashtuns fleeing the post-Taliban violence in these areas[35]—how will future conflicts be resolved should they return, with documents to prove their rightful ownership? There are no easy solutions to such problems. One place to begin untying the knot must be Afghanistan's new laws. Besides this fundamental approach is another one: bringing an end to warlordism, which we will return to later.

In Kabul the new Panjsheri dominance has also altered inter-ethnic relations at the grassroots level. Petty discrimination against non-Tajiks has many faces. At Kabul University tension has been high at certain faculties as Pashtun students have found themselves sidelined. At the faculty of medicine conflict broke out in spring 2003 when Pashtuns who performed top in class were not offered the teaching positions they would normally expect. 'They were told right out that "you'll never get them" ', said one visiting professor.[36] Stories of police

brutality abound, and they also often have an ethnic dimension, with Pashtuns in particular considering themselves as targets of police and security forces. Nevertheless, there is a danger of exaggerating such trends. It may be that some cases that Pashtuns see as discrimination others would describe as plain non-preferential treatment. However, even if occurrences of discrimination may be played up, the *sense of alienation* among Pashtuns is real.

The political cleavages among delegates to the Constitutional Loya Jirga again show how prominent ethnicity has become in Afghan politics. However, the deliberations have also contributed to easing dissatisfaction among Pashtuns, who rallied around President Karzai to use their small minority of votes to have the draft constitution passed with as few amendments as possible. The Pashtuns 'clearly saw a strong center as being in their ethnic self-interest', found Ahmed Rashid: 'The Pashtuns are back', he concluded in an analysis of the CLJ.[37] The Pashtun delegates were able to note a symbol-laden victory when the CLJ decided that the national anthem should be in Pashto, and a 'draw' when both Pashto and Dari were named official languages.[38]

For the sake of stability and state cohesiveness it is essential to keep the Pashtuns and the regions they populate solidly incorporated in the project of building the new state institutions, with new rules of the game. This will require constant attention paid to political practices in Kabul, and not least reform of the power ministries and progress in the building of a genuinely national army. The aim of countering the alienation is complicated by the fact that the Pashtun areas are where the Taliban came from, and where they still operate. By targeting aid workers, the Taliban are effectively preventing the local population from benefiting from the international presence in the country. And the Taliban's presence means that the regions see frequent military action and rough search operations by Coalition Force troops.[39] The short-term prospects for adjusting the current ethnic misbalance in aid and security are not good. By late 2003 it appears that the expansion of security outside Kabul will happen through the creation of new Provincial Reconstruction Teams (PRTs). Eight PRTs are officially in operation, and three more are planned to be deployed shortly.[40] However, the utility of the PRTs in the areas with the most difficult security situation seems questionable. The PRTs were originally set up precisely for reconstruction, and still do not have much military muscle. Small in size—some count as few as 50 men, the biggest 200–300—the PRTs would seem both vulnerable and powerless before the problems they will face in the south. And in any case they can not substitute the work of humanitarian organisations and democratically accountable institutions.

Countering the Pashtun alienation will take time, and more sophistication than soldiers normally display in their work. And part of the project in the longer term will also have to be to change the thinking patterns whereby Pashtuns have seen state power as naturally belonging to them.

State religion

Before the Constitutional Loya Jirga, the issue of a *state religion* provided another opportunity for the country to take a step towards inclusive nation

building—or to opt for a more divisive approach. Close to 100% of the country's population is Muslim, and not declaring Islam as a state religion was not a real option. However, just how important a role religion should play is a more complex question. There are many indications, at least among Kabulis, to the effect that, for example, the choice of wearing the *burkha* is made not out of piety, but out of a concern to appear a good Muslim, or simply as a cover providing security. Traditionally, Afghans have, if anything, disliked extremist tendencies in religion; practice of Islam has been more pragmatic, and Sufism very popular.

Vocal actors have been pushing for a more prominent role for Islam in the constitution. One might think that the Afghan population must be marked by four years under the *Mujaheddin* and seven more under the Taliban. However, it could be that the Western presence has viewed these forces as more representative than they really are. Nevertheless, concessions were once again made to these forces at the CLJ. The first, mostly symbolic, was in the name of the state; 'Islamic' was added to 'Republic of Afghanistan'. Potentially more important was the rule, mentioned earlier, that 'no law can be contrary to the beliefs and provisions of the sacred religion of Islam'.

