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## **THE LOYA JIRGA: ONE SMALL STEP FORWARD?**

### **OVERVIEW**

The immensity of the task of rebuilding Afghanistan into something resembling a coherent state cannot be over-estimated. Nearly three decades of political instability – including many years of savage warfare, the wholesale destruction of political and physical infrastructure and the inflammation of ethnic divisions – are layered on top of a nation that was among the poorest and weakest governed even in its "golden age" before King Zahir Shah was deposed in 1973. Afghanistan's transition back to a minimum level of political and economic stability will require many small but crucial steps to keep it on course.

The hopes of most Afghans and the world at large that the peace process will continue to move forward are singularly focused on the Emergency Loya Jirga, which meets 10-16 June 2002 and for which, expectations are unreasonably high. Visions of a great leap forward in reconciliation are misplaced, and the danger of missteps is grave. A successful Loya Jirga would represent at best an incremental, albeit important advance in the process of stabilisation. However, an unproductive Loya Jirga could send Afghanistan tumbling back into the internecine conflict of the early 1990s.

The Emergency Loya Jirga process, as laid out under the Bonn Agreement,<sup>1</sup> has a number of phases. The first has involved the drafting of

rules by the Loya Jirga Commission, a group of 21 Afghans who determined how representatives would be chosen and what they are to do at the meeting. Two-thirds of those attending the meeting are being indirectly elected in a two-stage process while the remaining third are to be appointed by the Loya Jirga Commission. In stage one of the indirect elections, representatives of communities gather on a given day to select a group of electors. In stage two, these electors gather in a regional centre between 21 May and 5 June to choose delegates to the Emergency Loya Jirga. That meeting, in Kabul, will then select the Transitional Administration that is to replace the Afghan Interim Authority (AIA). Within a further eighteen months, a Constitutional Loya Jirga must be held to write a new constitution, and within two years elections must be held for a new government.

The Loya Jirga process, which has been underway for several months, is challenged by: 1) a highly volatile security environment characterised by deepening factional tensions and a lack of common goals; 2) under-resourcing, unfamiliarity and an unclear agenda; and 3) an international community that has sometimes been working at cross-purposes when it needs to apply precise and unified pressure if there is to be a positive outcome.

The key expectation for the Loya Jirga on the part of most Afghans and the international community is that it will correct the ethnic imbalance produced at the Bonn conference that has created an Interim Authority dominated by ethnic Tajik members of the Northern Alliance.<sup>2</sup> But a broadly acceptable, balanced outcome is far from certain. In the lead-up to the Loya Jirga, an intense power-struggle is

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<sup>1</sup> The UN Talks on Afghanistan took place from 27 November 2001 to 5 December 2001 in Bonn and resulted in the Agreement on Provisional Arrangements in Afghanistan Pending the Re-Establishment of Permanent Government Institutions, otherwise known as the Bonn Agreement.

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<sup>2</sup> The Northern Alliance is a grouping of mostly ethnic Tajik, Uzbek and Hazara factions that fought the long civil war against the Taliban. A glossary of political groups and terms can be found at the end of this briefing paper.

occurring at the local, regional, national, and international levels to shape and/or subvert the outcome. Few outcomes seem broadly acceptable. For example, there will be deep Pashtun discontent if Zahir Shah, is excluded, and the security ministries (defence and interior) stay in the hands of the Panshiri faction of the Shura-i-Nazar.<sup>3</sup> Similarly, a strong role for the ex-king and a loss of key posts may be unacceptable to the Shura-i-Nazar and important former Northern Alliance constituencies. These divergent interests may be on a collision course that it will take immense pressure and compromise to avoid.

Meanwhile, the goal of centralisation of the government, with emphasis on security functions, has hardly progressed. With the international coalition's war against the Taliban and al-Qaeda still progressing, there is little hope that local and regional commanders will soon be downsized. Indeed, the exact opposite appears to be occurring not only among Coalition-supported commanders, but all across the country. Inter-factional armed confrontations also appear to be on the rise, with recent fighting reported in the south-east (Gardez), north (Sar-i-Pul), and centre (Lal) of the country.

The recent lack of experience among Afghans with even remotely representative, let alone democratic institutions means that the legitimacy of the Loya Jirga will be based much less on the fairness of the process than on the fairness of its outcome. The international community is unified in its intention to support the former but has yet to utilise the resources at its disposal to ensure the latter. Given the extremely high stakes involved, it is incumbent upon the international community to make the extra effort to enable Afghanistan to take this small, but critical step forward.

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<sup>3</sup> The Shura-i-Nazar (Supervisory Council) was formed by the late Ahmad Shah Masood and his followers within the predominately Tajik Jamiat-i-Islami party that was nominally headed by former President Burhanuddin Rabbani. Much of their strength was located in the Panshir Valley, Masood's redoubt. This wing of Jamiat, in which the military and administrative power of the party became concentrated, is now controlled by the "triumvirate" of Defence Minister Muhammad Qassem Fahim, Interior Minister Yunus Qanooni, and Foreign Minister Abdullah Abdullah.

In particular, the international community, including Coalition forces, should:

- ❑ engage in a pre-Loya Jirga dialogue with all factions to allow adversaries to articulate interests, work through mutual suspicions, clarify options, and craft a common vision for an acceptable outcome; .
- ❑ initiate an intensive, transparent mediation process, accompanied by the threat of force, to resolve factional fighting between non-Taliban, non-al-Qaeda factions;
- ❑ deploy a security presence to regional centres for the second stage of the Loya Jirga indirect election process from 21 May to 5 June; and
- ❑ satisfy immediately all requests for logistical support from the United Nations Assistance Mission in Afghanistan (UNAMA) and the Loya Jirga Commission and provide an emergency budget and transportation resource cushion.

In turn, UNAMA and the Afghan Interim Authority should:

- ❑ increase public outreach programing that not only explains the Loya Jirga process but also addresses well-know concerns head on, and encourage independent media outlets to offer their facilities for balanced, incisive programing to help counter locally-controlled propaganda;
- ❑ the Loya Jirga Commission should publish the Rules and Regulations for the Loya Jirga immediately since failure to do so is causing suspicion and political gamesmanship based on incomplete information and is unnecessarily truncating an already rushed political process; and
- ❑ explain publicly a realistic timetable for delivery of reconstruction assistance that dampens excessive expectations and encourages long-term engagement from donors and recipients.

## **I. THE SECURITY ENVIRONMENT**

Several recent events indicate that the security situation is not improving and in fact may be deteriorating in advance of the Loya Jirga. The Afghan Interim Administration has virtually no authority outside Kabul, and factional tensions throughout the country are increasing based on old rivalries and on a desire to control or consolidate more territory in advance of the political process. Afghan perceptions of the security situation are also having a deep impact on the political process.

### **A. AN UNSTABLE SITUATION**

Military power remains very dispersed, with rivalries posing both short and long-term challenges to stability. AIA authority extends little beyond Kabul, and control of the regions has reverted virtually to the status-quo ante of 1992. The predominantly ethnic Tajik Jamiat-I-Islami forces control the North-east and compete for power in the North with the mostly ethnic Uzbek militia Junbish-i-Milli and the predominantly Hazara Hezb-i-Wahadat. Ismail Khan, the nominally Jamiat but fiercely independent commander based in Herat, is strong in the West and draws considerable resources from his control over trade with Iran. Hezb-i-Wahadat factions control the central region, and the East and South are fractured among a diverse array of mostly ethnic Pashtun commanders.

