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Reconstruction & Women's Rights in Afghanistan

DENIZ KANDIYOTI

Attempts to accommodate a women's rights agenda in conflict and post-conflict contexts presents us with unprecedented challenges. Gender advocates often bemoan the fact that scant attention is paid and insufficient resources are allocated to the gender dimension of post-conflict reconstruction, arguing that women's involvement is essential to achieving sustainable peace. However, the prospects for a rights-based agenda are, as I shall attempt to demonstrate throughout this text, compromised by the nature of the interventions that purport to uphold them and by the corrosive, long-term effects of prolonged conflict and endemic insecurity.

In contemporary post-conflict situations we encounter the "internationalization" of state-building under new forms of tutelage. This conjuncture presents its own specific set of challenges. Foremost among these is the fact that donor-led institution-building may create entities with juridical sovereignty (and international recognition) but with little *de facto* power to effectively administer national territories and provide law and order.² This poses serious dilemmas of legitimacy and calls for the management of multiple tensions between global and local players and political factions with different degrees of commitment to state-building.

The first part of this paper examines the nature of the claims made for women's inclusion in post-Taliban Afghanistan by analyzing the outcomes of constitutional and electoral processes. The second part explores whether such claims have any purchase in contexts where the rule of law is severely compromised and where the social dislocations resulting from conflict expose women and girls to new and unprecedented forms of violence and insecurity.

Promise of inclusion: "Democratization" and women's rights

The constitutional process in Afghanistan offers important insights into the contradictions resulting from donor-instigated attempts to secure women's rights in the absence of a stable political settlement between an aid-dependent government and a variety of opposition groups. These include jihadi factions committed to a conservative interpretation of the Sharia and who have, so far, shown little inclination to compromise on matters pertaining to the status of women. These contradictions were reflected both in the process and the letter of the Constitution.

After the fall of the Taliban, the international community and the United Nations acted rapidly to bring mujahidin factions and the political leadership in the Afghan diaspora together to agree to an interim power-sharing arrangement. The resulting Bonn Agreement of December 2001 was not a conventional peace agreement, however, since not all the warring parties were represented and it lacked specific and actionable clauses on disarmament, demobilization, and reintegration (DDR). Instead, it was an externally mediated power sharing arrangement between the Northern Alliance and the international community. The Agreement endorsed the establishment of "a broad-based, gender sensitive, multi-ethnic and fully representative government."³

In the period of consolidation that followed, a process hailed as a relative success, synergies were noted between efforts of the international community, government bodies, and women's civil society organizations. On 4 January 2004, a 502-member Loya Jirga approved the new constitution. Afghanistan emerged from this process with a new state structure based on a presidential democracy and supported by a bicam-

Gender issues are becoming politicized to the detriment of women in contexts where armed interventions usher in new blueprints for governance and "democratization."

Using illustrations from Afghanistan, this article shows that the nature of emerging political settlements may jeopardize stated international commitments to a women's rights agenda, especially in contexts where security and the rule of law are severely compromised, where Islam becomes a stake in power struggles, and where ethnic/sectarian constituencies are locked in power struggles for representation in defence of their collective rights.¹

eral national assembly (comprising a lower house-Wolesi Jirga and an upper house-Meshrano Jirga) where the political representation of women became enshrined in law.

Some amendments to the draft constitution were successfully pushed through in the period leading up to the Constitutional Loya Jirga. These amendments included an explicit reference to the equality of men and women before the law (Article 22) and an increase in the participation of women in the Wolesi Jirga from one to two female delegates from each province (Article 83). In addition, Article 7 of the Consti-

tution requires that the state of Afghanistan "abide by the UN Charter, international treaties, international conventions that Afghanistan has signed, and the Universal Declaration of Human Rights." These conventions include the Convention for all forms of Discrimination Against Women that was ratified without reservations in March 2003.

On the other hand, Article 3 on "Islam and Constitutionality" states that, "no law can be contrary to the beliefs and the provisions of the sacred religion of Islam." This article, along with its affiliate which declares Afghanistan an Islamic state, is not subject to amendment. The Constitution gives the Supreme Court the authority to determine whether laws and treaties made by the government are in accordance with the Constitution, giving it the power to reject any law or treaty deemed un-Islamic. Thus, a Supreme Court dominated by religious hard-liners could potentially become an unaccountable body controlling the legislature, executive branch, and electoral system on the pretext of protecting Islam.

Contests over the "Islamic" nature of the state were overshadowed by a central dilemma that threatened to stalemata the proceedings of the Constitutional Loya Jirga; the choice between a strong presidential system versus a parliamentary system. The draft presented by the government proposed a pure presidential system, while the opposition, from jihadi groups and non-Pashtun areas of the country, favoured a parliamentary system.

