

Law & Ethics

Afghanistan

Prospects for the Future

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As we know from many peacemaking and peacekeeping endeavors over the past decades, ending conflict and returning peace and stability is an extremely difficult, complex, and uncertain process that requires steadfast commitment from the parties involved in the conflict as well as from the international community.

After 23 years of war, Afghanistan is in the midst of this endeavor. Before looking ahead to the future prospects for peace in Afghanistan, we must first look backward to Bonn and the central agreement underpinning the peace process.

With the fall of the Taliban in 2001, an opportunity emerged for the country to start on the long road back to peace. The peace talks convened at Bonn in November 2001 attempted to take advantage of that opportunity by capitalizing on the newfound commitment of the international community. The Bonn talks also manifested the deep yearning of most Afghans to return to peace. Building on this consensus, the Bonn Agreement defined a road map to peace, a process aimed at progressively achieving a more stable, legitimate government providing more justice, greater development, and lasting peace.

No two conflicts are alike and every peace process needs to be specific to the particular circumstances of a conflict. The

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Bonn Agreement is even more specific than most. First of all, it had to accommodate the fact that, although fighting between military factions had come to an end in Afghanistan, the Taliban had not accepted defeat. It simply was not possible to have the Taliban present at Bonn; their cooperation with al Qaeda as well as their stubborn sheltering of terrorists precluded them from participating in the peace process.

ments of the Taliban government who may be willing to associate themselves today with the peace process. Allowing more political space to Afghans wishing to join into the peace process will reduce the number of people left outside with an incentive to destroy it.

Second, the Bonn Agreement did not definitively fix the political or military terms of the peace. The institutions established at Bonn gave the Afghans a

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Without the presence of all of the conflicting parties, the Bonn Agreement was somewhat limited in that it could not initially accommodate the whole range of positions in the conflict. It has also become clear that some, if not all, of the most influential factions that emerged from both the war on terror and the Bonn Conference are still doing their best to monopolize power instead of to cooperate. Those who remember the years following the rise of the mujahedeen in 1992 know that similar attitudes led to the destruction of Kabul and then to the emergence and success of the Taliban movement.

One year into the Bonn process, those who remember such lessons know that the chances for peace will only increase with the inclusion of a wider cross-section of Afghan political leadership than was present at Bonn or is present in the process now. There are many important constituencies that were not in attendance or represented at Bonn, and these groups should not be kept out of the process. There are also some individuals who were associated with less radical ele-

strong framework by outlining a process that allowed for successively more representative government to be established. However, Afghans now have to chart much of the course of the peace process themselves, albeit with extensive international support.

The initial interim power sharing arrangements were to be revisited in a *loya jirga*. The *Loya Jirga* held in June 2002 selected President Hamid Karzai to form the Transitional Administration. The Bonn Agreement formed the Civil Service and Judicial Reform Commissions to address fundamental institutional weaknesses left by years of war, and the Afghan Human Rights Commission was expected to propose solutions to the appalling human rights situation. Bonn also created the Constitutional Commission to prepare a new constitution to be adopted by another *loya jirga* in late 2003. Today, just a year into the process, the Government as well as these Commissions are in place and pushing forward.

There are many encouraging signs. Over 1.5 million refugees and at least half

a million internally displaced persons have returned home. Schools are functioning at an admittedly basic level (sometimes literally under a tree), generous funds from the international community are being applied toward myriad important goals, and no major outbreak of war has occurred.

But the process is by no means assured. Peace remains precarious and the challenges ahead are great. Thus far, Afghans have been patiently allowing the new government time to establish itself, awaiting a "peace dividend" in the form of reconstruction and economic recovery, and suffering the lack of basic security while under the control of local military commanders. This year will be a critical one, which will reveal whether or not the peace process is fully entrenched.

A number of parallel efforts must come together, including the creation of a new Afghan army and police along with the demobilization of existing forces, constitutional reform, initial preparations for elections, and the implementation of large-scale reconstruction and local development projects. Success in each of these areas will be dependent on making significant progress towards national reconciliation. Afghans from all regions must feel that their needs and concerns are taken into account, and that they can participate in public life if they choose. At the same time, each of these efforts also has the potential to disturb the current balance of power and unearth longstanding political tensions in Afghanistan.

Security and Reform of the Army. If you ask an Afghan today about the one thing they lack most, they will tell you it is security. The International Security Assistance Force (ISAF) has

done a great deal to bring stability to Kabul, and the U.S.-led coalition has helped prevent large-scale conflict from erupting. However, the average Afghan continues to live under the arbitrary—and often extortionist—control of local military commanders, and must still worry about his land being confiscated and his family being safe on the roads.