There have been recent clashes in the south-east, north, and centre of the country. In Gardez, Paktiya province, a confrontation continues between Pacha Zadran Khan, who had been appointed governor by the AIA, and the Gardez Shura (governing counsel), which rejected his appointment. The AIA attempt to mediate and appoint a third party has failed. Zadran recently rocketed the Gardez central bazaar for several days, killing a few persons and shutting the market down. An additional complication in this confrontation is that Pacha Zadran's brother, Amanullah Zadran, is the Minister of Tribal Affairs and he himself, a participant at Bonn, received early Coalition support against al-Qaeda. A similarly tense situation exists in several places in the South and East, such as Logar and Qandahar, where centrally-appointed

(or anointed) governors are in an uneasy stand-off with local commanders who control independent forces. In several of these situations, support to governors and independent local commanders from Coalition forces in the form of arms, uniforms, salary, and training is a complicating factor. It is not apparent if, or how, the Coalition is using its influence to reduce these tensions and integrate the commanders into a unified command structure.

In the North, long-standing tensions between Rashid Dostum (Uzbek, Head of Junbish-i-Milli and officially Deputy Minister of Defence and Commander of the Northern Areas) and Mohammad Usta Atta (Tajik, Jamiat-i-Islami commander, and officially Corps Commander for the North) have erupted into clashes in Sar-i-Pul and Sholgara, just south of Mazar-i-Sharif. An uneasy peace holds between the Junbish-supported Turkmen governor of Konduz, Amir Latif, the Jamiat Military Commander, General Daoud, and the understandably skittish Pashtun communities scattered throughout the region. Although attempts have been made to mediate between Dostum and Atta, there are fears that a full-fledged fight for control of Mazar-i-Sharif and the North could ensue.

A battle to consolidate control over the central Hazarajat region is ongoing, with clashes reported in Lal, Ghor Province, between the Khalali and Akbari factions of Hezb-i-Wahadat. Clashes have also been reported between Abdul Karim Barohi, governor of Nimroz province and rival commanders in areas by the Iranian border. Fighting has broken out in recent weeks in Wardak province, especially in Chak, Sayedabad, and Dai Mirdad districts.<sup>4</sup>

There is also concern about possible attacks by al-Qaeda members or Taliban remnants. United Nations, International Security Assistance Force (ISAF), Coalition, and Afghan security officials have all stated that they expect such actions against Loya Jirga, international civilian and military targets in coming weeks. These are said to be not only inevitable, but if relatively small scale, largely unstoppable. Three regions have been highlighted as particularly dangerous: Jalalabad, Khost, and Farah.

On 8 April 2002, the convoy of Defence Minister Mohammad Qassem Fahim was struck by a

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<sup>4</sup> Human Rights Watch Statement, "Rise in Factional Fighting Threatens Fragile Peace", 7 May 2002.

remotely detonated bomb planted on the road-side near Jalalabad. At the same time, *shab-nama* (night letters), a tool of propaganda and intimidation used by the Mujahidin during the Soviet period, have resurfaced there – offering U.S.\$50,000 for a dead Westerner and U.S.\$100,000 for a live one. Armed protests by Shinwari tribesmen against a recent short-lived poppy-eradication campaign also underscore the tentativeness of the security situation in the East.

On 30 April 2002, a Loya Jirga Commission vehicle carrying four Afghan staff was struck by a small explosion en route to a district election near Khost. The injuries were relatively minor, and two of the wounded staff members carried on to oversee the election that day. The explosion is believed to have come from a freshly laid landmine – one that the Loya Jirga Commission investigation concluded was remotely denoted and so intended to strike the Loya Jirga vehicle. Although Commission staff have indicated that they fully expect further attacks, few security provisions have been made for the first phase of the district election process.

On 2 May 2002, British Coalition forces announced a new sweep through territory suspected of harbouring Taliban and al-Qaeda holdouts. Forces that are deemed to be “outside” the political process, and thus likely to disrupt it, may also be growing. For instance, U.S. special envoy Zalmay Khalilzad recently equated the role of Gulbuddin Hekmatyar – the hard-line former prime minister and leader of the Hezb-i-Islami political group – in the political process with that of the Taliban and al-Qaeda.<sup>5</sup> At the same time, those who see their political star falling in the lead-up to the Loya Jirga, such as former President Rabbani and Rasoul Sayyaf, a key Mujahidin figure in the 1980s, may resort to disruptive tactics. There are also extensive reports of al-Qaeda and Taliban forces congregating in the remote south-western provinces of Nimroz and Farah, where there has not yet been extensive Coalition action.

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<sup>5</sup> ICG Interview, 21 April 2002. The CIA reportedly tried to kill Hekmatyar in May 2002 by firing a missile from an unmanned drone. See Thom Shanker and Carlotta Gall, “U.S. Attack on Warlord Aims to Help Interim Leader”, *The New York Times*, 8 May 2002.

## **B. AFGHAN PERCEPTIONS**

Afghans’ understanding of the security environment remains very fragmented. Deep distrust based on the factional and ethnic fault lines of the last two decades colours how virtually every Afghan perceives events. The Minister of Defence, Field Marshal Fahim,<sup>6</sup> said that he is protecting all the people of Kabul, regardless of language, ethnicity or place of origin, and asked, “if we give this responsibility to someone from the tribal areas, will they treat us equally?”<sup>7</sup> Pashtuns have widely complained that the Loya Jirga Commission has too many former communists and too few Pashtuns. A Hazara commander said that Hazaras could neither accept a former king who did nothing to help their impoverished people in 40 years of rule, nor a ruling cabal of Panshiris who did everything possible to destroy Hazara neighbourhoods in Kabul during fighting in the early 1990s and turned over their leader, Mazari, and others, to the Taliban.

The drums of discontent are beating particularly loudly throughout the Pashtun belt at the moment. Pashtuns are feeling enormously disenfranchised in the current environment. They have lost control of the country and its capital, they lack unified leadership, and intra-Pashtun tensions are high. The Pashtuns complain that they are labelled as Taliban, terrorists, and drug lords, and their heartland is under foreign occupation. Many Pashtuns claim harassment by government soldiers upon entering Kabul, and documented reports of attacks against Pashtun minorities in the North are frequently cited.<sup>8</sup> The factionalised environment is also subject to influence by the better-organised political machines of Rabbani and Sayyaf on the one hand and of Shura-i-Nazar on the other. Internal disputes have left the Pashtuns poorly positioned to work the political process. In recent discussions, numerous Pashtun representatives indicated they believe that the factional fighting in places like Gardez, and even

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<sup>6</sup> Fahim awarded himself the title of Field Marshal at the end of April. This move, supposedly endorsed by Chairman Karzai, was seen as an indication of Fahim’s dangerous ambitions.

<sup>7</sup> ICG interview with Minister of Defence Fahim, 24 April 2002.

