Righting the course? Humanitarian intervention, the war on terror and the future of Afghanistan

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Consideration of Afghanistan within the framework of international humanitarian interventions generates an uneasy analysis. The US-led invasion in Afghanistan was not constructed as a humanitarian intervention, but conceived as an act of self-defence in response to the attacks on New York and Washington DC in September 2001. The war in Afghanistan was initiated with no clear strategies for long-term stabilization, state-building or development. In the context of previous policy declarations from the Bush administration, Afghanistan was a target and concern within the context of counterterrorism, not humanitarianism. Though telling the Taliban seemed a quick enough task at the time, ferreting out Al-Qaeda’s leadership and foot soldiers from the forbidding Afghan–Pakistani border and initiating a development process did not. Consequently the initial American plan for a quick operation to excise the cancer of terrorism was quickly blurred by a mismatch between shorter-term security and counterterrorist concerns and complex questions of long-term stabilization and state-building.

The discourse of humanitarian intervention has largely focused on reconciling the inviolability of state sovereignty with the responsibility to protect during or after conflicts or crises. The practice of humanitarian intervention, including military humanitarian intervention, has been steadily widening in scope and complexity since the end of the Cold War. The ‘war on terror’ created yet more confusion around the legal constraints on and political justifications for humanitarian interventions, and the growing number of interventions has prompted broader discussion on post-conflict stabilization and state-building. It can be argued that the success of an intervention should be measured not merely by the absence of violence, but on the basis of the subsequent durability of the government and the well-being of the population. However, whatever the measure, the

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theory and practice of state-building have also given rise to complex questions about the role and agendas of international and domestic actors.

Some concern for humanitarian ideals would not be out of place within the international engagement in Afghanistan. Afghanistan remains one of the poorest countries in the world, and decades of war have destroyed government service structures and legitimate economic opportunities. However, none of the interventions in Afghanistan (direct or indirect) during the past three decades has carried with it an explicitly humanitarian intent. The case of Afghanistan raises salient questions for continuing debates on the doctrine and practice of humanitarian intervention and long-term stabilization and state-building. Most obviously, how do decisions to intervene and decisions taken in the immediate aftermath of an intervention affect ensuing stabilization and state-building agendas? More urgently, what share of responsibility does the international community bear for ensuring a stable peace and transparent, accountable leadership and institutions? These are vital questions for a country that has become an important political and military showcase for the United Nations, NATO and donors in North America and Europe.

**Afghanistan: the legacy of war and non-intervention**

The violent history of modern Afghanistan is well documented, though not always well understood. The modern Afghan state gained sovereign independence in 1979, after two Anglo-Afghan wars. Uncomfortable borders, with ethnic populations divided across state lines, were the main legacy of British colonial enterprises in South Asia; to this day, Afghanistan disputes the Durand line, the border it shares with Pakistan that cleaved the territory of the Pashtun tribes and remains a source of serious contention between the two countries. Though the country remains ethnically diverse, a common identity as Afghans nevertheless prevails at some level. Characterizing the ethnic demography is difficult as no formal census has been conducted for decades, but a reasonable estimate is that the 25 million or so Afghans are made up from 44 per cent Pashtuns, 25 per cent Tajiks, 10 per cent Hazaras and 8 per cent Uzbeks. Culturally, Afghanistan retains a strongly tribal system and virtually all its inhabitants are Muslim, with a Sunni majority and a significant Shi'i minority. The country is sparsely populated, with the majority living in rural communities. Contrasts between rural populations and the urban poor on the one hand, and urban elites on the other, are stark, with the insecurity, illiteracy and lack of health care exacerbating the division between the former two groups and the latter.1

Carved out between Central and South Asia, Afghanistan has been especially vulnerable to the machinations of more powerful forces and interests. The communist coup in 1978, the subsequent Soviet invasion in 1979, and the anti-

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Soviet war of resistance in the 1980s have most sharply defined Afghanistan as it is today. In what is considered the first of four major cycles of violence, the war with the Soviet Union devastated much of the countryside, spurred enormous refugee outflows and decimated the country’s elite and intelligentsia. With incalculable loss of life and property, Afghanistan guerrilla forces defeated the Soviet Union with aid from the United States, channelled to mujahedin forces through Pakistan and Saudi Arabia in the form of arms and money.4

Perversely, the defeat of the Soviet Union, and the subsequent end of the Cold War, translated into a near-total withdrawal of western interest from Afghanistan, at a time when the population needed it more than ever to rebuild and recover from a decade of violence. If the war in Afghanistan had been supplied and aided differently, and with different neighbours, perhaps the aftermath would only have been the continuation of endemic migration flows driven by poverty. However, very few policy-makers stopped to gauge the potential consequences of so rapid a disposal of Afghanistan from their agendas. The post-war government held until 1992, at which point it collapsed under irreconcilable political disagreements and repeated attacks from paramilitary factions vying for leadership. The former rebels, flush with resources from their US, Pakistani and Saudi patrons, turned their arms upon each other in a second wave of murder and pillage that produced tens of thousands more dead and fractured the country along geographical and ethnic lines.5

