

Dr. Christine Noelle-Karimi

Local perceptions of state and law
State Reconstruction and International Engagement in Afghanistan
Center for Development Research, Bonn
May 30-June 1, 2003

Please do not quote without the author's permission.

The Loya Jirga elections held on the district and provincial levels in May/June of 2002 offered a first taste to the Afghan population of what political participation may feel like. In the following, I will take a brief look on how the political processes were perceived locally in the region around Mazar-i Sharif, where I worked as an international monitor during this period. My paper is less concerned with evaluating the conceptual and organizational shortcomings, that is, the part the international implementing agencies played in the elections. Rather, I would like to focus on the political circumstances and the social framework that shaped local attitudes towards the state. In the following, I am going to address three topics

- 1) the importance of the Loya Jirga elections for reenacting the state as a political space;
- 2) the political strategies available in an environment where clientelistic patterns of redistribution are reinforced by a high degree of violence;
- 3) the local patterns of conflict and perceptions of law.

Focus on Kabul

One important aspect of the elections was that they reactivated the notion of Afghanistan as a political space and put Kabul back on the map. All political players involved, including those most vociferously opposing the election proceedings, seriously pursued the idea of participating in the Loya Jirga. This holds true for the average ethnic entrepreneur who would disturb the election proceedings or boycott them, complaining that the rights of his particular constituency were being ignored. A bit further up the ladder, Jam'iat-i Islami employed a dual strategy, combining an outward rhetoric against the Loya Jirga and Zahir Shah with a mixture of coercion and bribes to ensure a favorable outcome of the local elections. With the same goal in mind, Dostum chose an alternative tack and proclaimed himself strongly in favor of the Loya Jirga. From this perspective, the widespread bribing, intimidation and coercion employed during the election process begin to make sense. Once again local brokers of power resorted to the usual means to impose their will. What makes the difference is that the goal, at least temporarily, changed from the control of local resources to the assumption of a role on the political stage. If only for moments, the Loya Jirga process made Kabul the center of political gravity.

Another noteworthy fact is that the election process reached, in one form or another, all parts of the country. While the ceremonies and speeches employed during the electoral proceedings might have seemed monotonous to the onlooker, they did play a vital role in reviving political rituals reminiscent of pre-war political conventions. They also provided an opportunity for the men of power to portray and project themselves as politicians and to expand their role beyond the purely military sphere. The effort on the part of Jumbish to present itself as a political party likewise reflects the anticipated need to adapt to a new political set up and to negotiate for positions with the powers that be in Kabul.

Local Perceptions of the State

The regional leaders used their presence in Kabul to enhance their position at home, essentially monopolizing the contact between their locality and the state. Those segments of

society not immediately tied into and benefiting from the narrow redistributive patterns of war economy, on the other hand, favored a more pronounced government presence locally. This attitude was prevalent not only among what might be termed the civilian population but also the local leadership on the fringes of warlord control. In both settings, interference by the state was seen as an alternative and a possible counterweight to the unbridled authority of the regional leaders and their underlings.

Local attitudes could be gauged from letters addressed to the Loya Jirga Commission. Corresponding to the idealistic tone that characterized the early phases of the elections, voters had the opportunity to voice their criticism of undesirable candidates, that is, drug barons and war criminals, by means of anonymous letters dropped in complaint boxes. Interestingly, many of these letters dealt with topics ranging far beyond issues immediately related to the elections. An often-voiced expectation was that government presence should translate into certain local services, such as the long-awaited improvements of infrastructure, electricity, medical care, teachers' salaries etc. The desirability of an enhanced state presence also became apparent during conversations with voters on the fringes of the election process. Foremost on people's minds was the issue of security. It was generally felt that the election process was pointless as long as armed commanders were able to impose their will by force. But people did not trust the Kabul government to provide security either. Rather, there were widespread hopes that neutral outsiders, specifically the ISAF troops take up this important task.