<sup>8</sup> See Human Rights Watch Report, *Paying for the Taliban’s Crimes: Abuses of Pashtuns in Northern Afghanistan*, 22 April 2002, and Physicians for Human Rights Report, *Preliminary Assessment of Alleged Mass Gravesites in the Area of Mazar-I-Sharif, Afghanistan*, 2 May 2002.

the continuing Coalition efforts, are all an attempt by the Shura-i-Nazar to sabotage the Pashtun areas and their opportunity for political participation. The recent arrests in Kabul of some 300 “coup-plotters” is also cited as a thinly-veiled exercise in intimidation, and there is widespread belief that access to the ex-king is being unduly limited by Kabul security forces.<sup>9</sup>

This suspicion also extends to the UN and the international community. For instance, many Pashtuns claim that they comprise 60-70 per cent of the population, whereas the UN is currently using population estimates that put them at 38 per cent.<sup>10</sup> Thus, the Pashtuns insist, they are only getting a fraction of the representation due to them in the government, the Loya Jirga Commission, and in the Loya Jirga itself. The discontent on all of these fronts has become so deep that the Governor of Qandahar, Gul Agha Shirzai, told one UN official recently that if there were an election in Qandahar tomorrow, the Taliban would win.<sup>11</sup>

The Pashtuns, however, are not alone in their fears or claims to greater power. Afghanistan’s smaller ethnic groups, once relatively disenfranchised within the Pashtun dominated state, have evolved a degree of autonomy over the last two decades, reinforced by military strength, that they will not readily yield. This combined sense of historical injustice and entitlement has been compounded by recent events, most strongly among the Hazara and Uzbeks, who routinely call for a federal system that would grant them regional autonomy.

The former Northern Alliance groups, and particularly the Shura-i-Nazar, feel that they alone held out against the Taliban and al-Qaeda – whom they believe most Pashtuns supported. “We fought against the Taliban and al-Qaeda for seven years, and we liberated Afghanistan from them. Those who complain about an imbalance in the AIA”, noted Defence Minister Fahim, “never

threw a stone against the Taliban and al-Qaeda”.<sup>12</sup> From this viewpoint, Pashtun claims to power are overdrawn because the Pashtuns make up a much smaller percentage of the population than they say, they supported (and may still support) the Taliban, and they are the historic oppressors of the remaining two-thirds of the population of Afghanistan.

### **C. PROTECTION FOR THE LOYA JIRGA PROCESS**

It is within this unstable, and highly subjective, environment that critical thought must be given to the security of the Loya Jirga process itself.

Negotiations are underway to provide some sort of security presence during the second stage of the Loya Jirga elections when all the district electors selected in the initial stage converge upon the nine regional centres between 21 May and 5 June to select the representatives to the Loya Jirga. Proponents of a visible security presence argue that this is a necessary show of strength and commitment on behalf of those supporting the Loya Jirga process. Fears of intimidation in the election are substantial, and many feel that even a symbolic force would aid those trying to be independent. While it may be a dead issue in New York, Washington, and London, the expansion of ISAF continues to be almost universally supported on the ground in Afghanistan.<sup>13</sup> Those disappointed at the failure of the international community to agree to this believe that showing the flag throughout the country is now more essential than ever to counteract the perception of disengagement that is creeping into the popular consciousness.

Several proposals for security at the regional elections are on the table. First, there is a proposal to deploy one or two British SAS units from regional centre to regional centre in leap-frog fashion. This would entail a relatively small force, in any one place for only a few days. The second proposal is for some ISAF contingents, without their ISAF hats, to fulfil essentially the same function. The third option is to deploy the first Battalion of the Afghan

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<sup>9</sup> ICG interviews, Kabul, May 2002.

<sup>10</sup> The UN estimates of the main ethnic groups in Afghanistan break down as follows: Pashtun 38 per cent, Tajik 25 per cent, Hazara 20 per cent and Uzbek 12 per cent.

<sup>11</sup> It may be worth noting, however, that there is little evidence to suggest that support for the Taliban has ever seriously waned in their former stronghold.

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<sup>12</sup> ICG interview with Defence Minister Fahim, 24 April 2002.

<sup>13</sup> The deputy Chair of the AIA, Sema Semar, recently travelled to New York to beseech the Security Council to reconsider the expansion of ISAF. See below.

National Guard, which has begun training with ISAF – possibly with foreign officers in command. The first two proposals were suggested by Western government and UN officials, and blocked by the British government and ISAF. The third was promoted by various Western government and military officials, but opposed by some in the UN.

All these arrangements would be subject to serious constraints or threats. Foreign or central government contingents would make a desirable target for those hoping to undermine the process, especially as they would be directly associated with the legitimacy and integrity of the Loya Jirga election process. Since the schedule for the second stage elections is already established, the arrival and departure of troops may be too predictable to guarantee force-protection. This would not be an exercise to hold a perimeter securely – on the contrary these elections can and should be very public events to which thousands will require relatively free access. There is also a general fear that rapid deployment/re-deployment could send the wrong signal – namely one of intense insecurity. Finally, concern has been expressed that sending the Afghan National Guard would look like an assertion of power by those who currently control Kabul – which is precisely the problem that many regional players hope the Loya Jirga will address.

However, given regional tensions and growing fear of disengagement, a foreign military observer force should be deployed in the second stage of the election process to provide an important confidence boost on the eve of the Loya Jirga.. There are clear risks involved, both for the process and the forces. On balance, however, a neutral military presence in the current factionalised environment would be a reminder that the international community is watching the process closely. A failure to provide this because of security concerns would be a telling admission the game has already been lost.

## II. THE POLITICAL CHALLENGE

In its preamble, the Bonn Agreement acknowledges that signatories are not fully representative of the Afghan people. However, to create a balanced and broadly representative government that could shepherd Afghanistan to

political and economic stability, the delegates took the risky step of creating an Interim Authority with a lifespan of only six months. Before the end of that period, which began on 22 December 2001, an Emergency Loya Jirga, or Grand National Council, is to meet and choose a Transitional Authority, that is to “lead Afghanistan until such time as a fully representative government can be elected through free and fair elections to be held no later than two years from the date of the convening of the Emergency Loya Jirga”.<sup>14</sup>

The Afghan Interim Authority consists primarily of a care-taker administration chaired by Hamid Karzai, and a Special Independent Commission for the Convening of the Emergency Loya Jirga, headed by former Supreme Court Justice Mohammed Ismail Qasimyar. The Interim Administration is largely tasked with initiating the reconstruction process and recreating institutions of central authority. The Special Independent Commission, universally known as the Loya Jirga Commission, is responsible for formulating the rules concerning the number and selection of representatives to, and the rules of procedure during the Emergency Loya Jirga.

The Emergency Loya Jirga is to choose a “Head of the State for the Transitional Administration and ... approve proposals for the structure and key personnel of the Transitional Administration”.<sup>15</sup> After 30 years of political turmoil, it faces tremendous hurdles, both practical and political. The Loya Jirga is to be opened by ex-king Mohammad Zahir, whose ouster in 1973 and subsequent 29 years of exile are at the roots of that turmoil. Its membership is being elected and selected through untested means that will be resolved only days before the Loya Jirga is scheduled to begin; and its rules, procedures, and precise agenda have yet to be determined.

