

The Nature of the Afghan State: Centralization vs. Decentralization

Afghan Peace Process Issues Paper

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Summary: The current peace process in Afghanistan is likely to resurface a longstanding debate about the right balance of political power between the central government and local governance institutions. Decentralization discussions may cross typical political divides, with the Taliban and current government elites agreeing on the need for centralization but disagreeing on who controls the center and a range of minorities and local powerholders favoring greater autonomy. Decentralization has been a vexing issue for many decades but may provide opportunities in the current peace process because it creates more pieces of the political pie to divide among the factions that are fighting for more power.

The Issues

Afghanistan is among the most highly centralized states in the world on paper, yet among the most highly atomized in reality. This tension has shaped much of Afghan history for the last century. Most of the Afghan population has always been remote from the center, and infrastructure and institutions have been insufficient to impose high levels of control. The existence of strong local social organization and a well-developed tradition of independence also means that decisions seen as imposed from outside are often resented locally. Moreover, popular distrust of the central government has been reinforced by experiences with brutal authoritarianism and corruption, although the two need not be synonymous.

The lack of inclusive, accountable governance remains a key driver of conflict, and debate over how Afghanistan's diverse population should be governed has yielded few satisfactory options. The 2004 constitution largely followed the approach of the constitutional monarchy created in 1964, establishing a highly centralized administration that excluded the Taliban and left little room for formal local structures to fill the vacuum. The insurgency that ensued is, in many ways, a competition for control

over the central administration of the state. Fighting for local autonomy is not enough because any group that wants to hold real power over how people are governed or what form of Islam is recognized must control Kabul. The Taliban's violent competition for this control runs alongside a highly contentious but mostly peaceful competition among other political actors. Each of the last three elections produced bitterly contested results and negotiated outcomes because, even among the constitution's supporters, the system is seen as "winner-take-all."

Centralization versus decentralization of power is, therefore, an important issue in the current peace process for several reasons. First, a compromise between the Taliban and the political groups that comprise the republic will require splitting a political pie on mutually palatable terms. Currently, that pie has one giant piece—the presidency—and a few smaller ones. Deconcentration of power is one potential path to making the smaller pieces more valuable, and thereby making a division more equitable. Second, the insurgency is a continuation of 47 years of political conflict that began with the overthrow of the monarchy. That contest has seesawed between authoritarianism and revolt in several phases with disastrous consequences for Afghanistan, its neighbors, and the world. The current peace negotiation presents an opportunity to achieve a more sustainable balance.

Yet, "centralism" has been the driving principle of the state since the emergence of a modern and independent Afghanistan. True to form, the 2004 constitution and the Taliban's 1998 draft constitution both envision a highly centralized state with little political or administrative authority devolved to the provinces. Provincial governors and line ministry officials are appointed by Kabul and provincial budgets are set by national ministries in Kabul. The 2004 constitution does establish elected consultative bodies on the provincial and district level. However, these councils are merely limited to "securing the development targets of the state" and giving "advice on important issues." Elected mayors and city councils could (but do not yet) have more autonomous authority determined by law.

The push to increase central control is motivated by ethnic and ideological factors as well as a drive to consolidate power in Kabul. Technical administrative capacity is weak at the provincial level and centrists have long argued that the most rapid way to modernize and reform is to have decisions made by fewer, more qualified people in Kabul. During the Bonn period (post-2001), when Afghanistan was devastated by war and the United States and international partners sought rapid reconstruction, a highly centralized system seemed like a more efficient structure to rapidly receive and distribute international assistance. Ultimately, those who have achieved power in Kabul have had little incentive to devolve authorities that enabled them to manage competition and exert influence in an otherwise highly unstable political environment. That may explain why, despite the commitments made during the 2003-2004 constitutional process to reexamine decentralization after a decade, that has not happened.