It is worth remembering that many Afghans welcomed the rise of the Taliban because it promised and largely delivered an end to such insecurities. Currently, the existence of numerous security forces undermines the authority of the central government and narrows the political space necessary for reform and participatory politics in Afghanistan.

The United Nations has advocated for the expansion of ISAF since we believe that a relatively small number of troops could have a positive impact on security beyond Kabul. Unfortunately, the necessary support for this has not been forthcoming. Nevertheless, the international community has made extensive pledges to train and build a national army loyal to the government, and this may help resolve the situation over time.

A decree signed by President Karzai in December last year provides the basis for the new multi-ethnic Afghan National Army; the disarmament, demobilization, and reintegration of all other forces; and the reform of the Ministry of Defense. The Afghan leadership and their international partners are now working hard to establish an institutional framework to implement this decree. The National Defense Commission, which brings together relevant ministerial departments and all major factional leaders, has established sub-commissions for disarmament, demobilization, and recruitment for the new army.

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Security in Afghanistan is crucial to the peace process, but achieving security will require much more than a new army. Police must be trained to uphold civil law and order; the judiciary must be reformed; and the cultivation and trafficking of drugs must be combated. These are all interdependent parts of the same challenge, and the international community has designated lead actors to help coordinate efforts with Afghan counterparts and gather resources from donors for each sector.

The United States leads the army building effort; Germany heads the police training programs; Japan together with the United Nations works on the disarmament, demobilization, and reintegration process; the United Kingdom has led drug control initiatives; and Italy has been instrumental in the justice sector. We meet regularly in Kabul to coordinate efforts, but we also seek to empower the Afghans by allowing them to define priorities and ensure that the institutions established are stable.

Constitutional Reform. This year will also be the year of constitutional reform. President Karzai has established a nine-member drafting committee, which has already done solid work in outlining the important issues and researching various constitutional options to deal with them. In the next phase, we expect the committee to be expanded to a wider, more representative Constitutional Commission. This summer, that Commission will undertake consultations

to hear the views and concerns of Afghans across the country in order to draft a constitution that better addresses the needs of the population. Afghans must feel a part of this process if they are to accept, respect, and protect the new constitution. Following the public consultation and discussions with constitutional experts, the Constitutional Loya Jirga will hopefully be held in October 2003.

Here too, the process will not be without risk. Constitutional debate will bring forth fundamental debates about the state—federalism versus a unitary central government, the role of Islamic versus secular law, etc.—along with issues that deeply concern the general public, such as the role of women and minority rights. These are all issues about which sovereign countries and people are naturally protective. The constitutional process will need the assistance of the international community, both in terms of finances and legal expertise. However, we will have to be careful to preserve the perception and reality of a constitutional process that is fully owned and led by the Afghans.

Elections Preparation. In the arena of elections preparation, it is especially crucial to carefully balance Afghan ownership with necessary foreign assistance. The Bonn Agreement calls for elections by June 2004, and we are steadfastly working towards that ambitious target. Challenges to meeting that target include the lack of Afghan institutions capable of mounting an election, the complete absence of an electoral reg-

ister, and confusion over the number of districts in the country.

The respective strength of each ethnic group is another highly sensitive issue. For example, the Pashtuns claim to represent well over half of the Afghan population while others insist that they constitute fewer than forty percent. Many of the participants at Bonn felt that the issue of ethnic composition should be settled before the election through a UN-sponsored census, but that would take at least five years to complete.

Yet another challenge inherent in the Bonn electoral timetable is the timing of the Constitutional Loya Jirga. If elections were to be held based on the results of this loya jirga, there would not be enough time to prepare for a June 2004 election. Therefore, President Karzai is considering preparing elections based on a specially drafted set of electoral laws that would apply only to the 2004 elections. This would allow the monumental tasks of voter education, registration, and ballot preparation to begin with ample time for thorough completion.

Afghanistan will need the international community's help to achieve these tasks. However, only the Afghan leadership will be able to craft the consensus required to produce this "once-off" electoral system in a manner acceptable to the Cabinet, civil society, and emerging political forces. Without this consensus, the eventual results of the election risk being contested.

Reconstruction and Recovery.

The political process in Afghanistan is set to accelerate, but economic recovery will be a precondition for the success of the various political processes that are underway. In order for refugees to return and participate in the political

processes, de-mobilized soldiers to have new means of income, and opium farmers to agree to switch to alternative livelihoods, Afghanistan's economy must be revived. At the same time, economic progress will help to legitimize and strengthen new government institutions, and build incentives for rural Afghanistan to link with the center and remain involved in the peace process.