### A. ORIGIN AND USE

The Loya Jirga (Grand National Council) is an Afghan tradition with an august but vague history. The concept was extrapolated from the model of the tribal *jirga* or *shura*, an ad hoc, village-based institution that allows broad representation and, nominally, consensual decision-making. The word

<sup>14</sup> Bonn Agreement, Article I(4).

<sup>15</sup> Bonn Agreement, Article IV(5).

'shura', from the Arabic 'mashwara' (to discuss), is best translated from contemporary Dari as 'council or committee', while *jirga* derives from the Turkish for 'circle'. In some Islamic religious thought, the *shura* is considered the ideal model for governance, and many Islamic governments have used the nomenclature for a variety of institutions. Thus *shura* and *jirga*, concepts as old as Islam itself, carry meanings and associations for most of Afghanistan's inhabitants.

The Loya Jirga is intended to be a national manifestation of community decision-making. It was first employed at the birth of modern Afghanistan, in 1747, when a tribal Loya Jirga in Qandahar selected Ahmad Shah Durrani to rule over the lands newly wrested from the Safavid empire to the west, and the Moghul empire to the east. Since then the Loya Jirga has been used on average every twenty years to confirm the succession of monarchs, to pass constitutions, and to approve government policy, for example neutrality during World Wars I and II. The composition has generally been a mixture of representatives appointed by the king and locally selected tribal leaders.

The last Loya Jirga was held in 1964 to approve a new reformist constitution, supported by Zahir Shah, which increased popular sovereignty and civil rights, and reduced the role of the monarch and the royal family<sup>16</sup> in the everyday workings of government. The composition of that Loya Jirga was unusual. Of the 452 delegates, 352 were elected by relatively public and popular means.

It is clear from the Bonn Agreement, which embraces the 1964 constitution as its legal framework,<sup>17</sup> that the delegates were trying to

replicate a hybrid-model of traditional selection, popular representation, and central government prerogative. Imbedded in this model is an understanding that in order to guarantee broad, balanced representation in contemporary Afghanistan, a free-and-fair universal suffrage election is neither feasible nor desirable.

## B. THE SELECTION PROCESS

On 1 April 2002, the Loya Jirga Commission released its "Procedures for the Election of the Members of the Emergency Loya Jirga", outlining a two-track approach wherein approximately two-thirds of the representatives are to be selected indirectly at the district level, and the remaining one-third are to be appointed by the Loya Jirga Commission in consultation with various organisations, civil society groups, nomads, and refugees.<sup>18</sup> The rationale is to create balance: regional, including rural/urban, by allowing at least one representative for each administrative district (*uluswali*); ethnic, primarily by relying upon geographic concentrations; gender, by reserving 160 appointed seats for women; social-cultural, by providing seats for religious figures, refugees, nomads, and traders.

The methods for selection and election are themselves balanced, in form and function, between the traditional and the democratic. The local indirect elections that will choose 1051 representatives from up to 390 electoral districts in 32 provinces combine consensus-based selection of local leaders with a secret ballot.

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<sup>16</sup> The 1964 Constitution forbade any member of the royal family, except the king, from holding high office.

<sup>17</sup> Article II, "Legal framework and judicial system" of the Bonn Agreement reads:

- 1) The following legal framework shall be applicable on an interim basis until the adoption of the new Constitution referred to above:
  - i) The Constitution of 1964, a/ to the extent that its provisions are not inconsistent with those contained in this agreement, and b/ with the exception of those provisions relating to the monarchy and to the executive and legislative bodies provided in the Constitution.

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<sup>18</sup> The seats break down as follows: (The figure in brackets represents those reserved for women)

Elected seats:

- 1051 by indirect district elections

Appointed seats:

- Members of the Interim Administration 30 (2)
- Members of the Loya Jirga Commission 21 (3)
- Religious Personalities 6
- Credible Individuals 30 (10)
- Civil Society Members 51 (12)
- Professional and Scientific Organisations 39 (6)
- Nomads 25
- Refugees 100 (25) (40 from Pakistan, 30 from Iran and 30 from other countries)
- IDPs 6 (2)
- Other women from geographically distributed seats 100.

The indirect election is a two-stage process. First, representatives of every community within the electoral districts (which roughly correspond to the administrative districts) will self-select<sup>19</sup> participants in the selection of electors. These community representatives (and the public) will then gather in the district centre on a given day to choose from among themselves twenty to 60 electors, the number to be determined in advance by consultations between the District Organising Teams of the Loya Jirga Commission and local leaders. The number chosen will represent an attempt to ensure that all villages and social groups are represented. These electors are then to be chosen by consensus in the public meeting, where the criteria for participation are to be an Afghan citizen by birth, at least eighteen years old, and capable of exercising full legal rights.

The electors will then go on to the second stage (between 21 May and 5 June) in the regional centre where they will elect by secret ballot from among their own ranks the number of representatives assigned to their district. There are somewhat more stringent criteria for becoming an elector. Candidates must be at least 22 years old, and sign an affidavit to the effect that they subscribe to the principles and values of the Bonn Agreement, have no links with terrorist organisations, and have not been involved with narcotics, human rights abuses, war crimes, looting, smuggling of cultural artefacts, or the murder of innocent people.<sup>20</sup>

Lists of electors are to be disseminated to the public at least five days before the second phase, and written complaints about candidates will be reviewed by the Regional Observation Centres established by the Loya Jirga Commission. The complaint process is unlikely to produce reliable results, however. In the current political environment, accusations are easy, proof difficult, and the lack of due process for decisions could be devastating to the credibility of the Commission. Therefore, despite the effort to introduce some accountability into the election

process, these requirements are unlikely to prevent violators from attending the Loya Jirga. Indeed, human rights activists have already expressed concern that some of the best documented abusers are likely to be at the front of the Loya Jirga in robes, not chains. The Loya Jirga Commission hopes, nevertheless, that self- and popular selection will enforce the criteria to a meaningful degree.

The Loya Jirga Commission has granted authority to the regional level to allow second stage elections to take place immediately following the selection of electors in certain districts. These are being held in approximately 10 per cent of districts. Unfortunately, the Commission has not identified clear criteria for when this immediate move to stage two is appropriate, so it is being employed somewhat randomly. Holding the second stage election immediately also eliminates the complaint procedure, a clear contravention of the Commission's own rules. This uneven approach could raise suspicions about the potential for unseen influence.

Overall, the consensus-based selection of leaders is a fairly stable and participatory system – albeit one that lists heavily toward hierarchy and away from equity – that is familiar at the local level. It also tends to internalise politicking by local and regional commanders, so that the Loya Jirga Commission is unlikely to have to face this thorny issue head-on. The secret ballot vote by locally selected leaders in the second stage for a few representatives from among themselves appears to be geared primarily towards producing a democratic-like experience for participants, though one that is not likely to produce any surprise outcomes.

The selection process that will determine 400 to 450 seats is also a more progressive variation on a traditional theme. Although these representatives will ultimately be appointed by the Loya Jirga Commission, the appointments are intended to confirm decisions taken by the concerned parties themselves. Consultations, and in some cases even internal elections, will be held among nomads (*kochi*), refugees in Pakistan, Iran, and Western countries, professional and scientific organisations, and universities. The method for selecting women on a geographic basis is still being worked out. If this achieves a fair balance, it is not likely to be as controversial as the indirect election process. However, the list of appointees will be closely scrutinised for evidence of a political agenda.