Amid the ongoing civil war, the Taliban would come to take centre stage. Pakistan, whose Inter-Services Intelligence (ISI) body continued to press its interests and advantage throughout the Soviet and civil wars, played a seminal role in training and arming Taliban forces that managed to take power over the capital and much of the countryside. Bringing a modicum of security, the Taliban were perceived in turn as a stabilizing force, then an extremist regime and even as a potential commercial ally as interest grew in a Caspian oil pipeline.6 Violence between the Taliban and opposition factions continued in this period of Afghanistan’s conflicted recent history, with serious human rights abuses continuing against the civilian population. It was during this period that Osama bin Laden consolidated his base in Afghanistan while channelling funds to the Taliban government. Despite the imposition of trade and diplomatic sanctions and growing international unpopularity, Taliban forces and officials managed to hold sway over most of the country. UN-led efforts to mediate a truce and peace negotiations between the still-warring factions in the late 1990s did not produce a sustainable peace.7 The fourth phase of conflict—which continues today—would begin in September 2001.

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5 Coll. Ghost wars, p. 35.

6 Coll. Ghost wars, p. 164.

Afghanistan, the war on terror and the humanitarian intervention debate

The end of the Cold War and the beginning of a norm

The end of the twentieth century saw significant changes in international politics and law. State sovereignty, a dominant principle of international law, was eroded by more intrusive economic ties between states (economic globalization) and by an increased focus on a responsibility to protect (humanitarian and human rights considerations). The content and complexities of these debates have been captured elsewhere, but a brief discussion of those aspects of the discourse of humanitarian intervention that are relevant for Afghanistan is appropriate here.8

The various interventions of the Cold War era generated a strong criticism about interference in the domestic doings of other states. The bitter bipolarity of the Cold War left little doubt about the intentions of ‘interfering’ states, and even cases where one state used force against another for purposes that seemed humanitarian, the explicit justifications and intent were not enshrined in these terms.9 The end of the Cold War opened the way for an increased optimism about the potential scope for the UN and the wider international community to secure peace and promote human rights.10 More critical voices have noted that it also left Cold War alliances such as NATO grasping for a raison d’être, and that in eroding the principle of national sovereignty we risk entering a world where ... virtue runs amok.11

In the few short years between the end of the Cold War and the beginning of the war on terror, the international community repeatedly faced calls to address situations of egregious human rights violations, leading to a number of milestones in the effort to establish a clearer framework for authorizing the use of force for a humanitarian purpose. The first case to demand the UN Security Council’s attention was that of instability in Iraq after the Gulf War in 1991, where the Kurdish population was subject to severe abuses. The Security Council’s members, though recognizing, crucially, that the humanitarian crisis posed a regional threat to peace

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9 See Winton, Saving strangers, pp. 35-36; the Simon Chauvin, Humanitarian intervention in Afghanistan, in Jennifer Wahl, ed., Humanitarian intervention in international relations (Oxford: Oxford University Press, 2003), p. 69. For example, in the Tanzanian intervention in Uganda in 1979, the Indian intervention in Bangladesh in 1971, and the Vietnamese intervention in Cambodia in 1979, the intervening governments offered self-interest as the principal motivation for their actions. As such, these interventions, though otherwise meeting minimal threshold requirements for legitimacy, did not fall entirely within the definition of humanitarian intervention.

10 The optimism is encapsulated in the UN Secretary General’s report: An agenda for peace: preventive diplomacy, peacemaking and peacekeeping, UN doc. A/52/575-S/2001/198 (2001), and in the explosion of international humanitarian aid and assistance in the 1990s; see Ursula Donatius, The end of human rights: critical thought at the turn of the century (Oxford: Hart, 2002).

and security, did not authorize the use of force to protect the Iraqi Kurds. The next such call was prompted by events in 1992 in Somalia, where the collapse of the government and subsequent violence led the Security Council to authorize military action to stabilize the country. The Council’s justification of its authorization on the grounds of exceptional circumstances (the failure of government) reflected its ambivalence towards setting a precedent of deploying force against a sovereign state solely on humanitarian grounds. Its most serious political and moral failure was its inertia during the Rwandan genocide in 1994. Ignoring urgent and repeated requests to expand the mandate of the UN mission to include protection, the Council also failed to authorize an intervention under Chapter VII. In the infamous words of a leading US military official, ‘one American casualty is worth 8,500 Rwandans dead’. Ethnic cleansing in Kosovo presented a different dilemma: here NATO undertook an intervention without Security Council authorization to prevent a ‘second Bosnia’, but also resorted to military means that served first to reduce the risk to NATO troops, thereby calling both the intent and efficacy of the mission into question.