Whether a highly centralized political system is effective and politically acceptable to most Afghans remains a key and divisive debate. Opening a constitutional dialogue will inevitably trigger discussion on this set of issues. While "federalism" is still taboo because it is perceived as dividing the country and/or enabling warlords to recreate ethnic fiefdoms, many advocate an approach that allows for decentralized or deconcentrated political, fiscal, and/or administrative authority. Some believe this would support peace by recognizing the desire for local leadership and the reality of divided control. However, others are vehemently opposed to such approaches fearing further fracture, warlord control, and rights violations that the state has thus far failed to address. There is also a strong ethnic element to this

debate. Afghanistan's highly centralized democracy echoes the prior monarchy (and the emirate). Since 2001, Pashtun groups have more strongly supported a highly centralized system than other ethnic groups that have historically held less power. Recent experiences, both with highly authoritarian regimes in Kabul and warring fiefdoms in the provinces, demonstrate the very real need for balance and the avoidance of extremes at both ends of the spectrum.

Recent Constitutional History

The 1964 model of government in Afghanistan was that of a unitary state. All subdivisions of the state (provinces and districts) were administrative in nature, and provincial and district offices were extensions of, and directly subordinate to, the government offices in Kabul. According to the 1964 constitution and the 1965 Law of Basic Organization, there were five types of subnational government entities: provinces ("welayat"), districts ("uluswali"), sub-districts ("alaqadri"), provincial municipalities ("sharwali welayat"), and rural municipalities ("sharwali uluswali").

Under this model, the provinces had a very limited formal role in decisions concerning their structure, leadership and staffing. The governor ("wali") and senior staff, including senior provincial-level ministry staff and district heads ("uluswal"), were appointed by the president. Mid-level staff were appointed by central government ministries and the governor approved only junior staff appointments. The 1964 constitution also called for the creation of elected provincial councils that would be responsible for assisting and advising the provincial government. However, the law required to create the provincial councils was never passed, and the provincial councils were never elected.

The 2004 constitution replicated much of this model, while anticipating the likely need for decentralization and establishing some mechanisms to achieve it. During the drafting process, many non-Pashtun ethnic leaders advocated for federalism. But those "exercising power in Kabul and the Pashtun elites, who see Afghanistan primarily as a Pashtun-led state, as well as some of the Western-educated Afghan technocrats preferred a strong, centralized government."¹ Ultimately, key leaders like Yunus Qanooni, a Tajik, endorsed the gradualist view that prevailed, saying "[t]he debate should not be on either an all-powerful central state or a federal system. Neither is this realistic at the moment."

However, mechanisms of decentralization within the 2004 constitution have largely gone unimplemented. For example, Article 137 states that "the government, in preserving the principles of centralism, shall transfer necessary powers, in accordance with the law, to local administrations in order to accelerate and improve economic, social, as well as cultural matters and foster peoples' participation in developing national life." The constitution also calls for village council, district council, and municipal mayoral elections, but none has yet been held. Moreover, these entities have no specified constitutional authority except what may be provided by law.

¹ Shamshad Pasarlay, "Making the 2004 Constitution of Afghanistan: A History and Analysis Through the Lens of Coordination and Deferral Theory" (doctoral dissertation, University of Washington, 2016), https://digital.lib.washington.edu/researchworks/bitstream/handle/1773/36735/Pasarlay_washington_0250E_16099.pdf?sequence=1&isAllowed=y.

Better subnational governance has long been recognized as a key objective, and significant efforts have been undertaken to create local government facilities, to train officials, and to push service delivery out to the local level. But official subnational governance policies have lingered in draft mode for years, and almost no national legislation exists to define the powers of district or village councils even if elections were to be held.

From 1996 to 2001, the Taliban ruled Afghanistan with clear top-down authority from the center led by an Amir al-Mu'minin ("Leader of the Faithful") who had much greater powers than the current president. While some deals for a degree of local autonomy were made to coopt commanders and regions, ultimately power flowed from the central Taliban leadership "shuras," or consultative bodies, responsible to the amir. The Taliban's 1998 draft constitution had only two articles that referred to subnational units, stating that there will be provinces, districts, and local jurisdictions determined by the Islamic council and the amir (Articles 83 and 84).