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<sup>19</sup> Local leaders are expected to hold a *shura* or *jirga* meeting to choose their nominees prior to the district-wide meeting, thus exerting a strong degree of social control on the nomination of electors.

<sup>20</sup> Art. 14, Procedures for the Elections of the Members of the Emergency Loya Jirga.



## **1. Population Uncertainties**

The Loya Jirga Commission designed a process that assigns a minimum of one representative to each electoral district, and additional representatives per district based on population. However, the exact number of electoral districts and the size and distribution of the population remain unknown and controversial.

Due to the administrative meltdown over the last two decades, no exact record of the number or boundaries of districts is available. Government records indicated from 340-360 districts; the Loya Jirga Commission has an internally verified list of 363. Through consultations at the provincial level, the Commission has added an additional eighteen districts that seem fairly certain, and another five to ten that are more problematic.

While this has something to do with verifiable facts on the ground, i.e. has a district been functioning as a separate administrative entity for a sufficient period of time, it provides insight into a much deeper political issue. In 1963, in advance of democratic reforms, the administrative map of Afghanistan was redrawn. A thorough piece of gerrymandering, the new map produced numerous administrative districts in the Pashtun belt that were smaller than elsewhere, and also reportedly cut mixed-ethnicity districts to favour Pashtuns. If true, this would have the effect of producing a disproportionate number of Pashtun representatives. These divisions are mostly still in place today. One notable exception is in Badakhshan, former President Rabbani's home, where the number of districts has gone from thirteen to an estimated 28. The Pashtuns, perhaps having forgotten their own gerrymandering of 40 years ago, are crying foul.

Inadequate population statistics are central to the problem. Each electoral district gets a number of seats based on its estimated population – one for every 22,000 people. The population estimates that the Loya Jirga Commission uses extrapolate from the incomplete census done between 1976 and 1979 – which was only 60 per cent complete when disbanded following the Soviet invasion. Hafizullah Amin, who became the Communist president, was in charge of the census for a time and is said to have manipulated the results. After 23 years of war in which an estimated 1.5 million

Afghans were killed and another six million became refugees, and with no reliable update – these figures are dangerously ungrounded.

Because there is no complete and reliable census, the issue at the heart of Afghanistan's political debate is the relative size of the various ethnic groups. As noted earlier, the Pashtuns typically regard themselves as 60 to 70 per cent of the population, whereas the Loya Jirga Commission puts them at approximately 38 per cent. While every group overestimates its proportion of the population, this is particularly problematic among Pashtuns, the only group who regard themselves as a majority.

Pashtuns have been assailing the Loya Jirga Commission and its selection process on several fronts. First, the argument goes, the Commission itself, with only eight Pashtuns among 21 members, is not representative. Secondly, because the unrepresentative commission chooses the appointed seats, too few Pashtuns will be selected. Thirdly, due to the use of incorrect population figures, the Pashtun districts have too few representatives assigned. Finally, many argue, since the population figures are not well known, each district should get an equal number of representatives. Instead, they complain, the Pashtun districts only receive a few compared to districts elsewhere.<sup>21</sup>

Whether or not these complaints are justified, they reflect the almost universal perception among Pashtuns, who are already building up objections to the legitimacy of the Loya Jirga outcome. Indeed, broad support and participation in the selection process across the country does not necessarily presage overall acceptance. Rather political players may be simply hedging their bets in anticipation of the real showdown, which could come before, during, or after the Loya Jirga.

## **2. Logistical Shortcomings**

While agreed long ago on paper, a failure to get minimal logistical support moving is hobbling the indirect election process. According to the Loya Jirga Commission, it was promised several months

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<sup>21</sup> Ironically, the reason that the Pashtun districts get fewer representatives than the northern districts is because the former were intentionally drawn to hold less population in 1963.

ago two-fixed wing aircraft and six helicopters exclusively to ferry its organising and observation teams around the country. In the space of two months, the Commission has been expected to field dozens of teams to each of nearly 390 districts throughout Afghanistan. They must identify district volunteers, establish regional offices, be trained and train others, disseminate information, conduct election meetings, disseminate lists of candidates selected at those meetings, and review complaint petitions. Each task requires significant travel within districts, between the districts and regional centres, and between the regional centres and Kabul. In some cases, given the condition of roads, the regional centre may be as much as a day's drive from the districts and several days' drive from Kabul. International observers are also supposed to be deployed to the field for the first stage of the process, but this likewise has been hampered by lack of flight support. Given a tight schedule in a delay-prone environment, it may be impossible to perform these tasks without aircraft.

The necessary logistical support is only arriving now, a few weeks from the Loya Jirga itself. Even if these aircraft become fully operational in the next days, critical time has been lost. The UN mission has blamed the delay on typical bureaucratic donor malaise, while the donors have suggested that the UN did not plan its budgets properly. Regardless, the international community must not fail to support an exercise of this importance with a minimum of bureaucracy and a maximum of flexibility.

### **3. Public Information Deficit**

Public information has been another serious deficit in the Loya Jirga process. The public information strategy, and indeed the indirect election strategy as a whole, seems based on an overly idealised view of Afghan village life and institutions. The former relies primarily on a single district volunteer, who is to spread information by word of mouth, through mosques, bazaars, etc., to all eligible residents. It is enough to expect this lone volunteer to disseminate the basic message about where and when the first stage selection of electors will take place, let alone actually to communicate the unfamiliar election rules and the purpose and format of the Loya Jirga itself. There is only limited radio in

Afghanistan, and locally-controlled partisan stations dominate. There are currently some radio programs, and an informational film that is being shown in villages – but these are unlikely to tackle the most contentious issues in depth and have yet to get off the ground in a meaningful way.

While the damage is done for the first stage, far more is needed in the next month to make the Loya Jirga a matter of public awareness and debate, instead of merely public speculation. This is particularly true for the question, highlighted below, of how and what it is supposed to decide. People are ostensibly being asked to choose their representatives but it is not yet known what authority those representatives will have. This is hardly how to encourage democratic participation and accountability to constituents.

### **4. Keeping out the Commanders**

The essential focus of the political project is to shift authority away from “warlords” or commanders and into central and local government structures. This redistribution of political and economic power and influence will take years. However, Commission members and staff show misplaced confidence that Loya Jirga procedures will be effective in marginalising the commanders at least in the selection process.

This belief rests on two improper assumptions. First, there is substantial evidence that both regional and local networks are pursuing their political objectives vigorously, including distributing large amounts of cash and putting forward representatives in an attempt to capture seats. Given the continuing primacy of force and finance in Afghan politics, it is unreasonable to assume that these tools will not be effective.

The second assumption concerns the belief that commanders are not already deeply imbedded in local political structures. However, most local commanders are prominent because of their position in the local hierarchy. In other words, they control military assets precisely because they occupy positions of local leadership (due to family history, wealth, etc.).