Both the political stakes around Islam and the fact that different ethnic and political constituencies are locked in struggles of representation in defence of their collective rights substantially erodes the political spaces available to women, except as spokespersons of their communal interests. In fact there is little *a priori* ground for making simplistic assumptions about women's primary commitment to subscribing to a common platform. Indeed, a report by Rights and Democracy claimed that "a majority of the female delegates at the CLJ were affiliated with violent, conservative factions and voted in line with their demands, dividing women in accordance with ethnic, religious, and factional identities."⁴ A sizable proportion of the lower house (Wolesi Jirga) belonging to parties that could be classified as Islamist and jihadis are expected to be the best organized legislative force in parliament. Female members who hold 27% of the seats are not necessarily expected to function as a coherent political group since they are affiliated with parties across the political spectrum.⁵

Lest we imagine that this state of affairs is straightforwardly attributable to the "Islamic" nature of society, let us remind ourselves of the historical trajectory that led to Afghanistan's current predicament. The various parties locked in struggle were consolidated in the process of the Cold War by proxy fought on Afghan soil. Different political factions were financed and armed by various countries with their own political agenda. The mujahidin supported by the United States to rise up against the Soviets also included the Salafist groups promoted by Saudi Arabia

and Pakistan. After the withdrawal of the Soviet Union the country was left to its own devices until the Coalition-led invasion in 2001. In the immediate aftermath of the Bonn summit in 2001, the Coalition continued to distribute arms and money to militia armies to assist them in the ongoing battle against Al-Qaida and the Taliban, while the international community stressed the importance of state-building and of a strong political “centre.”

In summary, the notion that democratization by design may herald an automatic expansion of women’s rights does not stand up to scrutiny. It may be argued, with justification, that any reversal of the policies implemented by the Taliban represented an unambiguous gain. However, reading off substantive rights from state policies and legal frameworks remains a misleadingly limited exercise in contexts such as Afghanistan where the vast majority of women have little or no contact with state, market, or civil society institutions. Furthermore, in contexts where security and the rule of law are totally compromised and impunity on the part of multiple perpetrators of violence holds sway, the notion of rights—for men or women—rings hollow. Before turning to explanations that privilege the role of Islam or local culture to understand the nature of abuses against women in Afghanistan, we would do well to train our analytic lenses on the ways in which the war economy has affected patterns of gender inequality and aggravated gender-based violence.

Gendered legacies of conflict

In contrast to sophisticated analyses of political economies of conflict, in discussions of gender relations and women’s rights we often revert to a world of unchanging tradition and cultural stasis. One of the clear dangers of such an approach is to misrecognize or misinterpret what are, in effect, reactive behaviours of ordinary people as they try to grapple with the uncertainties of everyday life by treating them as mere extensions of local custom. The dynamics of gendered disadvantage, the erosion of local livelihoods, the criminalization of the economy, and insecurity at the hands of armed groups and factions are analytically distinct phenomena. However, their effects combine seamlessly to produce extreme forms of female vulnerability. Attempts at addressing issues of gender justice through institutional and legal reforms fall short of acknowledging these interactions or their long-term effects on deepening the disadvantages of women and girls.

The Soviet invasion in 1979 and the resulting collapse of the state eroded whatever little institutional support existed for women’s public roles and legal rights and the period of insecurity and upheaval that followed acted to annul any formal gains. Between 1979 and 1992 an estimated six million people fled their places of origin, rural infrastructure was decimated, and the Afghan resistance set the scene for the growing influence of Islamist parties and local commanders. By the time the Taliban emerged in 1994, at the height of civil war, Afghanistan was in the grip of endemic lawlessness and human rights abuses of all kinds, including crimes against women. The Taliban came to power with the promise to restore law and order, albeit through a particularly harsh application of Sharia. Taliban policies towards women imposed a virtual state of curfew on women and enforced mandatory covering under the burqah, subject to severe punishments for infractions.

The gender regime imposed by the Taliban represented a major break with “traditional” forms of social control in various ethnic communities across Afghanistan.⁶ Decisions relating to the dress and mobility of women and to relations between the sexes that were previously monitored by households, kinship groups, and community elders could now be mandated by decree and enforced by groups of armed young men, sometimes with little regard for local hierarchies. This did not only oppress women but potentially disempowered non-Taliban men by robbing them of their prerogatives. It would, therefore, be quite unhelpful to present their depredations as either reflections of local culture or routine manifestations of Islamic government.