Early in the insurgency, after 2001, the Taliban prioritized proliferation of units and commanders at the cost of centralized control. However, as the insurgency has grown in power, so has Taliban administration in the areas where it exerts control.² It sets policy centrally and makes appointments of the shadow government at the provincial and district level. While the Taliban, like all Afghan leaders, are forced to make some accommodations for local leaders and preferences, overall there is little evidence that previous Taliban preferences for centralized authority, strict policy and control over the movement's "brand" and ideology have changed. That said, the Taliban do represent a "traditional" Afghan ethic to some extent, which may translate into a desire for firm but limited central government power and respect for local authority (at least in Pashtun areas).

A Range of Views on Reform

Views on introducing decentralization into a constitutional reform process are divided—and not along government and Taliban lines. For some, this is considered an issue long past due—one that was promised but ignored in previous constitutions going back decades. The rise of local political and security groups in the absence of peace and good governance over the past 40 years sharpens the sense that this issue will not go away. The prospect of yet another constitutional process and allocation of power between the center and periphery will raise strong demands to codify a new approach.

Yet, for many this discussion raises the specter of more, rather than less, division. There is a fear that without a strong, established center, decentralization would simply be a license for continuing fragmentation. Those concerned believe that rampant de facto local control has undermined the integrity of the state, and led to diminution of security, rule of law and basic rights. There is also a concern that the capacity to govern provinces and districts with elected councils and other bureaucratic structures simply does not exist and is too costly for Afghanistan's limited resources. There is, finally, a

² See, e.g., Giustozzi, Antonio. 2019. *The Taliban at War, 2001-2018*. Oxford University Press; Jackson, Ashley, and Rahmatullah Amiri. 2019. *Insurgent Bureaucracy: How the Taliban Makes Policy*. Washington, DC: United States Institute of Peace.

reluctance on the part of those in Kabul with governing power to relinquish the many authorities that offer them leverage and influence in an otherwise highly unstable and insecure political environment. Taken together, those advocating centralization assert that Afghanistan first needs to establish strong unity, control and capability at the center, and can then gradually deconcentrate power and responsibility.

While there is generally strong agreement that national defense and foreign affairs are matters for the central state, defusing ethnic and regional tensions may rest, in part, on having alternative loci of power where local and regional power holders feel that they can exert a measure of control. Failure to create such loci risks causing those regions to seek to increase their economic and political power through force. Historically, power in Afghanistan has almost always operated through a negotiation between the country's central authority and local power holders—tensions between these two levels have existed for as long as there has been a state. This tension can be divisive, sowing mistrust and resentment, or it can be a healthy push and pull, keeping Kabul more responsive and accountable to the local leaders who are tuned into issues that transcend their particular spheres of influence. Even the Taliban, which exerted a greater measure of central control than its immediate predecessors, was forced to negotiate with local elites and accept a degree of local autonomy.

All evidence suggests that the Taliban will feel strongly about retaining centralization of a government they hope to control. Indeed, one senior Taliban leader made a recommendation for further strengthening presidential powers, including the ability to abolish the parliament, end provincial councils and end parliament's ability to dismiss ministers.³ The possibilities for unexpected alliances on this issue that transcend the larger "republic" versus "emirate" line are worth anticipating; they have the potential to weaken the Afghan government's hand but may also offer opportunities for unexpected compromise. On one hand, various Pashtun-dominated groups may share a common objective of centralization, even if the details on how to choose who holds power at the center will be very different. Similarly, minority ethnic groups and others who do not believe they have sufficient power in a highly centralized state may compromise on a more decentralized view of the state. In either approach, the central state must be powerful and attractive enough to bind disparate forces together, but not so strong as to suffocate the political, ethnic, sectarian, and geographic autonomy that will be necessary to prevent a renewed outbreak of violence and rebellion.