In this sense the Loya Jirga Commission seems to be focusing too much on process, and not enough on outcomes. A neat selection process, while important for future such exercises, may not produce the

desired outcomes at the Loya Jirga, either in terms of representatives or decisions. Compromises between today's key power-brokers will be essential.

### **C. WHAT IS TO BE DECIDED**

The outcome of the Loya Jirga remains very unclear. This is in part because many forces are trying to shape that outcome. However, it is exacerbated by the fact that the Loya Jirga Commission has decided not to establish and release the rules until at least 21 May 2002, just over two weeks before the delegates arrive in Kabul. This delay in providing guidance on the procedure and possibly the substance is undermining efforts to produce a smooth and transparent process. Not only does it appear to contravene the Bonn Agreement's requirement that the rules and procedures be published and disseminated at least ten weeks before the Loya Jirga convenes,<sup>22</sup> but also, according to Commission members, the rules are being intentionally delayed.

The Commission has worked doggedly to create an open and fair process that will produce a Loya Jirga as representative as can be expected after decades of turmoil. Indeed, because of that turmoil, the Loya Jirga's legitimacy will be predicated largely on the outcome rather than on the process. Will a broadly representative process produce an outcome that is both broadly representative *and* acceptable to the key power brokers? If not, the Loya Jirga will be discredited, regardless of how well the local elections proceed. Continued delay may undermine the political process, and the opportunity for compromise, by preventing development of a clear understanding of how and where necessary compromises are to be made. Failure to establish the parameters of the procedures and agenda for the Loya Jirga clearly provides further scope for unsettling political gamesmanship

The Bonn Agreement is unclear on exactly what the Loya Jirga is to decide. It says only that:

The Emergency Loya Jirga will elect a Head of the State for the Transitional Administration and will approve proposals for the structure and key personnel of the Transitional Administration.<sup>23</sup>

The meaning of both "structure" and "key personnel" is open to significant interpretation, and is the source of considerable politicking and controversy. There appear to be two camps within the Loya Jirga Commission. The first, led by the chairman, Mohammed Ismail Qasimyar, wants to define the substance of decisions to be made, as well as the procedure, in advance – in effect allowing the Commission to define questions intended for the Loya Jirga itself. The second believes that its role is to determine only the procedures that the Loya Jirga should use to decide both agenda and ultimate outcome.

#### **1. Head of State**

The selection of the head of state should be fairly straightforward. The Loya Jirga will be opened by the former king, and this will likely be the first order of business after the selection of a chairperson. One Commission member has intimated that a petition process is likely, possibly requiring some 250 signatures from the floor.

One possible problem is the monarchy question. The United Nations political advisors are fairly adamant that the question whether to restore the monarchy is not on the table for this Emergency Loya Jirga and will have to wait for the Constitutional Loya Jirga in eighteen months. Logically, they argue, a Transitional Administration cannot be headed by a monarch. Be that as it may, there appears to be a significant number of persons who support Zahir Shah's return to power not only as head of state, but as monarch. If so, it will be difficult to suppress debate. After all, this Loya Jirga is the first manifestation of national will after a crippling war. It would be unseemly for the UN to refuse to let people decide what to them may seem a critical issue.

Given repeated rejection of the idea of a return to monarchy by the ex-king himself, it seems unlikely that this issue has a real chance of success in the Loya Jirga. But stopping discussion would leave

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<sup>22</sup> Bonn Agreement, Art. IV(3)

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<sup>23</sup> Bonn Agreement, Art. IV(5).

those favouring the monarchy suspicious and unsatisfied. It may be best to let the issue arise and die on its own.

## **2. Structure of Government**

Somewhat more troubling is the completely undefined category of decisions concerning the structure of the Transitional Authority. The Bonn Agreement suggests that the Loya Jirga will be called on to approve proposals for this. However, in the absence of rules of procedures and substantive guidelines, it is not clear who is authorised to produce such proposals. If the procedure is similar to that described in the 1964 Constitution, it will likely be either the newly appointed head of state or perhaps his prime minister. Unfortunately, with only seven days in which to complete the entire Loya Jirga, it is unclear how such proposals should be crafted and debated.

Some members of the Loya Jirga Commission have already drafted proposals on the structure of government. There are ideas for a provisional parliament to be carved out of the Loya Jirga, down to the exact number of seats. This parliament would have the power to enact laws and approve budgets. There would also be a Supreme Court with independent justices and lower courts.

Others are undoubtedly thinking about the same issues. Last month Dostum discussed a plan for a “federal” Afghanistan, although details remain vague. He is not alone in advocating a system to ensure greater regional autonomy. It is not clear to what extent such proposals – which in the present context could be destabilising – may be raised at this first Loya Jirga. The process for handling all these issues, however, would appear more democratic and less staged if the Loya Jirga Commission would publish its rules immediately, so that political work could be done publicly and transparently.

## **3. Key Posts**

Most significant of all is the decision concerning the key posts in the transitional administration. This is the focus of significant intrigue, as it remains unclear which posts will be selected and how. If the point of this Loya Jirga is to balance the inequities of Bonn, it will have to do so most

obviously through the distribution of the top jobs. But does this include only the head of state, prime minister, and chief justice of the supreme court, as some suggest; or also the five key ministries of defence, interior, foreign affairs, finance, and planning, as others claim, or indeed the entire cabinet? And will these positions be decided singly or through a list?

The answers to these questions may determine whether the Transitional Administration will carry the peace process forward, or whether the peace will disintegrate into regional division or even open warfare.

## **4. Other Matters**

Are there any other decisions that can, should, or will be made by the Loya Jirga? Karzai has been reported as saying that extension of the six-month ISAF mandate may depend, in part, on what the Loya Jirga does. Perhaps ISAF expansion may also be raised in order to provide further impetus to the international community to heed the desires of the Afghan people for security operations beyond Kabul.

The issue of the AIA appointment process, about which there has been considerable tension, may also arise. A mechanism for selecting provincial, municipal, and district-level leaders, including governors, that is acceptable to those from the provinces could help to avoid substantial conflict in the coming two years.

## **III. EXPECTATIONS AND POTENTIAL OUTCOMES**

The Bonn conference made a dramatic, and potentially fatal, compromise. In exchange for granting the Panshiri faction of the Shura-i-Nazar, which was then in control of Kabul, the three most powerful ministerial posts (defence, interior, and foreign affairs) in the AIA, the Panshiris agreed to allow the ex-king to return to Afghanistan and to hold a Loya Jirga to choose the next government. Essentially, the Panshiris were given six months to consolidate their hold on power while agreeing to give it up, should the Loya Jirga so decide.

A half year after Bonn, there is intense disaffection. Outside the capital there is open talk of rejecting the

outcome if the Loya Jirga does not correct the power imbalance. However, when asked if he would step-down if the Loya Jirga so decided, the defence minister responded that it would be irresponsible for him to hand over his post to “someone who doesn’t know about military affairs”. The ex-king has returned, and his future role is also the subject of polarised passions. Many within the former Northern Alliance have openly stated that they see no political role for him, while many Pashtun representatives have said he is the only person who can lead the nation to peace and reconciliation.