The 1964 constitution, which has been at the core of the interim legal framework since Bonn, pending the adoption of the new Constitution, proclaimed in Article 2: 'Islam is the sacred religion of Afghanistan. Religious rites performed by the state shall be according to the provisions of the Hanafi doctrine.'[41] In the new climate where inclusiveness is valued, the exclusive character of this phrase is particularly evident. Custom and law do not open up for citizens not affiliated with some religion. But the problem of exclusion of non-Muslims, or non-believers, hardly constitutes a significant one by and of itself in today's Afghanistan. Much more serious would be a repetition in the new Constitution of the emphasis on the Sunni Hanafi sect of Islam, which ignores an estimated 20% of the population[42]—most notably the (mostly) Shi'ite Hazara minority, which counts perhaps a tenth of the population. Were that phrasing to be repeated in the new Constitution, it would signify a deliberate legal exclusion, and it would serve to alienate this substantial indigenous group. However, the new Constitution does not go that far. Here, instead, Article 2 reads: 'The religion of the state of the Islamic Republic of Afghanistan is the sacred religion of Islam. Followers of other religions are free to exercise their faith and perform their religious rites within the limits of the provisions of law.'[43] Article 3 continues: 'In Afghanistan, no law can be contrary to the beliefs and provisions of the sacred religion of Islam'[44]—and has thus caused concern among some outside civil rights groups.[45] A hint at a preference for Hanafi still exists, as Article 130 states that, whenever no provision exists in the constitution or the laws for a case under consideration, the court shall follow the provisions of the Hanafi jurisprudence. However, a striking effort towards balance is made in the following article, which states that courts shall apply Shia jurisprudence in cases dealing with personal matters involving Shi'ites. Furthermore, while a presidential candidate has to be a Muslim, the Constitution differs from the 1964 one that in that the candidate no longer has to be a Sunni Hanafi follower.

The census

The last time a census was held in Afghanistan was in 1979, and that operation was halted before completion because of the worsening security situation. Neither then nor earlier have census takers attempted to record citizens' ethnic affiliation. Since 1979 all government and international work towards health facilitation, education, aid, etc has been based on that limited material, and later estimates that are highly uncertain because of factors such as migration, refugee waves, war deaths, and lack of data on birthrates. At present, however, a new census is being planned. A small-scale pilot census, a so-called 'household listing', has been in operation since January 2003. That limited pre-study will both provide important population data for the preparation of the 2004 elections, and provide the necessary input for the scaling of the massive operation that will follow. The pilot is kept simple, and the amount of information gathered is kept low. A deliberate choice has been made not to collect information on ethnicity in this phase, according to the United Nations Population Fund's (UNFPA) chief technical adviser for the census, Graham Jones.[46] The choice was made in order not to alienate the population during the household listing—'there is absolutely no doubt that ethnicity is controversial', said Jones—and to avoid contaminating the political discourse as some would believe the data would serve to determine representation in the future parliament. The question of the proportion of different ethnic groups of the total population of Afghanistan arises in many different contexts, and is made more acute as the staffing of institutions is made with a view to reflecting the population as a whole. Also, from a liberal political perspective, it may be argued that it is necessary to know in particular the location and size of minority populations, in order to provide better schooling and other facilities for them. Sima Simar, the leader of the Afghan Independent Human Rights Commission, has called for ethnicity to be included as one question in the census.[47] This is, however, not an unproblematic position: whereas the minority rights dimension is a justifiable argument in favour of ethnicity registration, the real political significance of new precise numbers for ethnic proportions of the population is bound to play out in the power struggles between the larger groups. Whether ethnicity in the end will feature among the questions in the census, which will take place in June 2005 at the earliest, has not yet been determined: 'Whether or not to keep it in will be the decision of the new government, and it will be a very sensitive debate', said Graham Jones.[48]

The new identity document

The Afghans' current identity document, a 16-page booklet called the *tazkira*, was shaped under the influence of the Soviets, and has features for both religion (eg 'Sunni') and ethnicity (eg Tajik, Pashtun).[49] Counterfeiting this document has been easy, and it was precisely the ethnicity (and religion) entry which often motivated falsification. During the civil war a Tajik might use a card identifying him as Pashtun if he needed to travel into Hezb-e-Islami-held territory. While facial traits, accent and name could give away one's ethnicity, changing it could be an option for some. A Hazara whose facial traits appeared less typically

Hazara could see new opportunities opening up if he changed his ID card entry to 'Tajik'.

