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Johnson, Thomas H.; Goodson, Larry P.

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Thomas H. Johnson and Larry P. Goodson

Political legitimacy is the critical foundation for success in governance. Whatever its source, when legitimacy exists a government is secure. Max Weber famously suggested there are three sources of legitimacy—charismatic, traditional, and legal.[1] A government with a high degree of legitimacy cannot easily be challenged, but when legitimacy is low or lacking, any number of issues can undermine a government. In the absence of legitimacy, only the ability to exercise coercive power can secure the state. Niccolò Machiavelli alluded to the belief that it is better to be feared than loved, if you cannot have both.[2] Insurgency theorists and practitioners such as Mao Zedong have argued a key indicator of insurgent success is if the regime in question has 80% legitimacy in the view of its citizens.[3] A government with this level of legitimacy, which is distinct from popularity, is extremely difficult to unseat through an insurgency.

Afghanistan, in its present incarnation, is an artificially created and relatively young state. For most of its history, its government did not need great legitimacy, since the state center was relatively weak and legitimacy was primarily focused at the *kalay* (or village) level. Legitimacy of the central government, perhaps because of the substantial autonomy of the countryside, was primarily based on having a generally-accepted royal family whose influence extended little beyond Kabul in normal times, and indirect rule through provincial governors and district administrators to represent the

capital in remote regions. In this system, legitimacy came from traditional bases (e.g., dynastic succession), religious approval (e.g., the blessing of the clerics, or *ulema*), and cultural sources (e.g., *Pashtunwali*, the code of the Pashtun). Since 1976, Afghanistan has been caught in a seemingly endless war, which has undermined nearly all these sources of legitimacy.

Zahir Shah, the last King of Aghanistan is seated at the far right during the oath ceremony of Hamid Karzai on 7 December 2004. (MSgt James M. Bowman/DoD Photo)

The Afghan king was toppled in 1973 and forced to live in exile thereafter. The experiment with communism lasted from 1978 to 1992, but also prompted the Soviet invasion of 1979 and a decade-long, highly-destructive war that destroyed or badly tarnished the remaining institutions and customs that might confer legitimacy. The landed elites and clerics, traditional sources of legitimacy, were directly targeted by the Communist regime and killed or driven into exile. Destruction of the traditional local power and judicial systems had a tremendous impact on nearly all aspects of Afghan life, especially in the rural areas where 75-80% of the population lives.[4] Meanwhile, opposition to the Communist government in Kabul formed along ethnolinguistic lines, but also was largely controlled by Islamist opponents to the Communists, thus changing the way Islam was used to confer legitimacy on political leaders in Afghanistan. The period from 1992 to 2001 saw the rise of warlords and the Taliban, none of whom could really claim legitimacy outside of their followers and who increasingly gave their support to their ethnic, tribal, or village leaders and distrusted leaders of other Afghan ethnic groups or regions. This behavior is normal for a protracted civil war in a country divided along ethnolinguistic and sectarian lines. For example, the *shura* installed in Kabul, a primarily Dari-speaking area, by original Taliban leader Mullah Omar, consisted of Pashtun leaders who had no direct ability to communicate in Dari.

The 2001 terrorist attacks on the United States prompted a U.S.-led intervention that failed to end Afghanistan's endless civil war. U.S. generals and politicians tend to see the reasons for that failure in terms of the war itself. As with the Vietnam War, the United States has focused on Afghanization as

the light at the end of the tunnel, after not succeeding through attacking cross-border Taliban sanctuaries and driving up kill ratios. America's failure has not been in insufficiently killing the enemy, but rather in not doing a better job of helping Afghanistan build a legitimate central government and related institutions.

The 2001 Bonn Accords, 2002 Emergency *Loya Jirga*, 2004 Constitutional *Loya Jirga*, and the various elections since then have all done little to legitimize a government mostly known for corruption. In fact, because of significant illegal voting since the initial 2004 presidential election, the electoral process—meant to legitimize government—has become viewed as a continuation of the massive levels of corruption that plague most aspects of Afghan life and delegitimize the government every day. Since the Pashtun Taliban were the primary Afghan opponent of the U.S.-led forces in 2001-2002, and the Pashtun had traditionally ruled the country, the Interim Authority of 2001 and early 2002 and Transitional Government of 2002-2004 were doomed to be unreflective of traditional Afghan cleavages and were made worse as outsiders tried to reward the leaders of various Afghan minority groups with governmental positions. This was especially true in the national and domestic security realms because the Northern Alliance, basically a non-Pashtun force, could claim responsibility for destroying the Taliban regime (of course, with U.S. support, which began the pattern of U.S. involvement in reshaping Afghanistan following 9/11).