Such statements, which might be normal grandstanding or indications of political leanings in a stable situation, should be taken as warnings in Afghanistan. There are still many who see the outcome of this Loya Jirga as their cue whether to continue with the peace process or reject it. Given the shaky security situation, disavowal of the Loya Jirga’s outcome at best will mean refusal to cooperate with the Transitional Authority and undermining of military and police authority. At worst, hostilities could break out – perhaps only on the periphery at first, but if not controlled they could lead to a far larger conflagration. It is true, as everyone in Afghanistan including the military commanders insists, that Afghans are tired of fighting. However, active hostilities are already underway, and the war economy has yet to be transformed. It is still a time for soldiers, not just civilians, to make the peace.

No matter how fair the selection process for delegates appears, and no matter how finely the rules of procedure for the Loya Jirga are crafted, the legitimacy of this entire project will be based on the names and positions that emerge at the end. There is so little recent experience with trustworthy political processes in general that the connection between local selection and the outcome of the Loya Jirga itself will be tenuous at best in the eyes of most. Given Afghanistan’s recent history, there is good reason for the widespread conviction that power games, both foreign and domestic, will ultimately make or break this process.

This poses a serious dilemma for the key Afghan and international players. On the one hand, it is necessary to support a procedurally legitimate process. Not only is this legally necessary, but

also any attempt to rig the process will be noticed and challenged. On the other hand, pressure must be put on the process to ensure a legitimate outcome – one that will address the imbalances in the AIA created at Bonn and keep everyone who counts on the path towards peace.

## A. SCENARIOS

The following scenarios provide a look at possible decisions by the Loya Jirga and what political outcomes those decisions may entail. This exercise is not intended to predict, but rather to warn of the dangers of possible responses to those outcomes. Responses could range from increased dissatisfaction with the political process through minimisation of cooperation with the central authority to violent revolt. Due to the high degree of regional autonomy of political and military leaderships, responses may vary throughout the country. There should be little doubt, however, that widespread violence that goes unchecked in one part of Afghanistan will signal that political gains are still to be had through the use of force.

### *Scenario 1: Current Government with Minimal Changes*

There is likely to be general dissatisfaction among Pashtuns at having lost on both key issues, the King and the security ministries. They could very likely find allies among other poorly represented groups such as the Hazara and the Uzbeks, both of whom have a recent history of deep enmity with the Shura-i-Nazar and have indicated that they will not abide the current situation for long. This outcome could result in refusal to cooperate with central authorities, thus cementing the current de facto control of provinces and regions in the hands of commanders and local shuras, and could also result in an attack on Kabul or outlying areas.

### *Scenario 2: Complete Change of Government with King as Head of State and Loss of Key Posts by Shura-I-Nazar*

Shura-i-Nazar has indicated that it would not allow such a decision to be “imposed upon it.” The belief that the king’s missteps are what led to the years of political turmoil is compounded by the fact that the king and his supporters have been almost entirely absent for much of the last 30 years. The resulting resentment is exacerbated by Shura-i-Nazar’s

conviction that its tight grip on Kabul is justified since it was the only credible opposition to the Taliban and al-Qaeda for seven years. Such an outcome could result in outright rejection by security ministers, refusal to abide by Loya Jirga decisions and possibly a shift of heavy armour back into Kabul. As one UN official put it recently, “they might ring the tent with tanks and ask the Loya Jirga to reconsider”.<sup>24</sup>

Shura-i-Nazar has been able to bring its military power into the capital as shown by a recent parade of heavy weapons to mark the anniversary of the 1992 Mujahidin take-over.<sup>25</sup> Alternatively, if the costs of use of force in this context seem too high, they could withdraw troops to northern redoubts and become an armed opposition to an extremely unstable central government. They likely would be joined in rejection of such a government by the already independent Ismail Khan in the West, and possibly also by some anti-king Hazara commanders and followers of Rabbani, Sayyaf, and Hekmatyar.

*Scenario 3: King Becomes Head of State with Current Government Largely Intact*

There are those who claim they will reject any political role for the king. However, if he is selected as head of state, it may be impossible to limit his role so that it is purely ceremonial as any head of state selected by the Loya Jirga is likely to have some real political powers. Thus, there is widespread fear that the monarchists, especially members of the royal family, will use the ex-king's position as a Trojan horse to enter government. A means to control this could result in an acceptable compromise – a relatively weak former-king as head of state who completely and repeatedly renounces the concept of monarchy for Afghanistan, and a hand-over of one of the two security ministries. This obvious compromise would be widely appreciated and go a long way towards quelling the deep dissatisfaction that could cause the process to unravel.

*Scenario 4: Current Government with Changes of Head of State and/or Security Ministries*

Numerous Pashtun representatives have indicated that a failure to put the ex-king into office, and/or to lessen the control of the Panshiris will be unacceptable. However, in the current climate, it is not inconceivable that former President Rabbani, who is campaigning vigorously, or a wildcard head of state such as Sigtabullah Mojeddi, briefly the interim president in 1992, could become part of a compromise solution. There has also been discussion of making commander of the army a separate post from minister of defence, which could facilitate a compromise over the security sector.

## **B. OUTSIDE LEVERAGE**

As ever, Afghanistan is subject to extensive foreign involvement. American military, Western political influence, the United Nations political and humanitarian family, ISAF, and regional powers such as Iran and Pakistan are all heavily involved. The Western elements have momentarily dwarfed and partially displaced the regional influences, but the degree of outside intervention is higher than ever. This has potentially a more positive aspect than the interventions of the last 30 years, but it also entails great dangers.

In certain ways, the stakes are as high as ever. On 11 September 2001, one point was indelibly made in the minds of many around the world – insecurity abroad means real, life or death insecurity at home. If the world fails to make it secure for its own people, Afghanistan could once again become a threat well beyond its borders.

Given the unstable political and security situation in the lead up to the Loya Jirga, what tools of influence does the international community have at its disposal in Afghanistan and how should they be applied?

### **1. Military**

The B-52 has entered common parlance in Afghanistan. Air power is seen as the pre-dominant factor in the rapid collapse of the Taliban and the redrawing of Afghanistan's political map. Indeed, the threat of the B-52 is regarded as so overwhelming that it may be able to keep warring factions in check. However, it is unclear whether the U.S. would respond if its bluff were called, or even whether there is a bluff to be called in the first place.

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<sup>24</sup> ICG interview, Kabul, May 2002.

<sup>25</sup> The weapons were supposed to have been withdrawn from the city after the parade but it is unclear whether all left or not.

In rejecting the expansion of ISAF, Coalition forces have given a yellow-light to warring factions that may not be ready to give up their fighting ways out of the goodness of their own hearts.

Recent factional fighting reinforces this contention – especially in Gardez where both sides have been supported by the Coalition. The Coalition appears to be pursuing its priority of eradicating al-Qaeda even if this entails set backs in the stabilisation of Afghanistan. There is fear in Kabul that there is a real contradiction in Coalition political and military policy that may be the undoing of long-term stability in Afghanistan.

The near universal call for the expansion of ISAF's size and mandate has been rejected by the U.S. and the European countries that contributed forces. Despite repeated insistence by Coalition members that this is a dead issue, Afghan and international advocates have yet to give up the fight. Indeed, Sima Samar, vice-chair of the AIA and Minister of Women's Affairs, recently delivered a speech to the UN Security Council again calling for ISAF operations beyond the capital.