However, the ID entry for ethnicity may be on the way out for good. The Karzai government has passed a law that provides for a new document where there will be no such entry; instead, it will only state 'Afghan', for citizenship. Thus far the new document has not been put into production, and it may be that there will be a bumpy road before it will be. The decision to introduce the new document was done without consultation—as is traditional, and mostly the practice of the current government—and a broad debate may still take place before the document appears. 'The decision still seems temporary…The people, the future parliament must decide on this issue', said Dr Daoud Najafi, Director of the Afghan Professional Alliance for Minority Rights.[50] Already we can expect camps in such a debate to be divided between Pashtuns on one side, and other groups on the other. The small minorities may be particularly concerned about a threat of assimilation if they are not identified. But the distinction between Pashtuns and non-Pashtuns also has a deeper, historical root: the very name 'Afghan' was originally used as an ethnonym for the Pashtuns (Pathans). The state that was since created, with every corner populated by groups with a larger 'ethnic homeland' across the border, has thus been closely linked with the Pashtun population. 'Afghan' is still used by non-Pashtuns to denote Pashtuns. Consequently, there exists a concern that an all-encompassing 'Afghan' entry could become a tool for Pashtun nationalist leaders. 'Only Pashtuns will be in favour of this', said one local refugee worker. Daoud Najafi agreed that this is indeed a danger: 'Minorities are against the government's decision', he said.

International leverage

International actors, and above all the USA, have a leverage on the conduct of politics in Afghanistan that is substantial and goes beyond issues of institutional design. In other post-intervention/war situations (eg Bosnia and Kosovo), similar influence may be more formalised, but the ATA, and in particular the president and his close circle, clearly look to the USA when making policy decisions.[51] Such a leverage can be put to use in order to change the equation on issues pertaining to peace building. It is clear, for example, that the Americans have recently been leaning heavily on Marshal Fahim in order to force through a reform of the Ministry of Defence. Such reform has been hard to achieve, but without the pressure it would be nearly impossible. However, it is also a fact that the priority of fighting the Taliban and al-Qaida is presently preventing the USA from being consistent in its support for peace building.[52] In a longer perspective the goal must be to enable Afghans themselves to press through integrative policies and to sideline extremists.

Taking on the warlords

For every issue discussed here so far related to peace building and inter-ethnic relations, questions of how to bring about the best outcome have confronted the issue of the warlords or, better, warlord*ism*. This immense problem is not only

about the eight or 10 top commanders, but of the entire culture of rule by the gun that has developed in Afghanistan over the past 23 years. A community may be terrorised by a petty commander with only 30 men, involved in activities such as robbery and violence, illegal taxation, forced recruitment or forced marriage. Commanders are directly involved in ethnic conflict-mongering, as a means of legitimising their activities.

The biggest warlords have learnt to say the right things before an international audience; some of them have even themselves spoken out against warlordism. In Mazar-e-Sharif, Jamiat commander Atta has joined a local peace group, and declared a camp with 7000–8000 of his fighters a 'zone of peace'.[53] One Afghan human rights advocate approached several of the leading warlords shortly after Bonn: 'In theory, they all had good suggestions—Fahim said "we must have national unity"; Khalili said "every ethnic group has a right to a place in the government"—but the problems remain', he remarked.[54] In reality, nothing has changed. A culture of impunity is establishing itself, where he who is powerful enough will go unpunished for violence and abuses, corruption or drug production.[55]

Pointing out the massive problems that stand between Afghanistan and the rule of law is easy; providing policy recommendations towards the goal is much less so. However, realistic recommendations do exist. And not addressing the issue is not a real option, if we want Afghanistan to be more than a contained failing state. The place to begin is Kabul, where the power must be made accountable and inclusive. That will first of all take a thorough reform of the security ministries.