No Islands of Democracy

As far as the electoral process as such was concerned, there was a remarkable convergence of attitudes among the various political players. While it comes as no surprise that the candidates backed by Jam'iat and Jumbish employed a range of threats to secure their election, it was striking to note that similar methods of inducement were just as common in settings generally touted as "educated" and "liberal". Both in Shibarghan and Mazar-i Sharif school directors threatened their staff and students with eviction if they refused to vote for a particular candidate. In the present political context, the juxtaposition between the "bad" warlords and the "good" intellectuals therefore seems somewhat artificial. Both operate in an environment where the ideas of democracy and pluralism (unfortunately) make no sense yet. The chasm between participatory western concepts and the predominant clientelistic patterns of loyalty also found its expression in a radically different interpretation of the election results. While there is no particular stigma attached to an electoral defeat in the west, it entails loss of face and dire consequences in the Afghan context. This clash between honor and democracy has already been noted by David Edwards for the 1969 elections,¹ and could also be seen at work during the recent political process. In this light, the efforts of all players involved to predetermine the outcome of the election make all the more sense. At the same time, this phenomenon sheds some doubt on the feasibility of democratic elections in a setting entirely hostile to the articulation of alternative opinions.

Lines of Conflict

With the conclusion of the Loya Jirga we are back to local politics. Apart from the question of whether the expected pecuniary aid from Kabul is going to materialize and who is going to control the channels of distribution, there are abundant causes for local conflict. During my stay in northern Afghanistan disputes concerning land and water rights were foremost on people's minds. Conflicts about water are by no means a new phenomenon. Even prior to the war, it was common practice to manipulate the prescribed water allotments. In recent times

¹ David Busby Edwards, *Before Taliban: Genealogies of the Afghan Jihad*. Berkeley: University of California Press, 2002, pp. 113-117.

the tensions concerning the distribution of water have reached an entirely new dimension, as water pumps and novel methods of diverting upstream water have upset time-honored agreements. One case in point is the Sholgara valley which feeds the Hijdah Nahr System of the Balkh and Mazar-i Sharif region. Here, the river bed has been widened to water new agricultural areas, with the result that locals were able to cultivate rice and millet at the height of the drought, whereas the villages located on the lower part of the river were left high and dry and had to be abandoned. Andkhoi on the lower end of the Shirin Tagau and Ab-i Qaisar streams presents a related case. Here the traditional arrangement of water distribution is upset by the use of powerful water pumps further upstream. During the time of my visit the population of Andkhoi was split about the question of how to solve this conflict. The most radical scenario proposed was to force a solution by refusing travellers from Maimana right of transit. The more moderate faction in town, by contrast, favored arbitration by a provincial court.

Further conflict is generated by competing claims to landownership. This phenomenon has to be attributed to the waves of dispossession that have accompanied the various phases of the war. The present configuration of power again invites old scores to be settled. This means additional pressure on the Pashtun enclaves in the north, which formerly enjoyed political and fiscal privileges. My informants, ranging from ordinary participants in the elections to local administrators, offered different strategies towards a solution of the "Pashtun" problem. The most radical version accused the Pashtuns collectively of collaborating with the Taliban and Al-Qaida, thus preparing the ground for their dispossession. The more moderate variant aimed at abolishing the old Pashtun tax privileges but did not specify whether this arrangement was intended to solve the current conflict by creating a more equitable tax system or whether it was to be enacted retroactively to punish the Pashtuns for their former privileges.

To me, the most interesting aspect of these local scenarios for conflict resolution is the importance my informants ascribed to state or provincial law. This clearly contradicts the convenient notion that crumbling central state institutions necessarily give added scope to local or customary law. In northern Afghanistan at least, the war did not bring about a legal vacuum conducive to the growth of homegrown participatory legal structures. Instead, the local population found itself at the mercy of a new elite of commanders who sought to establish control over the most important economic resources like water, land, trade routes, and NGOs by force of arms. There is very little information on local patterns of conflict resolution beyond the sphere of immediate commander/warlord interests. Given the limited frame of action dictated by the interests of local big men, I wonder what sort of scope there is for any sort of legal administration. Who is addressed for conflict resolution? What sort of qualification do the judges derive their power from? What range of cases do they adjudicate, and who implements their verdicts? This field of questions also touches upon the theme of state reconstruction, and a possible interaction between state law and local administration. Which local structures can be tapped and activated for the purpose of reconstruction, and, to me the main question, is it at all possible and useful to bypass the highest echelon of provincial leaders and commanders in the effort reach out to the communities? The idea of strengthening the levels above and below the regional leaders sounds appealing. Yet the ongoing effort at disarmament in the north seems to be achieving the exact opposite.