It is not unthinkable that Coalition military forces or ISAF will be drawn, feet-dragging to the last, into a domestic political dispute that threatens to undo the entire peace process. A sudden engagement of this sort would likely involve greater loss of life, and lesser political control, than a well planned deployment. Such lack of planning and coordination of political and military goals was in evidence in November 2001 when after weeks of promises to the contrary, the Shura-i-Nazar rolled into Kabul upsetting any potential power balance. The opportunity to correct, not compound, these earlier mistakes should be taken.

## **2. Political**

Most of those now credibly vying for power in Afghanistan owe their immediate fortune directly to Coalition actions. Coalition troops and the partner governments have been intensively building relationships with these leaders since September 2001. If they are unified in purpose, these governments have the political clout to keep most Afghan actors from getting out of

hand. For those they cannot fully control, the threat of force remains. However such unity is not in evidence. On the day that the ex-king returned to Kabul from exile, for example, the minister of defence, who openly opposed his return, flew to Paris and was treated like a head of state. While the minister's message was clear, France's was not.

Political unity will also be necessary among the "permanent five" in the UN Security Council to curb potentially destabilising interventions from Afghanistan's neighbours. Iran, Pakistan and other regional powers must be brought into the group working for a peaceful Afghanistan, not excluded from the process. But they have many legitimate interests in Afghanistan that they will, as always, pursue, so a convincing case must be made not only that a peaceful country is in those interests, but also that Western influence is being used for mutually agreed objectives.

## **3. Economic**

The international community is promoting reconstruction assistance as a key contribution to Afghanistan's stability and to the legitimacy of the central government. However, while significant promises have been made, too little has reached Afghanistan yet to rely on its impact in the coming political struggle. Delivery is inevitably slow: due to various bureaucratic requirements (from budget approval to tendering and contracting procedures), logistical difficulties, and the problem of identifying competent in-country labour resources. In short, significant reconstruction assistance will not be available until long after this Loya Jirga and its political fallout occur.

The only effective aid at the moment is of the emergency humanitarian kind and a few, limited "quick-impact" type projects – neither of which tend to utilise or credit central government participation or resources. Indeed, quite the opposite is true. Almost all projects are emblazoned with the logos of donors and implementers and thus obviously not intended to inspire either confidence in the sovereign government or a sense of self-reliance.

The depth of the conflict in Afghanistan will not, at least initially, be assuaged by a few development projects. Certainly the long-term prospects of the economy will figure into Afghanistan's successful transition, but no amount of money at present will ensure that those poised to undo the peace will stand

down. The aid community, however, has explicitly tied the delivery of assistance to support for the political process (“conditionality”), threatening to cut off help to certain regions if local or regional players do not cooperate. It is not clear either whether the fear of an aid-cut-off will change behaviour (six years of this policy during Taliban rule suggest quite the opposite),<sup>26</sup> nor even if these threats are credible. Human rights violations are a common reason to threaten aid-cut-offs – but such threats are already becoming incredible. For instance, will aid be cut off following the reports of human rights abuses against Pashtuns in the North?<sup>27</sup>

In short, economic pressure through control of reconstruction assistance is not yet an effective sanction for negative political behaviour. The threat of military intervention in intra-Afghan conflicts and intensive political pressure are the primary tools the international community has at its disposal at this stage. Afghanistan needs to pass through the Loya Jirga without a collapse back into the factional fighting of the early 1990s in order to progress to a level of investment in the peace process that will be susceptible to subtler forms of persuasion. Until then, the international community must be willing to stay in the thick of the peace process with the Afghans.

#### **IV. CONCLUSION**

A desperate desire for peace on the part of most Afghans is pushing expectations for the Loya Jirga process beyond what is realistic. Afghanistan’s path towards peace remains troubled and uncertain. An unstable security situation coupled with a hurried, high-stakes political process is a recipe for potential disaster,

and the signs that the country could once again come apart at the seams are evident.

A re-balancing of power in Kabul is essential to the Loya Jirga’s success, but anything too dramatic will likely unhinge the entire peace process. Expectations of an end to rule by commanders will have to wait – until both the commanders and their benefactors, can be convinced that the way forward is through political compromise and economic rehabilitation. But compromise now is essential, and the international community must use its political and military influence, and in a unified fashion, to push this process forward. Without such significant pressure, no economic peace dividend can be realised.

Several things can and must be done immediately to give the Loya Jirga process legitimacy, and to prevent the wider peace process from careening out of control. The agenda and procedures for the Loya Jirga must be made clear and must be disseminated widely and repeatedly throughout the country. Logistical support must be given, unequivocally, to those responsible for making this process work. A dialogue must be established between disgruntled factions to forge a common vision of an acceptable, if not ideal outcome for the Loya Jirga. And swift, definitive steps must be taken to nip factional fighting in the bud – lest a few small fires lead to a conflagration that the world will find itself powerless to stop.

**Kabul/Brussels, 16 May 2002**

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<sup>26</sup> DAC Network on Conflict Peace and Development Cooperation, *The Limits and Scope for the Use of Development Assistance Incentives and Disincentives for Influencing Conflict Situations. Case Study. Afghanistan 1999*. 30 April 2002, OECD.

<sup>27</sup> See Human Rights Watch Report, *Paying for the Taliban’s Crimes: Abuses of Pashtuns in Northern Afghanistan*, 22 April 2002, and Physicians for Human Rights Report, *Preliminary Assessment of Alleged Mass Gravesites in the Area of Mazar-I-Sharif, Afghanistan*. 2 May 2002.



### MAP OF AFGHANISTAN



## GLOSSARY OF TERMS

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<b>AIA:</b>	Afghan Interim Authority	<b>Junbish-i-Milli</b>	Predominantly ethnic Uzbek militia based in the north of the country and commanded by General Rashid Dostum
<b>Bonn Agreement:</b>	Formally, the Agreement on Provisional Arrangements in Afghanistan Pending the Reestablishment of Permanent Government Institutions. Negotiated under the auspices of the United Nations in Bonn from 27 November 2001 to December 2001	<b>Hezb-i-Islami:</b>	Hardline Islamist Pashtun Mujahidin group, long backed by Pakistan and Saudi Arabia, headed by Gulbuddin Hekmatyar
<b>ISAF:</b>	International Security Assistance Force	<b>Hezb-i-Wahadat</b>	Predominantly ethnic Hazara militia commanded by Mohammad Karim Khalili
<b>Ittihad-i-Islami</b>	Predominantly ethnic Pashtun militia commanded by Rasoul Sayyaf, once heavily backed by Saudi Arabia	<b>Northern Alliance:</b>	Anti-Taliban Coalition of mostly non-Pashtun forces.
<b>Jamiat-i-Islami</b>	Predominantly ethnic Tajik group, officially led by former president Burhanuddin Rabbani, with forces commanded by the late Ahmed Shah Masood	<b>Shura-i-Nazar:</b>	Predominantly Panshiri Tajik political group that holds the key posts in the AIA
		<b>Uluswali:</b>	Administrative District
		<b>UNAMA:</b>	United Nations Assistance Mission in Afghanistan

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