Afghan delegates to a Loya Jirga, or grand assembly, listen to Afghan President Hamid Karzai in 2013 (S. Sabawoon/EPA)

If former king Zahir Shah or an appropriate relative/substitute had been allowed to resume the throne and rule rather than govern, then such significant changes in Afghanistan's power dynamics and/or its mechanisms for legitimizing authority might have been made acceptable. However, despite a large majority of delegates at the Emergency *Loya Jirga* in June 2002 signing a petition demanding the return of the king, such an outcome was rejected, largely due to pressure placed on the delegates by the United States envoy and other U.S. government officials in Kabul.[5]

Instead, the Constitutional *Loya Jirga* in 2004 produced a complex electoral system that further emphasized natural cleavages within the population and guaranteed no governmental office based on election or appointment could help make the government legitimate. After long years of war that destroyed the traditional sources of legitimacy and the careful identity group balance within the country, Afghanistan needed a new foundation for legitimacy. The U.S. government, committed to

the notion that democracy is the best form of government but unable to see democracy development beyond elections, naturally focused on electoral systems as the new basis of legitimacy for Afghanistan, even if those systems as designed actually made the situation worse.

The presidential elections in 2004, 2009, and 2014 were all marred by increasing levels of malfeasance, such that in each case the international community considered withholding certification.[6] This came as no surprise to electoral specialists, as Afghanistan's presidential electoral system was designed by the Afghan Constitution (http://www.afghanembassy.com.pl/afg/images/pliki/TheConstitution.pdf) as a two-round system where, if no candidate had a simple majority after the first round, then a second round would be held between the top two candidates.[7] Also, candidates ran on tickets that included a first and second vice president to represent other ethnic groups. Given Afghanistan's history of political dominance by the largest ethnic group, the Pashtun, this system meant the only serious tickets would have a Pashtun (or part Pashtun) for president, a Tajik for first vice president, and an Uzbek or Hazara as second vice president. Since the Pashtun are also the world's largest remaining tribal confederation, and much of the Taliban opposition comes from the Pashtun tribes, the invitation for ballot box stuffing is very real in those Pashtun areas where a candidate has a tribal stronghold.[8]

Naturally, analyses of Afghan presidential elections in this century have found a robust and recurring ethnolinguistic-voting pattern—that is, ethnicities voting for candidates from their own group. Afghanistan's elections from 2004 to the present have "witnessed voters casting their votes, both valid and fraudulent, according, in large part, to their ethno-linguistic affinities. Afghanistan remains deeply ethnically fragmented and this fragmentation presents significant challenges for the development of democratic institutions and cohesive and legitimate governmental institutions."[9] Thus, no truly national candidates have arisen, as voting reflects the ethnic cleavages that have long driven Afghan politics.


The chamber of the Afghan House of the People, or Wolesi Jirga. (Pajhwok)

Parliamentary elections for the lower house (House of the People, or *Wolesi Jirga*) have also been marred by high levels of irregularity and undermined by a poorly chosen electoral system, the single non-transferable vote where each voter votes once among candidates in multi-member constituencies.[10] Normally under single non-transferable vote, strong political parties able to engage in tactical voting can maximize their candidates' chances of victory. Following the 2004 constitution, however, Afghanistan outlawed and later discouraged political parties, thereby making all lower house elections into contests along ethnolinguistic or tribal lines, often requiring only a handful of votes to secure a seat. For example, in the 2010 legislative elections, 664 candidates ran for 33 lower house seats in Kabul Province. Haji Muhammad Mohaqiq finished first with 3.6% of the vote and 21 of 33 candidates were elected with less than 1% of vote. Countrywide only 35% of Afghan voters voted for a winning candidate.[11]

The upper house (House of Elders, or *Meshrano Jirga*) is seated by thirds, with one-third of its membership selected by Provincial Councils, one-third selected by District Councils, and one-third selected by the President.[12] However, elections for District Councils have never occurred. Thus, the upper house has never been properly seated.