Amid a growing recognition of the dissonance and shortcomings of intervention, the International Commission on Intervention and State Sovereignty (ICISS) was established by the government of Canada and at it the encouragement of former UN Secretary General Kofi Annan to develop legally sound, politically feasible and acceptable guidelines on humanitarian intervention. In 2001 the ICISS published its seminal report, advocating political and legal acceptance of the responsibility to protect. The ICISS concluded that sovereign states have a responsibility to protect their citizens from ‘avoidable catastrophe’, but that when they are ‘unwilling or unable’ to do so, this responsibility would be shared among the ‘broader community of states’. The ICISS outlined three core elements of the responsibility to protect: the duty of states to prevent humanitarian crises and gross violations of human rights, to react in a timely and effective fashion, and to rebuild states and societies in the aftermath of interventions. The ICISS emphasized that under exceptional circumstances, when large-scale loss of life or large-scale ‘ethnic cleansing’ was likely to occur imminently, the responsibility to protect could involve military intervention. Precautionary principles were outlined to weed out illegitimate interventions and to ensure that any envisaged military strategies were operationally sound.

14 Wheeler, Saving (n. 11), p. 282.
16 Wheeler, Saving (n. 11), p. 284.
18 ICISS, The responsibility to protect, p. viii.
As noted above, Afghanistan was largely ignored after the withdrawal of Soviet troops and the end of the Cold War. The UN made attempts to mediate between the warring factions in Afghanistan and sanctions were imposed, but these measures did not rise to the level of engagement in other similar contexts. The international community failed Afghanistan in not staying involved, and virtually disregarded it at a time when the UN and its member states were concluding that something had to be done in other similarly violent contexts. The Afghan civil war in the early 1990s would certainly have qualified as a political and humanitarian crisis, though whether it would have qualified for military intervention is less clear. When a military intervention did come, it was not for the sake of humanity but as a product of a lightning-speed shift in American national interest.

The twin rhetoric of the war on terror and humanitarianism

Both the need and the effort to grapple with the precepts, conditions and legality of humanitarian intervention were clearly evident in the post-Cold War era in international politics. The overall picture was one of ever more complex struggles to respond to humanitarian crises in a politically feasible and legally justifiable manner that would have long-term positive effects for peoples and states, instead of reverting to “inhumanitarian non-intervention.” Facing the urgency of humanitarian crisis, the international community’s responses—when it decided to intervene at all—tilted towards the exceptional mechanism of military intervention rather than the mechanisms of diplomatic peace-building. US policy after 9/11 threw an innovative interpretation of the right to self-defense into the debates about when, how and on what grounds military force can lawfully be used. The war on terror also pushed humanitarian concerns into the background.

Though some predicted a disastrous fallout from ignoring Afghanistan after the Soviet–Afghan war, few expected the cataclysmic events of September 11, 2001. As is now acknowledged, the irresponsible management of the proxy war against the Soviet Union had more than a financial price tag; it enabled the establishment and proliferation of a network of hostile and violent actors with clear capabilities to harm the national security of their perceived enemies. On July 7, 2001, the United States informed the UN Security Council that it was launching military

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7 Christensen, Humanitarian intervention in Afghanistan, p. 106.

strikes on Afghanistan against the Taliban and Al-Qaeda, after its initial conditions made to the Taliban leadership were rejected. Neither then nor ever was there an argument made that the US war in Afghanistan was anything other than a unilateral use of force in self-defence, nor would it have been appropriate to characterise it otherwise. As Simon Chesterman points out, the United States expressly avoided obtaining the "chapter VII legal umbrella ... apparently out of a desire to preserve the maximum flexibility in how that response might be conducted". Nonetheless, the Security Council accepted the US action as a legitimate exercise in self-defence and supported the US-led military effort in Afghanistan, giving authorization under Chapter VII for the International Security Assistance Force (ISAF) to maintain security in Kabul. NATO too recognized the 9/11 attacks as an 'attack against all' under the provisions of the Washington Treaty, though NATO would not become involved in Afghanistan until later.

Despite the fact that the US-led war in Afghanistan was explicitly not a humanitarian intervention, American policy-makers would come to embrace the language and rhetoric of a humanitarian cause. In the case of Afghanistan it was not difficult to evoke a humanitarian cause, as violations of religious freedom and human rights under the Taliban were already arousing some concern within the international community. However, though the intervention came to be surrounded by so much of the rhetoric of humanitarianism, precious little thought had been dedicated to actually addressing past and present violations and abuses of human rights and to promoting accountability.