Afghanistan will continue to depend on aid for some time, notwithstanding the government's determination to become self-sufficient. Fortunately, donors recently reaffirmed their commitment to Afghanistan with many matching or increasing the amounts they pledged in 2002. This aid must now be used to generate employment and cash for work programs, build agricultural productivity, and invest in physical infrastructure. After two decades of war, the needs are vast and Afghans have high expectations.

It will be a challenge for the government to manage these expectations, because even the \$4.5 billion of aid promised cannot begin to cover the full cost of recovery, and people are naturally unhappy that their situations are not improving fast enough. However, I believe that if the Afghan government and the international community clearly explain what can and cannot be reasonably expected, Afghans will understand and take up the challenge to do the rest. They are a people well known in the region as hard workers and clever entrepreneurs, and what they ultimately need is a bit of assistance and enough peace to complete the recovery themselves.

Challenges Ahead. If Afghanistan can build a new army that can overcome challenges by local forces, if basic civil law

and order can be maintained, if a strong consensus underpins the new constitution, if a representative government can be elected, and if Afghans can reclaim their economic dignity, then the peace process might be said to be irreversible. That is a lot of ifs. And this uncertainty is compounded still more by the fact that this is not an uncontested project.

I mentioned at the outset that the entire spectrum of political, social, and religious opinion was not represented at Bonn. I very much hope that President Karzai, who has shown great determination to open up the political arena to everyone, will succeed in incorporating those who support the peace process but feel they were not properly represented at Bonn. Such efforts at national reconciliation will be important given the political tensions that are bound to accompany the heavy agenda for 2003. At the same time, we know that some of elements outside the Bonn process remain against it, and that threat must also be addressed.

it signed a pact of "Good Neighborly Relations" with all of its neighbors, promising mutual support and non-interference.

Conclusion. Just over one year into the life of the Bonn peace process for Afghanistan, it is probably too early to draw any definitive conclusions. However, a few lessons are already apparent. Afghanistan was the first major peace mission after the publication of the *Report of the Panel on United Nations Peace Operations*, and a conscious effort has been made to implement some of its recommendations. Thus, the UN Secretary-General and his senior staff have tried to keep the UN Security Council informed of the situation in Afghanistan and strived to "tell the Council what it needs to know, not what it wants to hear."

In Kabul as well as in New York, we try to describe reality exactly as we see it, and we are careful not to promise more than we can deliver. However, it has not

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Sporadic, small-scale terrorist attacks have continued to occur in Afghanistan, and we know little about the ultimate intentions of the perpetrators. The continued presence of the international community will be necessary to deter those who might still wish to use violence to challenge the Bonn process.

Afghanistan's neighbors can also play an important role in protecting the peace process. Afghanistan's intensive diplomatic efforts on this front reached a milestone on December 22, 2002 when

always been possible to avoid unrealistic expectations and consequent disappointment from both Afghan and international actors.

A process like the one taking place in Afghanistan cannot conform to any mathematical, pre-established formula. Setbacks, hesitations, and false starts have to be accepted as part of the process; in fact, it is quite remarkable that the very tight timeline has so far been respected: The Interim Administration was sworn in on December 22, 2001; the Loya Jirga

Commission was formed by January 22, 2002; and the Emergency Loya Jirga assembled by June 10, 2002 allowed the present government to take over from the Interim Administration at exactly the appointed time. All the commissions, including the Constitutional Drafting Commission, were established on time, and we hope that the Constitutional Loya Jirga will take place before the end of 2003 as required by Bonn.

Of course, the Human Rights Commission is not yet in a position to address all the very serious abuses Afghan men and women still continue to suffer almost everywhere, let alone take on the equally serious abuses of the past. Likewise, the Judicial Commission has barely started to repair the total breakdown of the judicial sector after a quarter-century of neglect and devastation.

The concerns of the international community for the Afghan people and the desire to see Afghanistan rapidly consolidate peace and build a working democracy are very welcome and commendable sentiments. The Afghan people wish to see these sentiments translate into lasting commitments to encourage and support their efforts as they strive to achieve these

very goals. However, neither the UN nor anyone else, no matter how sincere, may substitute themselves for the Afghans and solve the problems of Afghanistan for them. Throwing more and more foreign experts into Afghanistan will not solve these problems either. Lastly, we cannot simply wish away complex problems inherited from 25 years of conflict. There is no quick fix here.

However, if the Afghan authorities and their international partners set realistic objectives; if the international community has the determination and patience to do what it takes to really help the situation; if, at the same time, we have the humility to realize that we are not wiser than Afghans about what is better for Afghanistan, then there is every reason for optimism. Only then can we reasonably hope that the international community shall effectively contribute to the stabilization of the peace process. Only then will the journey that started in Bonn on December 5, 2001 be successfully completed.

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