The security ministries

The Bonn Agreement determined that no armed groups other than International Security Assistance Force (ISAF) should be allowed to operate in the capital, but since the Tajik commander Mohammad Qasim Fahim ignored that principle and had his forces move into Kabul in December 2001, he has by and large been allowed to operate there at will. At present Kabul sees a multitude of forces and uniforms, of which the great majority are under Fahim's command. Most of these are his own troops, estimated at 18 000, with a smaller number belonging to the new Afghan National Army (ANA, currently numbering around 6000, but aiming at 60 000), which Fahim controls by virtue of being the Transitional Administration's Defence Minister. The remaining uniformed personnel (with the exception of the fairly low-profile ISAF forces[56]) belong under the Ministry of the Interior. The control of the Ministry of Defence has been total to the point that, when Fahim in February 2002 named 38 generals, 37 were Tajik and one Uzbek.[57]

In a policy aimed at reducing the dominance of the Panjsheris, meaningful reform of the Ministry of Defence is essential. Afghanistan can still barely be described as a post-conflict situation, and it is highly likely that the country would be engulfed in a new civil war should the international forces leave. This being so, the Panjsheri military strength is of constant concern to other armed groups. Disarmament, demobilisation and reintegration (DDR) of fighters is very difficult to realise as long as it is seen as favouring certain groups—if power is

gained by those who keep the most weapons. If Tajiks control the security ministries, Pashtuns, Uzbeks and Hazaras are unlikely to give up their arms. In turn, one of the risks we are facing is that the 2004 elections will take place in such an atmosphere of insecurity that the outcome will be an electoral legitimisation of the power warlords already have by virtue of their weapons.

'It is an impossible situation when there are several armies around the country, and even the minister of defence has his own, while at the same time he is responsible for building up a new army', said a senior ISAF officer. 'A centrally controlled army is a precondition for this situation to be tamed', he concluded.[58] A large number of analyses have reached the same conclusion. The reform of the entire security sector depends on what is done with the Ministries of Defence and Interior, and in particular with efforts to make them ethnically representative and accountable.[59] In one recent report on southeast Afghanistan and Kabul city, Human Rights Watch documented instances of army and police troops kidnapping Afghans and holding them for ransom; breaking into households and robbing families; raping women, girls and boys; and extorting shopkeepers and bus, truck and taxi drivers. Army, police and intelligence agents were also reported to have threatened, arrested and harassed political organisers, journalists and media editors. As 'a vital prerequisite' for DDR programmes that could lessen the power of abusive military rulers and their troops, HRW once again emphasised the need for Ministry of Defence reform, making it more ethnically and politically representative.[60]

Modifying the Panjsheri dominance will require bold actions, from Afghanistan's president and from the USA. And it will take a sophisticated approach to avoid having these and possibly other forces turning against the central government and the Coalition Force. Good reasons to dismiss Fahim abound—the recurring question is whether it would be a good idea strategically. So far, reform success has been limited, though a step in the right direction was taken in September 2003, when President Karzai approved plans for 22 new (non-Panjsheri) appointments to leading civil and military positions in the ministry.[61]

Not only control over the defence and interior ministries, but also the ethnic composition of their forces, is a pressing issue in the new situation, which calls for greater representation. When Pashtun towns have sent young boys to Kabul to serve in the new ANA, in line with the old tradition of local communities contributing to a conscript army, they have been met with a cold shoulder by the commanders under Fahim. 'They were treated really badly, they were told to go back where they came from', one refugee aid worker said.[62] Reform towards multi-ethnicity has been making more progress within the new police force, under Interior Minister Ali Ahmad Jalali, an ethnic Pashtun who was appointed in January 2003 precisely in order to boost this process.[63] Training, under German supervision, is also gradually involving some recruits from districts in other parts of the country.

A striking indication of the current Panjsheri dominance in Kabul is the ever-present image of the Tajik commander Massoud, who was killed only two days before 9/11. Since his status as a hero barely extends outside the group of Panjsheris, it is all the more worrisome that international agencies are not

addressing what look like attempts to sanctify Massoud today. His portrait appears not only in the arrivals area at Kabul's airport, in countless taxi windows, and next to President Karzai in many government offices; it also faces one in front of UN Assistance Mission in Afghanistan (UNAMA) and other UN offices (Panjsheris dominate the staff of guards at these locations too) and can be found on postage stamps for (all of) the new Afghanistan. The reconstructed memory of Massoud is used intensively by other commanders as a means to increase their own legitimacy. The temptation for outsiders to buy into this process also exists, since Massoud is on record as saying all the right things about being for a unitary, inclusive Afghanistan with equal opportunities for all. But the temptation is a dangerous one—the 'saint' was no saint, and the cult is a constant reminder to non-Tajiks of the altered power relations in Kabul.

From stability to legality

In Bonn Western powers made a strategic decision to go for stability first, and worry about legality later. The enrolment of the warlords in the 'war on terror' has made institutional reform very difficult. But reasonable recommendations for bringing legality and security to the country do exist.