The tensions between the real grounds for the intervention and the alternative justifications for it have come to haunt the stabilization and state-building process in Afghanistan. The intervention was conducted not to promote security or stability in Afghanistan, but to ensure that Afghanistan could no longer be a source of insecurity for the United States and its allies. This has resulted in a state-building process hampered by competing and largely incompatible agendas, with major actors remaining involved for reasons other than humanitarian ideals and state-building, and the logic of the war on terror colliding with visions...

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22 The full text of the 7 Oct. 2001 letter from the American government to the UN Security Council can be found at http://www.globalsecurity.org/military/library/news/2001/03/369907a.htm. Retrieved 7 May 2003. Article 2 of the UN Charter forbids UN member states to use force against the territorial integrity or political independence of another state. The exception to this principle is found in article 51, which allows the use of force in self-defence under certain circumstances. For general discussions, see Tarcicio Gazzini, The changing rules on the use of force in international law (Manchester: Manchester University Press, 2003); Leslie C. Greener, The contemporary law of armed conflicts (Manchester: Manchester University Press, 2003). For a specific discussion about the use of the self-defence argument to legitimate the intervention in Afghanistan, see Mary Ellen O'Connell, The myth of preventive self-defence (Washington DC: American Society of International Law, 2003).

23 Some legal analyses have called into question the US justification for compelling the entire state of Afghanistan and the Taliban government there because the Taliban had harboured Al-Qaeda. See Steven Ramsay, Just ad Bellum and Just in Bellas after September 11, American Journal of International Law 96(4), Oct. 2002, p. 908.


25 UN Security Council Resolution 1386 (2001). The international conflict in Afghanistan ended with the establishment of the transitional government in 2002. The International Security Assistance Force (ISAF), under NATO command since 2003, is assisting the government in what is now defined as an internal conflict.

of 'a broad-based, multi-ethnic, politically balanced, freely chosen Afghan administration'.

The unfortunate political landscape in Afghanistan today did not emerge by accident. A series of decisions made even before the Bonn Agreement in December 2001 shaped the contours of what is today a serious crisis of security, governance and rule of law, and has sparked a corresponding crisis of faith among Afghans both in their government and in the international community. The language of democracy promotion was premised more on ideological impulse than on a concrete or justifiable state practice; intervention for the sake of democratic regime change is not within the bounds of international law or customary norms. More is in question than the future of Afghanistan. The disingenuous conflation of a military intervention with a humanitarian one, first in Afghanistan and then more brazenly in Iraq, has raised new difficulties for the paradigm and discourse of humanitarianism and the justifiable use of force to protect vulnerable populations. US and European foreign policy since 9/11 has set a tense precedent for more forcible interventions—whether legally viable or not—while simultaneously breeding new hesitations and concerns about intervening too hard and too often.

Bonn to London: the transition from intervention to state-building

The legacy and complexity of post-conflict state-building

Interventions, humanitarian or otherwise, are rarely clean, short-lived enterprises. Some analysts make the point that interventions do not successfully address the underlying causes of conflict, only its symptoms, and that resolving the latter requires a deeper understanding of context and better-articulated political strategies. Other complications in a state’s transition from war to peace include the potential distortion of prevailing power structures, and the need for recognition that international stakeholders often confine the presence of institutions with real political progress. Often, an incomplete or misguided political analysis of a state before or after an intervention will lay unstable foundations for future policies and agendas. Long-standing conflict also results in entrenched war economies (in the case of Afghanistan, opium production and illegal drug trafficking) and in the internalization of the logic of war, with local power-holders more resistant to adapting to a government with a monopoly on the use of violence and taxation.

11 Yasmeen Vardi, 'From Berlin to Bonn to Baghdad', p. 92.

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Righting the course?

Interventions should ideally include a long-term strategy for stability and post-conflict state-building; but, as noted by the co-chair of the ICISS, this responsibility has been "much neglected in the traditional humanitarian intervention". The immediate rationale for state-building may be to initiate processes that aim to minimize the risk of reversion to conflict, but state-building processes often also include ambitious reform and modernization processes. While there is no universal blueprint for restoring a "troubled society's" ability to exercise its sovereignty through transparent and accountable institutions, critical voices argue that state-building is increasingly becoming a way for existing "rogue states", "failed states" or just different states into a community of "neo-liberal nations" with the power to "facilitate globalization". To ignore Afghanistan after the military campaign of 2001, as it had been ignored after the end of the Cold War, would have been both misguided and contrary to US interests. As the fighting continued, the UN took the initiative to develop an agenda for the state-building process in Afghanistan. This process, as it has developed since 2001, is perhaps the most ambitious ever attempted: a multibillion-dollar effort to reform and rebuild one of the world's poorest and most conflicted countries.

