ISLAM AND STATE-BUILDING IN AFGHANISTAN: WHITHER LEGITIMACY?

by

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ABSTRACT

The current internationally-led state-building mission in Afghanistan faces continued challenges, such as government corruption, a worsening security environment and a dismal human rights situation. These factors have led certain Western scholars, such as Bernard Lewis, to argue that Islam and democracy are functionally incompatible. This paper argues that Islam and democracy are indeed compatible and that the political and social issues threatening Afghanistan’s nascent democracy have little to do with Islam and more to do with decades of warfare and international interference, and the lack of a consolidated vision among Muslims for reconciling Islam and democracy. Afghans need to develop both a theoretical and practical approach to establishing Islamic democracy, and the international community must do its part to secure rule of law, build institutional capacity, and bolster human rights. In doing so, the decades-long crisis of legitimacy in Afghan politics may be resolved.

Keywords: Islam; State-Building; Afghanistan; Legitimacy; Democracy; Identity
DEDICATION

I would like to dedicate this paper to my Grandpa Bill (March 12, 1916 to December 19, 2007) who encouraged my desire to learn more about the world from the very beginning. He maintained a solid understanding of world events as they unfolded until the end of his days. I fully appreciated that he could recommend books to me that would eventually assist my research, and that he maintained a critical and inquisitive mind into his later years.

Having served in the Canadian Navy in World War 2, he inspired me with his stories of the hardships he faced as an officer. He fully supported Canada’s involvement in Afghanistan, and urged me to investigate their involvement further and challenge my early assumptions on the issue. He always adored my ‘plucky’ nature, a trait that he said I shared with his wife, my grandma, who passed before I could know her. In a way, he made me feel close to her, for which I am forever grateful. I know that wherever he is, he is proud that I am pressing on with my studies, and that I remain his ‘plucky girl’.
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CHAPTER 1: INTRODUCTION

“Islam is the backbone of our society, without Islam we cannot create political consensus”¹, said Afghan presidential candidate, Ashraf Ghani during a televised debate in July 2009. As one of almost 40 candidates² vying for Afghanistan’s presidency on August 20, 2009, he, and many other top contenders appealed to Islam to gain political support and legitimate their rule. To that end, ethnic, regional, linguistic and sectarian differences threaten the cohesion of the state, and Islam is believed to be a vehicle to unite the people under one Islamic banner.³ This use of Islam by political and military elites was increasingly visible as the country headed into its second round of elections since the 2001 international mission to oust the Taliban and establish an effective, central government.⁴

Islam first appeared in the territory that would become Afghanistan in the 7th Century and has at times, acted as the single most important unifying factor

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among the varying ethnic, tribal and linguistic groups.\textsuperscript{5} Moreover, when the Soviets invaded in 1979, it provoked the Islamization\textsuperscript{6} of politics and society in Afghanistan. Warlords appealed to Islam for legitimacy to unite the otherwise divided people under one Islamist banner, but their efforts often worsened regional, ethnic and sectarian conflicts.\textsuperscript{7} Finally, the Taliban justified their brutal rule as being an expression of Sharia law. These episodes stalled modernization and undermined attempts at democratization leading some scholars, such as Bernard Lewis to denounce the culture of Islam and democracy as “fundamentally incongruent.”\textsuperscript{8}

However, Muslim scholar, Khaled Abou El Fadl, acknowledges that the aforementioned interpretation of Islam overlooks its inclusive nature, its participatory mechanisms and its openness to reforms.\textsuperscript{9} To that end, he argues “that the tradition of Islamic political thought contains both interpretive and practical possibilities that can be developed into a democratic system.”\textsuperscript{10} In addition, Iranian theorist and activist Abd al-Karim Surush posits that “perhaps

\begin{itemize}
  \item \textsuperscript{5} Wahab, Shaista and Barry Youngerman. \textit{A Brief History of Afghanistan.} New York: Infobase Publishing, 2007.
  \item \textsuperscript{6} Islamization refers to the increased importance of Islamist actors in Afghanistan’s politics. Islamism, in the same vein as Islamic modernism, is a reaction by Muslims to the challenge of the Western models of state and development. A modern political movement, it seeks to take or influence state power in order to enact an ideologically defined program. See Rubin, Barnett R. \textit{The Fragmentation of Afghanistan: State Formation and Collapse in the International System.} 2\textsuperscript{nd} ed. New Haven: Yale University Press, 2002, 86.
  \item \textsuperscript{9} Ibid, 4-5
  \item \textsuperscript{10} Ibid, 5
\end{itemize}
(the Muslim world) can enjoy the freedoms of a modern democratic government without ignoring the existence of God.”