One way to weaken the warlords, is to increase the reach and legitimacy of the ATA under President Karzai. This can be done through such steps as investing in the new police and ANA forces, and pressuring warlords to allow their forces to be integrated into the new national ones. The legitimacy of the government can be strengthened if more international funds are channelled through the government, and are distributed across the country so as to demonstrate tangible 'peace dividends' to an impatient population. Such steps must be made with an eye to real problems of corruption in state institutions—which in turn must be fought with transparency and law enforcement. Indeed, warlords can be weakened effectively 'by putting the mechanisms at work', argued one international lawyer. He used Afghanistan's current Supreme Court Chief Justice, Fazul Hadi Shinwari, as an example: According to the 1964 Constitution, the Chief Justice should be no more than 60 years old. Shinwari, however, is past 70.[64] Aiming at the connection between military and political power, HRW has suggested that regional and local military leaders be stripped of their civilian functions, and separate civilian administrators, answerable to Kabul, be appointed in their place. That would remove some income and patronage from today's 'warlord-governors'.[65] In the same vein, the organisation recommends a programme of officer and troop rotation, which would sever the patron–client links between warlords and their subordinates, and instead build loyalty to the national army among the troops.[66]

The warlords are not immune to pressure. In a much-publicised agreement between regional leaders and the central government in May 2003, the former agreed to send customs revenues to Kabul, to obey and enforce national laws and not fight each other.[67] At least on the first promise, there has been some progress.[68] Most significantly, it is difficult to imagine the Constitutional Loya Jirga to have been as successful as it was, without the background pressure from the USA and NATO. The bottom line is that the commanders do what they must

do. However, while every international institution represented in Kabul identifies the warlords as a key source of instability, the USA continues to fund and arm at least some of them. This implies a severe double-communication, as the UN in parallel is preparing for disarmament operations which ought to have progressed far before elections are held. Recent signs suggest an increased appreciation on the part of the USA that Afghanistan is not merely a question of military victory. However, with the Taliban resurgent in the south and gradually becoming able to project attacks into Kabul, obvious limits remain as to the balancing act between winning the peace and winning the war.

Conclusions

Ethnic identities are dynamic. Armed conflict can increase their salience. While the suffering and atrocities of war cannot be undone, their effect on identities may over time be reduced. Such a development cannot be taken for granted, but it can be encouraged through the building of institutions that favour integration and the softening of ethnic boundaries.

In Afghanistan today leaders who have committed serious war crimes and inflicted immeasurable harm on society are still in power. Their spinal reflex is to go after money and influence disregarding the common good. They justify their pursuit of crude self-interest by drawing on a discourse of ethnic distinctions and group rights. It is important for decision makers in Afghanistan and the outside world not to accept their portrayal of the state of affairs at face value. Inter-ethnic relations have not gone unaffected through the 23 years of war, but alternative interpretations of the present, with a different promise for the future, exist.

Ethnicity is more than ever a prominent factor in Afghan politics, and denying it in the formation of new institutions in the country is not a solution. In particular, attention should be paid to make sure important institutions reflect the composition of the population. But ambitions should go further than simply making each institution an ethnic microcosm of the population. The quest for proportionality is not a problem *per se*, but may become one if proportionality overrides other goals. When that happens, exclusive nation building is encouraged, and identities that encompass all citizens are not.

A first, essential step towards reducing the salience of ethnic identities is to avoid any institutional design that contains rigid solutions, such as fixed quotas for representation, which will uphold the identification of representatives with ethnic groups, and prevent candidates from trying to appeal outside their own group.

The Afghanistan Transitional Authority's international partners can choose to play an active role in this process. They have the leverage to influence the outcome of political disputes, and to push for multi-ethnicity and integrative solutions. The optimal situation requires a sophisticated, coherent and long-term engagement.

Notes

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[1] The article thus has a constructivist perspective. In this context it should be emphasised, however, that the favoured outcome in the post-conflict setting—a *de-ethnicisation* of politics—is different from an ethnic *re-identification* among the country's citizens. Simply put, the former is here used to describe a situation where being, eg Tajik becomes less important to someone participating in politics, whereas the latter would mean that he would feel less a Tajik and more eg a Pashtun. There may well have been pressures towards re-identification under the Taliban, when power was held by a group with an ethnocentric vision, which also represented the country's largest ethnic group. Today, with power less concentrated (and much less so in Pashtun hands), such assimilation is less likely to happen.