Earlier parliamentary elections in 2005 and 2010 were deeply flawed, as they were both plagued by significant fraud and voting based on ethnic affinities. Importantly, election victors won with a small percentage of the vote. In fact, in both elections, the vast majority of Afghans voted for losing candidates.[13] While the data are not yet available for extensive analysis, we have been told the voter turnout for the 2018 *Wolsei Jirga* elections was significantly less than reported and that the election was marred by violence that greatly exceeded that officially reported by the government.[14] Moreover, these elections originally scheduled for October 15, 2016 (postponed to July 7, 2018, and then again to October 20, 2018) were fraught with problems. For example, many polling centers were never opened (even in Kabul), others did not open on time, and various critical components of the electoral process did not operate effectively. As of November 29, 2018—more than a month after the elections—only 13 small provinces have had their election results announced.[15]

Thus, the best foundation for successful governance, legitimacy, does not exist in Afghanistan. Traditional legitimacy was destroyed before and during the Soviet War of the 1980s. The charismatic and religious legitimacy of the mujahideen commanders coming out of that war was destroyed by their ugly rapaciousness in the 1990s. The legal-rational system of legitimacy that has yet to take root is associated with leaders that have been installed by the United States who have presided over and benefited from massive corruption. Of course, as Machiavelli noted, in the absence of legitimacy a monopoly or at least preponderance of coercive power will do, but authoritarian systems work best in countries that are homogenous and cut off from the international community, which is precisely the opposite of Afghanistan.[16] A prisoner of its geography, Afghanistan is the cockpit of Asia, surrounded by outside powers engaged in an endless cycle of Great Game politics inside Afghanistan.[17] Another possible way to stave off a legitimacy challenge, as has been the case in some of the oil-rich Persian Gulf monarchical states, is to use inordinate wealth to buy the support of the people, but Afghanistan is one of the poorest countries in the world and heavily reliant on foreign aid just to meet its annual budget. The Afghan government is not perceived as legitimate by the people, does a poor job of service delivery, and cannot close its borders and crack down on dissent and revolt through authoritarian repression. How, then, can it succeed?
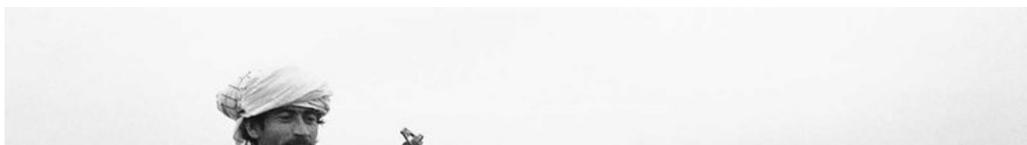
Three Afghan mujahideen, one armed with a Soviet-made AK-47 assault rifle, left, the others with older bolt-action rifles, pose on horseback during a meeting near Herat in 1980. (Rare Historical Photos)

Current U.S. strategy is to continue building the Afghan National Defense and Security Forces and to encourage Taliban reconciliation with the government, while quietly maintaining a small number of forces devoted to counter-terrorism on the ground and in the air. The most recent Special Inspector General for Afghanistan Reconstruction (SIGAR) Quarterly Report to Congress notes that the Afghan National Defense and Security Forces have failed to meet any objective measurement of success in combat without the stiffening of American or international partner forces, and Afghan personnel desert faster than their ranks can be filled. The Inspector General estimates the force loses 33% of its members on a yearly basis. Specifically, "The [Afghan National Defense and Security Forces] struggled to maintain its personnel strength this quarter with [Afghan National Defense and Security Forces] strength at its lowest level recorded in the third quarter of the year since 2012. [Afghan National Defense and Security Forces] strength decreased by 1,914 personnel since last quarter and by 8,827 personnel since the same period last year. The [Afghan National Defense and Security Forces] is roughly 40,000 personnel, or 11%, below their target strength of 352,000 personnel."[18] If building the Afghan National Defense and Security Forces is to provide the Afghan government with a better coercive capability, it is not working so far.

Taliban reconciliation has been going on now for 17 years in one form or another, but it does not work well when large numbers of the northern minority groups believe the Taliban to be a Pakistani puppet, while many southern Pashtun believe the Afghan government to be an illegitimate foreign puppet.[19] Of course, governments always pursue strategies shaped by their own bureaucratic strengths and internal political dynamics, so it is natural the best the United States has come up with is a strategy led by the Department of Defense that relies heavily on military training and foreign military sales. The only approach less likely to succeed would be one in which the U.S. military withdrew in favor of outsourcing security to a private company run by Westerners on behalf of an Afghan government with limited legitimacy.