From 2001 to 2005: the Bonn process

As the United States launched Operation Enduring Freedom in the name of self-defence and counterterrorism, the United Nations initiated a conversation about the aftermath of military operations and the country's future leadership. The resultant Bonn Conference, convened under the auspices of the UN, did not involve peace negotiations, but included discussions for power-sharing arrangements in a transitional administration. The Bonn Agreement set a timeline for the establishment of a transitional authority, creation of a commission to draft the new constitution, an emergency Loya Jirga to authorize appointments and the country's first elections.

Though international stakeholders sought to make Bonn as "Afghan-led" a process as possible, they took a very narrow view of what 'Afghan-led' might mean and an ambitious view of what an Afghan government might look like. The factions convened at Bonn were unquestionably powerful, but whether they constituted legitimate representatives in the eyes of Afghans is debatable. The

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conference brought together some of the same ethno-political factions that less
than a decade earlier had been slaughtering each other and countless civilians in
the streets of Kabul and elsewhere. The justification for their presence at Bonn
was that they were not the Talebun, that they were perceived as powerful (with the
potential to destabilize Afghanistan), and that they had supported and provided
ground troops to the US-led military intervention in the country. Accordingly,
Northern Alliance leaders were given a prominent role at the Bonn Conference in
return for their services to the United States and in both the transitional and the
current government, particularly within the security sector.

This discussion does not intend to single out the Northern Alliance for its violent
history, as there are many other groups responsible for equally heinous activities.
However, the point is instructive: during and after its intervention, the United
States and the broader international community sanctioned the renewed activity
of individuals and factions with unsavoury pasts in the name of stability and state-
building. At Bonn, Afghan and international stakeholders implicitly and explicitly
accepted the logic that security and stability in the short term should be prioritized
above accountability, peace and justice in the longer term. The marginalization
of concerns with accountability and justice as key pillars of the state-building
process set an unhealthy precedent both for central government institutions and at
lower levels throughout the country. It has contributed to reinforcing a system of
patronage and elitism, where inclusion in and exclusion from power are based on
perceived capacity to destabilize and authority over personal networks, rather than
on legitimate leadership capabilities and integrity.

Deciding that a large-scale UN presence was 'not necessary and not possible',
international stakeholders unveiled a 'light footprint' policy. The United Nations
Assistance Mission in Afghanistan (UNAMA), led by Special Representative to
the Secretary-General Lakhdar Brahimi, would focus on building capacities in the
Afghan government and providing other assistance functions within a mandate
more limited than those granted in Kosovo or East Timor. An overbearing interna-
tional presence would have been likely to foster suspicions of a process that was
meant to be inclusive and representative. However, the mismatch between the
'ambitious, centralizing, state-building agenda' of Bonn and the light footprint of
UNAMA contributed to broader failures in the transitional period.

From a broader perspective, two key agendas emerged from the Bonn process—
one focused on the politics of stabilization and the other on the technical aspects
of state-building—and the two did not always complement each other, especially

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15 Patricia Greenan, 'Truth, justice and stability in Afghanistan', in Naomi Rob-Artaza and Javer Mansoor-
ta, eds, Transitional justice in the twenty-first century: beyond truth and justice (New York: Cambridge
University Press, 2006), Ahmad Nader Nabi, 'Nabi or justice?' International Journal of Transitional

16 In hindsight, wholly excluding the Talebun, a distinctly heterogeneous group with moderate elements,
was arguably a mistake, but it was a political imperative in December 2001.

17 Lakhdar Brahimi, Opening in Simon Chanrister, 'Walking softly in Afghanistan: the future of UN

18 Harrie Nissim and Richard Perucci, 'Building democracy in Afghanistan: the statebuilding agenda and
where political compromises were necessary (and they were often necessary). In addition, community-driven processes and informal governing mechanisms became increasingly isolated from the push to develop more formal institutions.43

The Emergency Loya Jirga, the Constitutional Loya Jirga and the elections of 2002–2003 tended to reaffirm and reinforce the focus on short-term stability and political gains on behalf of (possible) long-term peace and a system based on rule of law. In June 2002 the Emergency Loya Jirga, a national gathering of leaders, warlords and tribal chiefs in Kabul, elected the current President, Hamid Karzai, as the head of the transitional authority. It was not a smooth affair, with stronger figures and warlords dominating proceedings and threatening to resort to force of arms unless their terms were met.44 In parallel, the United States, declaring an end to military hostilities against the Afghan state with the inauguration of what it considered a legitimate sovereign government, made the tensions claim that its counterterrorism operations no longer fell within the classification of an international armed conflict, and the war on terror was now an internal armed conflict.45