[2] Barnett Rubin, *The Fragmentation of Afghanistan*, New Haven, CT: Yale University Press, 2nd ed., 2002, pp 22–28; and Gabriele Rasuly-Paleczek, 'The struggle for the Afghan state: centralization, nationalism and their discontents', in Willem van Schendel & Erik J Zürcher (eds), *Identity Politics in Central Asia and the Muslim World. Nationalism, Ethnicity and Labour in the Twentieth Century*, London: IB Tauris, 2001, pp 150–152.

[3] 'New census key to progress', Institute for War and Peace Reporting (IWPR) *Afghan Recovery Report*, 45, 24 January 2003.

[4] Interestingly, Dupree also made the point that, almost always, men of the dominant group would take a wife from the lesser group; the opposite would almost never happen. Louis Dupree, *Afghanistan*, Princeton, NJ: Princeton University Press, 1973, pp 187–188.

[5] Ali Wardak, 'The ethnic and tribal composition of Afghan society', in Edward Girardet & Jonathan Walter (eds), *Afghanistan. Essential Field Guides to Humanitarian and Conflict Zones*, Geneva: International Centre for Humanitarian Reporting/Crosslines Communications, 1998, pp 78–91.

[6] M Nazif Shahrani, 'State building and social fragmentation in Afghanistan. A historical perspective', in Ali Banuazizi & Myron Weiner (eds), *The State, Religion, and Ethnic Politics. Afghanistan, Iran, and Pakistan*, Syracuse, NY: Syracuse University Press, 1986, p 25.

[7] Qouted in Ahmed Rashid, *Taliban. Militant Islam, Oil & Fundamentalism in Central Asia*, New Haven, CT: Yale University Press, 2001, p 212.

[8] Between the two, the Parcham faction had more of a multi-ethnic profile than the Khalq.

[9] Olivier Roy, *Afghanistan: From Holy War to Civil War*, Princeton, NJ: Darwin Press, 1995, p 105. One intriguing example Roy gave was that of the 'Tajik': this was earlier used to design only one subgroup of Persian-speakers, mainly in Badakshan. Later migrations, the joining together of groups for political reasons, and the ascription of anthropologists and journalists have turned 'Tajik' into an ethnonym used for most Sunni Persian-speakers.

[10] Amin Saikal, 'Afghanistan's ethnic conflict', *Survival*, 40 (2), 1998, pp 114–126.

[11] Rashid, *Taliban*, p 83.

[12] Mohammed Haneef Atmar & Jonathan Goodhand, 'Afghanistan: the challenge of "winning the peace" ', in Monique Mekenkamp, Paul van Tongeren & Hans van de Veen (eds), *Searching for Peace in Central and South Asia. An Overview of Conflict Prevention and Peacebuilding Activities*, Boulder, CO: Lynne Rienner, 2002, p 115.

[13] Nancy Hatch Dupree, 'Cultural heritage and national identity in Afghanistan', *Third World Quarterly*, 23 (5), 2002, p 978.

[14] Timothy D Sisk, 'Elections and conflict management in Africa: conclusions and recommendations', in Timothy D Sisk & Andrew Reynold (eds), *Elections and Conflict Management in Africa*, Washington, DC: United States Institute of Peace, 1998, p 160.

[15] 'Agreement on Provisional Arrangements in Afghanistan Pending the Re-Establishment of Permanent Government Institutions'.

[16] Gender-wise, the distribution was less impressive: a mere 12.5% of representatives in Bonn were female.

[17] 'Afghanistan's constitution to be unveiled', *Guardian*, 3 November 2003.

[18] Benjamin Reilly, *Democracy in Divided Societies. Electoral Engineering for Conflict Management*, Cambridge: Cambridge University Press, 2001, p 14.

[19] Donald L Horowitz, *Electoral Systems and Their Goals: A Primer for Decision-Makers*, at http://www.cic.nyu.edu/pdf/E6ElectoralSystemsHorowitz.pdf, accessed January 2003.

[20] Ben Reilly & Andrew Reynolds, *Electoral Systems and Conflict in Divided Societies*, Washington, DC: National Academy Press Papers on International Conflict Resolution, 2, p 55.

[21] Reilly, *Democracy in Divided Societies*, p 6.