Options

A constitutional review process can be used as an element of peace negotiations to ensure that long-standing issues concerning sharing of power and responsibility at the subnational level are on the agenda as a way to promote compromise and address underlying drivers of conflict. The following options may provide an avenue for positive discussions:

³ Taliban Political Commission. 2015. "Some observations of the Islamic Emirate of Afghanistan on the current Constitution of the Kabul Administration." White paper attributed to the Taliban Political Commission.

Decentralization, coupled with equitable power sharing at the center, can reduce fears of “winner-take-all” outcomes: A central hurdle of the Afghan peace talks is control of the state and assurances that no one group can dominate the government to the peril of others. The combination of a strongly inclusive government in Kabul with new prospects for inclusion and authority in local governance can provide a pathway to avoiding an all-out contest for the seat of power. Also, many groups have complained about local disenfranchisement and poor administration of justice and other services. Creating ownership and accountability for local actors can be essential to improving outcomes. Negotiations would need to address measures to reduce the gap between authorities that are currently on paper but not implemented in practice, such as local elections and subnational governance policies. There may be some flexibility to be found in Article 137 of the 2004 constitution, which marries “the principles of centralism” with the imperative that the government “shall transfer necessary powers, in accordance with the law, to local administrations.”

Talk about what the people want: Ultimately, the conversation about centralism and devolution should be focused on finding practical common ground on how to deliver effective and inclusive governance and services to the Afghan people. What changes to the administration of education, policing, land and water management, electricity, taxation, justice, and transport would improve the health and well-being of Afghans and enable them to take greater control over their own development? Many recent peace processes, such as those in Colombia, Nepal, and Northern Ireland, have succeeded in creating space for disparate groups by giving them a role in governance at the subnational as well as national levels. For example, land theft, ownership and use was a driving factor in Colombia’s conflict, and the peace agreement between the government and the Revolutionary Armed Forces of Colombia (FARC) rebels contained extensive reforms on these issues to be carried out at the national and local levels. In Nepal, the government and Maoist rebels agreed in peace talks to “restructure the state to make it more participatory, representative and inclusive so that Nepal’s social, cultural, geographical, ethnic and linguistic diversity would be properly reflected in the state.”⁴ This was not about federalism, but about the practical questions of how to improve the structure of the state for the people and to reduce the prospect of future conflict.

Pay attention to revenue and budget authority: In practice, much of the conversation over deconcentration of authority is likely to revolve around how national and local elites share power and credit. Therefore, there must be efforts to align the delivery of goods to the community with the power and prestige the elites are seeking. Fiscal decentralization—moving budget authority to the local level—is one important way to tie local leaders to the central coffers while also offering them an opportunity to show their community that they are responsible for choosing and delivering outcomes. Currently, only large municipalities and the central government have the authority to collect and spend revenue. This disempowers the subnational entities like provinces and districts because they cannot control what gets spent locally without lobbying central ministries. Among other inefficiencies, budgets disconnected from local administration reduce opportunities for local accountability.

⁴ Karki, Budhi, and Rohan Edrisinha, eds. 2014. *The Federalism Debate in Nepal: Post Peace Agreement Constitution Making in Nepal*. Kathmandu, Nepal: UNDP (United Nations Development Programme).

Distinguish decentralization of power from federalism: Discussion of “federalism” in Afghan politics immediately provokes visions of a disintegrated country, carved up by ethnic factions, meddling neighbors and colonial occupiers. The discussion of decentralization needs to be understood as an effort to increase inclusion and local engagement in governance to strengthen political and social cohesion and economic development. There are many constitutional models for decentralization short of federalism. For example, the Republic of North Macedonia provides limited but concrete powers to local government for legislation, taxation and appointments, and requires a supermajority at the national level to change local powers, ensuring greater local ownership and engagement.⁵ Finding the right vocabulary will help move the conversation from quick opposition to constructive discussion.