In January 2004 a Constitutional Loya Jirga was convened to ratify a new constitution, producing a presidential system that was an awkward fit with Afghanistan’s history of decentralized politics. This too was not unproblematic. The national consultations that were meant to precede the drafting of the new constitution were too brief. Many Afghans and international observers viewed the process as compromised by backdoor deals, and sharper critics argued that the new constitution provided inadequate checks on executive authority.46 Some argue that without the centralizing stability of a president in Kabul, Afghanistan would fracture along ethnic lines,47 but other analysts agree that the top-down politics of a presidential system diverts critical attention and resources away from the provinces and heightens centre–periphery tensions.48

With the presidential elections in 2004, and the subsequent parliamentary and provincial council elections in 2005, the transitional phase instituted by the Bonn process officially ended. The parliamentary and provincial council elections are often described as the moment when faith was lost in the state-building process. The gradual decline of the security situation, the widening gap between the Kabul-based elite and the rural population, and allegations of high-level corruption had worn down Afghans’ trust in the efforts being made by their new government and its international partners. Allegations of electoral corruption and fraud, both real and exaggerated, and the inclusion of questionable individuals in the parliament and provincial councils, became symbolically significant.

The development process initiated at Bonn has been equally problematic. As an alternative to a strong coordinating role for UNAMA, 'lead nations' were identified for different reform and development sectors. For example, the United States was designated lead nation for supporting military reform, Germany for police reform, Italy for justice and the UK for counter-narcotics. The lead nation approach, and lack of coordination among the different leads and between them and the Afghan government, contributed to the development of ambitious reform processes that lacked coherence and have resonated poorly with the realities in Afghanistan.\(^4\) The justice sector is often singled out as an example of how the lack of system-wide leadership and coordination has resulted in failure to initiate solid reform processes. The efforts of the Italian lead were compromised by the view of key international and national actors that justice was a challenge to security during the early years of the state-building process. At the same time, having separate leads (and separate agendas) for justice and police reform resulted in uncoordinated and at times conflicting reform initiatives. For example, reform of Afghan detention facilities seemed to fall between the two stools of police and justice reform, a confusion that may have contributed to the increasing number of prison riots in Afghanistan over the past year. Inadequate priority was also given to another major aspect of post-conflict state-building, disarmament, demobilization and reintegration (DDR), leaving paramilitary groups and criminal elements to operate freely.\(^5\)

Indeed, the steadily growing instability, the exploding drug trade and sluggish development can be attributed to a combination of mistakes and miscalculations in policy formation and implementation on all sides. A strong argument can be made, however, that all parties to Afghanistan's reconstruction from the US invasion onwards repeatedly sidelined the agendas of governance, reform and the promotion of justice for the sake of short-term political expediency.

\(^4\) Different policies on channelling donor funds, and inadequate capacity within Afghan government institutions to disperse funds, have created bottlenecks and undermined the public legitimacy of the development process. As Cecilia Mann points out, the average disbursement rate of funds by government ministries was just 39% in 2004/2005. Cecilia Mann, 'Implementation of the Afghanisation Compact: Problems and prospects', conference paper, forthcoming in Horst-Georg Baltic and Charles C. Prawidowidjojo, The Afghanisation challenge: hard realities and strategic choices.


From 2006 to 2008: deepening the footprint?

In January 2006 a high-level conference bringing together Afghan government and international representatives unveiled the London Compact, the political vehicle for the continued Afghan-international partnership for strengthening the Afghan state. The pillars of the Afghanistan National Compact (security, governance, rule of law and human rights, and social and economic development) were to be integrated with the Afghanistan National Development Strategy (ANDS), the poverty reduction strategy paper for Afghanistan.\(^6\) The ANDS, developed through collabora-
tion between donors and the Afghan government, sets out a very (possibly too) ambitious reform agenda consisting of well over a dozen parallel strategies and cross-cutting themes that map out in great detail reforms to be undertaken in justice, governance, security, education and other domestic fields.

The Afghanistan Compact/ANDS strategy explicitly recognized the pressing need for a joint Afghan and international high-level political mechanism to oversee the comprehensive reform and development efforts envisaged for Afghanistan. The Afghan Compact established the Joint Coordination and Monitoring Body (JCMB) and the ANDS created a number of consultative and working groups reporting to the JCMB. Four years after the inception of the 'light footprint', donors and stakeholders had made a total about-face. The simplest explanation for this shift in policy was that the light footprint approach to state-building, regardless of its political merits at the time, had failed to empower Afghan institutions and ensure their integrity and accountability, and crucially had limited the coordination between and engagement of UNAMA and donor countries.52

The post-Bonn agenda also sharpened the focus on justice and accountability. Although justice was not integrated in the security pillar (a measure that would have established its status as a key to promoting security), the Compact emphasized comprehensive reform of the judicial institutions and the implementation of the Action Plan for Peace, Justice and Reconciliation (APPJR). National consultations conducted by the Afghan Independent Human Rights Commission (AIHRC) in 2005 had showed that there was a widespread demand among those consulted that justice be done and that those responsible for past crimes face criminal charges or be removed from power. The APPJR was drafted on the basis of the recommendations of the AIHRC consultations.53 In order to support coordinated justice reform, the Italian government organized a high-level conference in 2007 that provided the impetus for drafting a National Justice Strategy to ensure a coordinated approach by donors and to give coherence to the needs of Afghan justice institutions. Both these documents are recognized in the ANDS, but their implementation remains a challenge for the future.