The United States fumbled its opportunity to change Afghanistan profoundly for the better during its initial operations there from 2001 to 2004. The mistakes it made then cannot be easily undone. Afghanistan needs constitutional reform to bring about an improved electoral system and/or establish some other basis for legitimacy based on traditional Afghan sources. The successful 2011 Abbottabad Raid that killed Osama Bin Laden also presented the United States with an opportunity

to declare the limited war objectives from 2001 to be completed, declare victory, and quickly withdraw before anyone could prove otherwise. Now, with Afghanistan's increasing legitimacy deficit, the United States can no longer seriously make that claim.

Afghanistan needs a serious anti-corruption campaign, effective service delivery, and national security institutions that see themselves as protectors of the people and not just an ethnolinguistic group or political faction. It also needs some breathing space from its meddlesome neighbors and substantially greater internally generated revenue. None of these changes are coming, but the United States is reluctant to abandon its Afghanistan project, having invested so much blood and treasure there already. Having squandered earlier opportunities, the United States now faces a conundrum in Afghanistan, where neither staying nor going will likely produce a favorable outcome to its Afghanistan adventure. Most likely, America will soldier on in Afghanistan, following flawed strategies until some unexpected event or developing trend—such as American retreat from global leadership—causes Washington policymakers to conclude that America has done enough.

Thomas H. Johnson is a Research Professor at the Naval Postgraduate School in Monterey, California and a Non-Resident Senior Fellow of the Afghan Institute for Strategic Studies. His most recent book is Taliban Narratives: The Use and Power of Stories in the Afghanistan Conflict (https://smile.amazon.com/Taliban-Narratives-Stories-Afghanistan-Conflict/dp/0190840609/ref=sr_1_1?ie=UTF8&qid=1542645306&sr=8-1&keywords=Taliban+Narratives). *Larry P. Goodson is a Visiting Research Fellow in the Changing Character of War Center, Pembroke College, Oxford University, and Professor of Middle East Studies at the U.S. Army War College, where he is the only person to hold the General Dwight D. Eisenhower Chair of National Security twice from 2004-2007 and 2014-2017. He is the author of* Afghanistan's Endless War: State Failure, Regional Politics, and the Rise of the Taliban (https://smile.amazon.com/Afghanistans-Endless-War-Regional-Politics-ebook/dp/B00L9XW2WG/ref=sr_1_1?ie=UTF8&qid=1542645334&sr=8-1&keywords=Afghanistan%E2%80%99s+Endless+War%3A+State+Failure%2C+Regional+Politics%2C+and+the+Rise+of+the+Taliban); *he is finishing a forthcoming book,* The Syrian War: First Great War of the 21st Century. *The views expressed here reflect those of the authors and not necessarily those of the Naval Postgraduate School or the U.S. Army War College, the U.S. Navy or U.S. Army, Department of Defense, or U.S. Government.*

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Header Image: A view of Afghanistan as seen from a UH-60 Blackhawk helicoptor while flying over Khowst province. (SSG Andrew Smith/U.S. Army Photo)

NOTES:

[1] See: Max Weber, *The Theory of Social and Economic Organisation,* translated by A.M. Henderson and Talcott Parsons (New York: Oxford University Press, 1947; Wolfgang J. Mommsen (1992). *The Political and Social Theory of Max Weber: Collected Essays* (https://books.google.com/books?id=kgF9bjMoocYC&pg=PA46). University of Chicago Press, p. 46.

[2] Niccolò Machiavelli (1515). *The Prince.* London: J.M. Dent & Sons, 1958, translated by W. K. Marriott, Ch. 17.

[3] See: Mao Tse Tung, *On Guerrilla Warfare,* translated by Samuel B. Griffith, (University of Illinois Press, 2000).

[4] *The World Factbook — Afghanistan, People and Society, Urbanization.* Washington, DC: Central Intelligence Agency, 2018. URL: https://www.cia.gov/library/publications/resources/the-world-factbook/geos/af.html (https://www.cia.gov/library/publications/resources/the-world-factbook/geos/af.html) (accessed 12 November 2018).