Recognize that different centers of power can be stabilizing: A focus on practical ways to devolve power so that diverse political interests can be satisfied without sacrificing the national integrity of the state must directly address why some groups feel that too much power in the center is the root of the problem. Afghanistan has a history of an exclusionary state where small groups have held the majority of power over a large and diverse population. This historical grievance has continued through the conflicts of the last 40 years. Afghanistan also has a history of regime legitimation through forms of local consultation and participation that are ignored by governments at their own peril. A sustainable peace will require addressing the need for inclusion and power-sharing head on.

Look at alternative models: Many countries have undertaken forms of political, administrative and fiscal decentralization as part of an effort to build inclusion and ownership following conflict.⁶ These generally focus on issues like budgeting (Bosnia and Herzegovina), education (Sri Lanka), and administration (Tunisia). The Tunisia case is particularly apt for Afghanistan as Tunisia’s highly centralized state was meant to devolve as per the 1959 constitution, with very little specificity, and never did. Adoption of a principle of subsidiarity in 2014 means that the state attempts to devolve powers to the government level nearest to the citizen. Rather than an ideological approach, it provides a flexible framework for decentralization based on what the state can and must provide, and where is best to do it.⁷

Experiment and avoid rigid sequencing: Bringing together the conditions for effective local governance in Afghanistan is not an easy task. Rigid sequencing—e.g., building the center then slowly devolving authority—is unrealistic due to growing entropy and political demands and has failed to sufficiently deliver over two decades to be credible. Such an approach also denies the creative energy and more tangible accountability at the local level to get things done. Pushing ahead with some experiments in decentralization and local ownership, especially in medium-sized cities, is recommended. Between efforts like the National Solidarity Program and Taliban experience with local administration, there may be valuable lessons to be learned from how they have managed to carry into a vision for the future. The

⁵ Saunders, Cheryl. 2012. *Options for Decentralizing Power: Federalism to Decentralization*. Carlton, Victoria, Australia: Melbourne Law School.

⁶ See, e.g. Fox, William F. 2007. *Fiscal Decentralization in Post Conflict Countries*. Washington, DC: USAID (United States Agency for International Development); Ayad, Chiara. 2019. “Assessing Decentralization in the Arab Region: Lessons for Syria from Iraq, Morocco and Tunisia.” Research Paper. July 31. Paris: Arab Reform Initiative.

⁷ Tarchouna, Lotfi. 2019. “The Tunisian Experience of Decentralization Since 2014.” Research Paper. July 31. Paris: Arab Reform Initiative.

extraordinary energy and innovation that have marked socioeconomic life in Afghanistan’s major cities are also assets that should be more explicitly tapped, especially given trends of rapid urbanization. It is also important, however, to bring a dose of humility to these efforts given the limited infrastructure and development—in addition to insecurity—that mark many parts of Afghanistan beyond Kabul. State-building takes a long time.

Require local input for big appointments: Introducing some elements of local input to the selection of governors and other key provincial positions would deepen their fidelity and accountability to the province as well as to Kabul. This could be accomplished by requiring provincial council approval of appointees for governor and otherwise amending the provincial council law to give them greater powers and duties regarding input into line ministry budgets and programs at the provincial level.

Build on the strong custom of local councils and dispute resolution: Rather than leave a gap of district councils until a far off and challenging set of elections, take advantage of the enormous investment that has already gone into the creation of district-level councils by the National Solidarity Program, the Ministry of Education, and the Independent Directorate of Local Governance. These existing councils could be used to select a body of representatives who have already gone through some community validation and been responsible for oversight of programs.

Consider community-based reconciliation: One way in which decentralized processes may prove important in the Afghan peace process is through reconciliation. Even if national transitional justice efforts are not moving forward, there is critical work to be done at the community level to address truth and reconciliation. The shared experiences of victimization through decades of violent conflict represent important common ground for all parties to the conflict and may offer opportunities for building trust and lasting peace into the future.

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