The Afghanistan Compact/ANDS process was designed to consolidate a transition and a very ambitious reform agenda in a post-conflict situation. It was also an effort to integrate political visions with the priorities of development processes. The redirection of policy and resources towards the war in Iraq by the United States in and after 2003 had significant effects in Afghanistan—as did the diffi-

52 To illustrate the point neatly, per capita reconstruction aid from the United States and its allies to Bosnia, East Timor and Iraq (in the first two years in each instance) came to $679, $833 and $386 respectively. In Afghanistan, over and possibly of greater significance to American national interest, the corresponding figure was just $93. UNAMA, the main coordinator of all international efforts within the state-building process, received only $153 million in three years. See Richard Pontius, "Transforming political authority: UN democratic peacebuilding in Afghanistan", Global Governance 13:1, 2007, p. 250.

53 The five key action points of the APPJR are: (1) acknowledgement of the suffering of the Afghan people; (2) strengthening state institutions; (3) truth-seeking and documentation to establish the facts of the past conflict and atrocities; (4) promoting reconciliation and national unity; and (5) establishment of effective accountability mechanisms to bring to justice those responsible for gross human rights abuses through establishing a task force to provide recommendations to the President on the legal, procedural and institutional framework for addressing crimes against humanity, war crimes and other gross human rights violations.
cultures of other donors, including Europe, in integrating political and development ambition. By 2006, when ISAF expanded its operations to the south and the south-east of Afghanistan, few commentators would have claimed that Afghanistan was anything other than a country in conflict.

In an effort to continue strengthening the cooperation and coordination of international and Afghan actors, and to adapt the political and reform agenda to the ‘new’ demands of the Afghan context, the UN has recently appointed a Special Representative in Afghanistan, and a comprehensive approach focusing on coordination, strategic priorities and sequencing has been adopted. On 12 June 2008 the governments of the USA and the European Union hosted a high-level meeting in Paris to reaffirm the international community’s political and financial commitments to Afghanistan and to discuss further steps needed to implement the Afghanistan Compact/ANDS and key objectives of political accountability and coordination.54 While opinions differed over what the Paris Conference could achieve, there was an obvious sense of urgency about developments in Afghanistan. In his press statement prior to the conference, the UN Special Representative for Afghanistan stressed that the conference was more than a ‘pledging conference’; it was an opportunity to forge a ‘new deal’ between the Afghan government and its international partners.55 He recognized that the international community needed to bring more coherence to its support to Afghanistan, but he also noted that ‘The Afghan Government must play its part by deepening and broadening its economic and political reform process, demonstrating greater accountability, and intensifying anti-corruption efforts.’56 The declaration adopted at the Paris Conference reiterates the need for coordination and coherence of international efforts, but also the need of the Afghan government to ‘increase trust in government’ through merit-based appointments, better governance, justice and law enforcement.57

The security arrangements merit an especial mention. Within the Bonn framework, the UN authorized ISAF to provide security to the transitional administration and to assist in stabilizing the country until Afghanistan had the capacity to fend for itself. ISAF remained restricted to Kabul, while local militias, strongmen and drug traffickers consolidated their control over their various fiefdoms.58 Though both the US-led coalition and ISAF (the latter under NATO command since 2003) are dedicated to providing security until the Afghan national army and police can take on the role, the coalition operates under the auspices of Operation Enduring Freedom, which is dedicated to counterterrorism and counternarcotics.
operations. The sometimes conflicting objectives of and the lack of coordination between the two security missions has further complicated and undermined the actual security situation.

By the time the Afghanistan Compact was adopted, NATO-led ISAF had expanded its sphere of operation from the capital region to the north and the west of Afghanistan and planned to expand further into the south and south-east. In 2006, as the latter expansion took place, the security situation rapidly deteriorated and some of the troop-contributing nations, which had expected their involvement to take the form of peacekeeping, found themselves in war-like situations. Since the expansion there has been an increasing acknowledgement that military means, although crucial in current circumstances, will not provide a long-term resolve to the situation in Afghanistan. The NATO summit in Bucharest in April 2008 concluded that a long-term and comprehensive approach is needed bringing together civilian and military efforts. In the meantime, the number of suicide bombings continues to rise, as do attacks on aid workers. An estimated 8,000 individuals, 1,300 of them civilians, were killed in 2007 alone. The insurgency, fuelled in part by the burgeoning narcotics trade, continues to spread.39

Conclusion: righting the course?