[22] George Tsebelis, 'Elite interaction and constitution building in consociational democracies', *Journal of Theoretical Politics*, 2 (1), 1990, pp 5–29. I owe this reference to Pippa Norris, *Electoral Engineering: Voting Rules and Political Behavior*, Cambridge: Cambridge University Press, 2003, ch 9, p 2, at http://ksghome.harvard.edu/~.pnorris.shorenstein.ksg/Institutions.htm.

[23] Andreas Wimmer & Conrad Schetter, *State-Formation First. Recommendations for Reconstruction and Peace-Making in Afghanistan*, ZEF (Center for Development Research, University of Bonn) Discussion Papers on Development Policy, 45, Bonn, April 2002.

[24] *Afghanistan's Flawed Constitutional Process*, International Crisis Group Report, 12 June 2003.

[25] Barnett R Rubin with Helena Malikyar, 'The politics of center–periphery relations in Afghanistan', unpublished paper, March 2003.

[26] For a thorough exploration of the regional context after 2001, see Kristian Berg Harpviken, 'Afghanistan: from buffer state to battleground—to bridge between regions?', in James J Hentz & Morten Bøås (eds), *New and Critical Security and Regionalism. Beyond the Nation State*, Aldershot: Ashgate, 2003.

[27] James Purcell Smith, 'Debate over federalism in Afghanistan continues', *Central Asia–Caucasus Analyst*, 23 October 2002.

[28] Anatol Lieven, 'Afghan statecraft', originally published in the January 2002 edition of *Prospect*, at http://www.ceip.org/files/publications/Lieven-Afghan-Statecraft.asp.

[29] As part of this programme, 7680 villages will each be awarded a block grant for development purposes. The village development councils will decide how to spend the money. Author's interview, Ministry of Rural Rehabilitation and Development, Kabul, August 2003.

[30] Human Rights Watch, *Anti-Pashtun Violence in Northern Afghanistan: Recent Testimonies*, HRW, 6 March 2002, at http://www.hrw.org/press/2002/03/pashtuntestimony.htm.

[31] Example related by United Nations High Commissioner for Refugees (UNHCR) worker in Mazar-e-Sharif during interview with the author, Mazar, August 2003.

[32] Liz Alden Wily, *Land Rights in Crisis: Restoring Tenure Security in Afghanistan*, Afghanistan Research and Evaluation Unit (AREU), March 2003, pp 4–5.

[33] Author's interview, Kabul, August 2003.

[34] The author was provided with details on such transactions from reliable sources in Kabul, but cannot reveal their origin. More recently, they have been underpinned by the UN and international media. See, for example, 'Afghans protest homes' destruction', *Washington Post*, 16 September 2003.

[35] Author's interview with Dr Rafiullah Bidar, Regional Program Manager for the Afghan Independent Human Rights Commission, Mazar-e-Sharif, August 2003.

[36] Author's interview, Kabul, August 2003.

[37] Ahmed Rashid, 'Lessons from Loya Jirga for Pakistan', *The Nation*, 12 January 2004.

[38] As an admission to smaller groups, the CLJ added: 'Turkic languages (Uzbaki and Turkmen), Baluchi, Pashai, Nuristani and Pamiri (alsana) are—in addition to Pashto and Dari—the third official language in areas where the majority speaks them.'

[39] See J Alexander Thier, 'The politics of peace-building. Year one: from Bonn to Kabul', in Antonio Donini, Norah Niland & Karin Wermester, *Nation-Building Unraveled? Aid, Peace and Justice in Afghanistan*, Bloomfield, CT: Kumarian Press, 2004, p 49.

[40] Interview with Col Darrel Branhagen, Director of the coalition civil–military co-ordination centre in Kabul, IRIN News, 8 January 2004.

[41] Translation of Constitution from http://www.afghan-web.com/history/const/const1963.html.

[42] Estimate from Rashid, *Taliban*, p 83.

[43] Unofficial translation, at http://www.constitution-afg.com/resrouces/Draft.Constitution.pdf.

[44] Unofficial translation, at http://groups.yahoo.com/group/afghaniyat/message/5633. This is a modification of the draft constitution, which read: 'In Afghanistan, no law can be contrary to the sacred religion of Islam and the values of this Constitution'.

[45] See, for example, the statement (on the draft constitution) from the US Commission on International Religious Freedom, reprinted in *Afghaniyat Digest*, 784.

[46] Author's interview, Kabul, August 2003.

[47] Remark by Sima Simar at her seminar, 'Reconciliation in Afghanistan', PRIO, Oslo, 25 September 2002.