We should concentrate, instead, on problematizing the different uses of gender-based violence deployed by diverse social actors in Afghanistan. The “privatized” violence exercised by kin groups and families in the service of honour and reputation must be distinguished from sexual violence used as a systematic tool of war to intimidate, despoil, and establish positional superiority, and from the public performances of Islamic retribution (featuring spectacular events such as lashings and executions) deployed by the Taliban as a means of social control. The Taliban were not merely affirming their piety or their im-

plementation of Islamic law, but “were engaged in “staged publicity” that ritually affirmed their power and legitimacy.”⁷

We must also re-examine any preconceived notions about the nature of normative frameworks informing gender relations in Afghanistan. A common assumption is that despite years of conflict support networks based on family and kinship have remained robust and that the existence of this social capital has avoided even higher levels of poverty. However, a crucial consideration in war-torn societies are the growing discrepancies between normative expectations and material realities. When men are no longer able or willing to honour their obligations yet continue to use male privilege to convert the vulnerability of their dependents into material assets, we may witness novel forms of abuse. There is mounting evidence that new patterns of “commodification” of women arise in contexts where indebtedness and dependence on local strongmen and drug traffickers lead to loss of community autonomy and enmesh clients in dependency relationships.⁸ A study of indebted drug traffickers in Badakhshan province shows that women rank next to land in the choice of disposable assets used to settle debts. 32% of the traffickers interviewed reported selling a female relative.⁹ And a study by the IOM shows that young rural women (and children) are subjected to forced prostitution, forced labour, and practices akin to slavery.¹⁰

Interpreting these trends as an expression of “natural” tendencies of the societies in question has the undoubted advantage of disclaiming any responsibility for escalating abuses of human rights by blaming them on “local culture.” A similar logic may authorize a form of double-speak that upholds the principle of gender equality and social inclusiveness in official pronouncements, whilst marginalizing women in the allocation of development aid.

Between the hammer and the anvil

State-building and democracy are the product of long and historically specific processes of political struggle for participation and voice. Civic rights—including the rights of women to participate as equal citizens—are also the product of these histories. The women’s rights and gender “mainstreaming” agenda that informs donor-assisted post-conflict reconstruction packages adopts a technocratic approach to address what are fundamentally political problems. The legal and technical solutions offered by gender mainstreaming may be at odds with the “real politics” of highly volatile and insecure environments where women’s rights and the role of Islam become political stakes in the struggles between contending factions.

The evidence from post-Taliban Afghanistan shows how democracy “by design” can legitimize social forces that are likely to resist the equal participation of women in civic, political, and economic life. This is hardly surprising since state-building does not take place *ex nihilo* but draws upon social forces thrown up by the legacies of conflict which are themselves shaped by complex geopolitical influences.

Above and beyond the political platforms of emerging power holders, however, I have argued that the social changes brought about by prolonged conflict have produced their own transformative dynamic—a dynamic that can neither be fully addressed nor remedied by institutional and legal reforms. In that sense women are caught between the hammer and the anvil; they have to fight both for their formal *de jure* rights that are under constant threat from conservative social forces and for their substantive rights to security and human dignity that have become the casualties of endemic lawlessness and impunity in their societies.

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Notes

1. This article is based on a longer version titled “Between the Hammer and the Anvil: Post-conflict reconstruction, Islam and Women’s Rights,” which appeared in *Third World Quarterly* 28, no. 3 (April 2007): 503–517.
2. R. H. Jackson, *Quasi-States: Sovereignty, International Relations, and the Third World* (Cambridge University Press, 2001).
3. The Bonn Agreement Preamble.
4. L. Oates and I. Solon Helal, *At the Crossroads of Conflict and Democracy: Women and Afghanistan’s Constitutional Loya Jirga* (International Centre for Human Rights and Democratic Development, 2004), 28.
5. A. Wilder, *A House Divided? Analysing the 2005 Afghan Elections* (Kabul, AREU).
6. T. Barfield, “An Islamic state is a state run by good Muslims: Religion as a way of life and not an ideology in Afghanistan,” in *Remaking Muslim Politics: Pluralism, Contestation, Democratization*, ed. R. W. Hefner (Princeton University Press, 2005).
7. J. R. Cole, “The Taliban, Women and the Hegelian Private Sphere,” *Social Research* 70, no. 3 (2003): 782.
8. B. Rubin, “Road to Ruin: Afghanistan’s Booming Opium Industry,” *Centre on International Cooperation* (New York, 2004).
9. I am grateful to Marc Theuss for sharing the findings of a study he carried out in two districts of Badakhshan.
10. International Migration Organization, *Trafficking in Persons: An Analysis of Afghanistan* (Kabul: IOM, 2003).