Afghanistan in 2008 continues to face serious challenges to peace, security, governance and the rule of law.60 Taking refuge in Pakistan, the insurgency has widened in scale, with many previously stable areas reverting to insecurity. The escalating insurgency-related conflict is difficult to distinguish from other security threats, such as rising organized criminality, the drug trade, disenfranchised local leaders/warlords flexing muscle and local feuds (including longstanding property disputes). The inability of the government adequately to communicate the choices it has made and disseminate the key tenets of the state-building process among the broader Afghan population, in particular the rural population, to ensure security and to extend its authority to conflict-ridden local communities (without international support) has loosened the government’s grip on local leaders and communities who initially took a favourable view of the central authority.

The UN and the wider international community are facing heightened criticism in part because of implicit expectations that the international community will “fix” Afghanistan, but also because of growing suspicions of Western political agendas. The war in Iraq, with its ever-growing need for manpower and resources, continues to dominate the attention and focus of the United States. The European nations, both individually and through the EU and its Commission, continue to have a sizeable political presence in and development commitment to Afghanistan, but have been criticized for not taking a unified political stance on key issues and for not having coherent development priorities for Afghanistan. The NATO-led

60 Reuters, "Afghanistan/istanb4011331, p. 2.

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ISAF operations are losing legitimacy as a result of allegations of civilian casualties; despite some successes, the international military presence has failed to end the conflict or rout the insurgency. Operation Enduring Freedom continues to conduct counterterrorism operations in parallel with ISAF operations, further complicating several sets of confused policies and agendas.

As was recognized in the run-up to the Paris Conference, in considering how to make genuine progress from 2008 onwards, the parties involved will inevitably have to engage with the tangle of precedents set and mistakes made from 2001 onwards that have hampered political and developmental efforts since. Alongside the growing recognition that the conflicted situation in Afghanistan is not a battle that can be won exclusively through military might, there should also emerge a clearer understanding that not all violence in Afghanistan is related to the insurgency and that much of the internecine conflict, organized criminality or general tribal feuding cannot be regulated or resolved through international firepower. The difficulty remains how to distinguish between the sources and nature of violent episodes and how to decide which episodes merit a forceful response.

Identifying lessons from the intervention and reform agenda of the last six years is easier than changing course in Afghanistan, but a change there is necessary. One lesson may be that peace does not hold without justice, and that legitimate political leadership and functioning government institutions cannot be established without promoting accountability and the rule of law. In addition, encouraging the conditions for peace within a multiethnic society, scattered over a vast territory and with long traditions of insular local governance, should focus not only on elite leadership and on a supposed centre of power, but on consultation, participation and sustainable policies of decentralization. In functional terms, and with a view to future engagement in Afghanistan, this translates into a need for the central government of Afghanistan and its international partners to refocus attention on questions of accountability and public legitimacy, to engage with a broader range of elements in Afghan society, and to initiate closer oversight of policy, performance and development at the local and provincial levels.

Given developments to date, only cautious progress and small successes should be expected to follow renewed policy-making and monitoring efforts. Within the many-layered fabric of political and social allegiances in Afghanistan, formal government authorities and institutions should not be presumed to command a preponderance of the population's loyalties, and the priorities of the population should not be expected to fit easily into the international community’s language of democracy, equality and human rights. In many places, government representatives are seen as just a few among the many stakeholders vying for power and allegiance, rather than as the legitimate figures in charge. If they are to operate adequately, international organizations will need to conduct more rigorous political analysis focused on local contexts and to find ways to support an Afghan-owned state-building process within these networks of patronage and loyalty.

Afghanistan is scheduled to hold presidential and parliamentary elections in 2009 and 2010. The UN, NATO, the United States, the EU and other key donor
countries are building up their commitments in Afghanistan, and it will be important to develop common and straightforward strategies to ensure accountability, transparency and integrity in the political processes, not only at the centre, but also at the provincial and district levels, and to increase communication and consultations about policies and developments in Afghanistan with a view to altering the failing top-down, centre-periphery strategies. It is hard to imagine, given the grand scale of international efforts and vision in Afghanistan to date, that a new approach that trades size and scale for long-term impact will be instituted; but, at the very least, all involved should recognize that current methods and policies have not fulfilled their objectives. Untangling the legacy of Bonn and replacing it with processes and mechanisms that take into account what will work best for Afghanistan, rather than what is most expedient for other countries and institutions, should form the cornerstone of discussions and policy-making in the years ahead.