[48] Jones made the point that, even if one should need figures for minority populations, this may not be a nation-wide problem. If the issue is much more local, it can be addressed in a different way than through the census. Moreover, since different ethnic groups mostly live in different parts of the country, one could argue that there is not even a statistical need to include ethnicity in the census in order to determine the rough distribution of the population.

[49] On Soviet nationality policies, see Sven Gunnar Simonsen, 'Inheriting the Soviet policy toolbox. Russia's dilemma over ascriptive nationality', *Europe–Asia Studies*, 51 (6), 1999, pp 1069–1087. The fascinating story of how Afghanistan introduced a similar system is outlined in Kristian Berg Harpviken, *Political Mobilization among the Hazara of Afghanistan: 1978–1992*, ISO Report 9, Department of Sociology, University of Oslo, 1996, esp pp 50–54.

[50] Author's interview, Kabul, August 2003.

[51] One interesting example is Afghanistan's accession to the International Criminal Court. The decision to join the court was attributed to a cabinet discussion, but it appears that, in reality, several ministries, including the Justice Ministry as well as the Supreme Court, were informed about the decision only after it had been made.

[52] This and other contradictions in the international efforts in Afghanistan have inspired a new term: 'conflictual peace-building'. See Astri Suhrke, Kristian Berg Harpviken & Arne Strand, 'After Bonn: conflictual peace building', *Third World Quarterly*, 23 (5), 2002, pp 875-891.

[53] Author's interview with leader of group, Mazar-e-Sharif, August 2003.

[54] Author's interview, Kabul, August 2003.

[55] For an illustration, see Human Rights Watch, *All Our Hopes Are Crushed: Violence and Repression in Western Afghanistan*, HRW, 5 November 2002.

[56] The ISAF forces count 5300 members, compared with the 12 500 serving in the US-led coalition force that is fighting militants in the southeast. Figures from AFP, 1 September 2003.

[57] Antonio Giustozzi, 'Military reform in Afghanistan', in Mark Sedra (ed), *Confronting Afghanistan's Security Dilemma*, Bonn International Center for Conversion (BICC) Brief 28, September 2003, p 28.

[58] Author's interview, Kabul, August 2003.

[59] See Mark Sedra 'Afghanistan: assessing the progress of security sector reform, one year after the Geneva conference. Results of the BICC e-conference 4–11 June 2003', available at http://www.bicc.de/forum/papers/afgh_e-conference_final_report.pdf; Andrew Wilder, 'Afghanistan's lack of security', *International Herald Tribune*, 28 June 2003; and Chris Johnson, William Maley, Alexander Thier & Ali Wardak, *Afghanistan's Political and Constitutional Development*, London: Overseas Development Institute, January 2003, p 8.

[60] The report was clear in pointing to the leaders responsible, saying perpetrators were soldiers and police under the command of leaders including Mohammad Qasim Fahim, Hazrat Ali (the military leader of the Eastern Region), Younis Qanooni (the Minister of Education), Burhanuddin Rabbani and Abdul Rabb al-Rasul Sayyaf. Human Rights Watch, '*Killing You is A Very Easy Thing For Us': Human Rights Abuses in Southeast Afghanistan*, HRW, 15 (5), 2003.

[61] 'Karzai approves reform of Afghan defence ministry', AFP, 1 September 2003.

[62] Author's interview, Kabul, August 2003. A discussion of what is known so far about ethnic bias in the military is provided in Giustozzi, 'Military reform in Afghanistan', pp 23–37.

[63] See 'Afghan native son, home from America, gives orders', *New York Times*, 14 December 2003.

[64] Shinwari is openly committed to hard-line *sharia*, and has called for stoning of adulterers, amputation of thieves' hands, and lashing of those who consume alcohol. (The 40–60 age frame is not repeated in the 2004 Constitution.)

[65] Like so many other agencies, HRW also called for more attention to be paid to security and human rights issues, including through a substantial geographic expansion of ISAF. *Afghanistan's Bonn Agreement One Year Later: A Catalog of Missed Opportunities*, Human Rights Watch briefing paper, 5 December 2002.

[66] Human Rights Watch, '*Killing You is a Very Easy Thing For Us'*.

[67] 'Karzai gets agreement from local leaders', *Washington Post*, 21 May 2003.

[68] Author's interview, Ministry of Rural Rehabilitation and Development, August 2003.