[5] Personal recollection of Larry P. Goodson, who was present in the role of Technical Adviser on Elections to the Emergency Loya Jirga Commission and viewed the petition.

[6] See footnotes 9 and 13.

[7] Articles 60 and 61 in Chapter Three of the 2004 Afghanistan Constitution govern the Presidency and Presidential elections. Islamic Republic of Afghanistan, *The Constitution of Afghanistan* (2004). URL: http://www.afghanembassy.com.pl/afg/images/pliki/TheConstitution.pdf (http://www.afghanembassy.com.pl/afg/images/pliki/TheConstitution.pdf) (accessed 12 November 2018).

[8] Bernt Glatzer, "The Pashtun Tribal System," in G. Pfeffer & D. K. Behera, eds., *Concept of Tribal Society*, Contemporary Society: Tribal Studies, Vol 5. New Delhi: Concept Publishers, 2002, pp. 265-282. Glatzer attributed the origin of this "often repeated stereotype" to James Spain in his *The Pathan Borderland.* The Hague: Mouton, 1963, p. 17, but the authors are not aware of a segmentary lineage group in the world that is larger than the Pashtun. Thomas H. Johnson, "The Myth of Afghan Electoral Democracy: The Irregularities of the 2014 Presidential Election," *Journal of Small Wars and Insurgency,* Forthcoming, December 2018.

[9] Thomas H. Johnson, "The Illusion of Afghanistan's Electoral Representative Democracy: The Cases of Afghan Presidential and National Parliamentary Elections," *Small Wars and Insurgencies* 29/1, January 2018, p. 23. For an analysis of the 2014 Afghan Presidential Election, see: Thomas H. Johnson, "The Myth of Afghan Electoral Democracy: The Irregularities of the 2014 Presidential Election."

[10] As provided by Article 83, Chapter Five of the 2004 Afghanistan Constitution, elections to the House of the People shall be according to an elections law. The Electoral Law of 2004, enacted by Presidential Decree, provided for the unusual single non-transferable vote electoral system to be used for House of the People elections. See David Ennis, "Analysis of the Electoral Legal Framework of Afghanistan," Report of the International Foundation for Electoral Systems, Arlington, VA, 2006, pp. 5-6.

[11] Thomas H. Johnson, "The Illusion of Afghanistan's Electoral Representative Democracy: The Cases of Afghan Presidential and National Parliamentary Elections," p. 15.

[12] As provided by Article 84, Chapter Five of the 2004 Afghanistan Constitution.

[13] See: Thomas H. Johnson, "Afghanistan's Post-Taliban Transition: The State of State-Building After War," *Central Asian Survey* 25, no. 1–2 (March–June 2006): 1–26, and Thomas H. Johnson, "The Illusion of Afghanistan's Electoral Representative Democracy: The Cases of Afghan Presidential and National Parliamentary Elections."

[14] Thomas H. Johnson's interview with an anonymous UN Official (September 25, 2018).

[15] Masood Saifullah, "Why are Afghan Officials Not Announcing Election Results?," *DW News*, November 29, 2018. URL: amp.dw.com (accessed November 29, 2018).

[16] See: Niccolò Machiavelli (1515). *The Prince*. Max Weber (2015), in *Weber's Rationalism and Modern Society*, translated and edited by Tony Waters and Dagmar Waters. New York: Palgrave Books, pp. 129-198, argues that state monopoly over the legitimate use of force within a bounded territory is a defining characteristic of a state.

[17] Tim Marshall (2015). *Prisoners of Geography: Ten Maps That Tell You Everything You Need to Know About Global Politics*. London: Elliot and Thompson.

[18] Special Inspector General for Afghanistan Reconstruction (SIGAR), Quarterly Report to the United States Congress, October 30, 2018, https://www.sigar.mil/pdf/quarterlyreports/2018-10-30qr.pdf (https://www.sigar.mil/pdf/quarterlyreports/2018-10-30qr.pdf), (Accessed November 3, 2018).

[19] Many Afghanistan scholars have noted the contestation over legitimacy between the government of Afghanistan and the Taliban. For example, see: Florian Weigand (2017), "Afghanistan's Taliban – Legitimate Jihadists or Coercive Extremists?," *Journal of Intervention and Statebuilding*, DOI: 10.1080/17502977.2017.1353755.

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