Yet despite the rhetoric surrounding the compatibility of Islam and democracy and its inclusion in the Afghan political sphere, state-building efforts have frequently proven unsuccessful in Afghanistan and strong, representative, effective leadership has failed to take root. This lack of a consolidated, central authority allowed pockets of bad actors to threaten the legitimacy of the state. Moreover, warlords and the Taliban ruled the state tyrannically while appealing to Islam to legitimate their tyrannical rule. Attempts to modernize, and transition to a more participatory regime were short lived and squashed with violence. This seemed to indicate that a fundamental schism exists between Islam and democracy. Thus, the question under examination is: if democracy and Islam are so compatible, why then have state-building efforts proven


12 Charles T. Call and Vanessa Wyeth define state-building as the ‘actions undertaken by international or national actors to establish, reform, or strengthen institutions of the state and their relation to society (which may or may not contribute to peacebuilding). See Call, Charles T. and Vanessa Wyeth. Building States to Build Peace. London: Lynne Reinner Publishers, Inc., 2008., 5

13 For the past 350 years, the international system has been comprised of states, even though most of the 190 states that exist in the present are less than 50 years old. For the purpose of this essay, a state is defined as an entity that is political in nature, defined by an internationally acknowledged territory, is composed of a population that perceives itself as belonging to the state, and sovereign institutions and government operate within that territory which results in the perceived legitimacy of the state. See Goodson, Larry P. Afghanistan’s Endless War: State-Failure, Regional Politics, and the Rise of the Taliban. Seattle: University of Washington Press, 2001. 6


15 This paper uses several authors’ conceptions of democracy who describe it as a political system that protects individual rights, such as freedom of speech, freedom of association, universal suffrage. In addition, it allows for opposition to exist within the participatory electoral system.
unsuccessful, and what are the ways the international community and Afghan government can overcome the perceived incompatibility?

This essay hypothesizes that Islamic democracy is achievable in Afghanistan. The traditions of *ijtihad* (interpretation), *ijma* (consensus), and *shura* (consultation)\(^{16}\) provide outlets for participation, freedom expression and independent judgement that are compatible with democracy. Moreover, the Islamic concept of *ikhtilaf* (disagreement) is interpreted as opposition, which is a fundamental component of a democratic system.\(^{17}\) Nevertheless, political and military elites representing their particular ethnic or tribal identity group often supplanted these traditions in favour of more tyrannical rule thereby undermining attempts to reconcile democratic rule with Islam. Therefore, Muslims need to come up with a consolidated vision for Islamic democracy in Afghanistan, but centuries of repressive rule coupled with political issues that have little to do with Islam have prevented the creation of an indigenous democratic political orientation.

The overall objective of this research paper is to demonstrate that Islamic principles are indeed reconcilable with democracy but that Muslims themselves need to elaborate theoretically on how to create Islamic democracy in Afghanistan. The second part of the paper’s argument is that in order for the international community and the Afghan government to successfully install

\(^{16}\) Diamond, Larry Jay, Marc F. Plattner and Daniel Brumberg eds. *Islam and Democracy in the Middle East*. Baltimore: Johns Hopkins University Press, 2003., 248

Islamic democracy in Afghanistan, they will need a new strategy to strengthen rule of law, build a more functional Afghan institutional capacity and establish an accountable human rights framework.

### 1.1 Research Design and Methodology

In order to overcome the lack of ‘links’ between Islam and state-building in the existing literature, this essay relies on a multidisciplinary approach to answer the question identified earlier in Chapter 1. Thus, the paper draws upon secondary sources, such as books, journal articles, official United Nations documents, policy papers from the Lichtenstein Institute on Self-Determination, conference papers and newspaper articles. The research project includes a brief analysis of Afghanistan’s state formation and subsequent destruction, the origins of its crisis of legitimacy, and the international community’s attempts at improving political legitimacy through building democratic governance in developing countries.

This paper adopts a “state-building” approach, also referred to as the “peacebuilding” approach, which argues that for centuries, “scholars and practitioners (...) have sought to improve our ability to end wars. Civil wars – historically more difficult to settle and keep settled – now comprise 95 percent of the world’s armed conflicts. Even where countries go to war with one another, (as in the case of Afghanistan) internal conflicts and external war making become intermingled in messy ways.”\(^{18}\) Moreover, the state-building approach recognizes that the hundred of millions of people rendered disenfranchised from the

\(^{18}\) Call, Charles T. and Vanessa Wyeth., 1
economic and political system by intrastate and interstate warfare “want in, not out.”¹⁹ Thus, the state’s capacity to maintain rule of law and provide basic services for its citizens must be strengthened through state-building which Francis Fukuyama defines as “the creation of new government institutions and the strengthening of existing ones.”²⁰ There are risks to this approach, namely that failed state-building “represents one of the worst risk factors for new wars.”²¹ Therefore, it is crucial that state-building missions avoid pursuing policies that may provoke future conflicts. In doing so, international authorities, such as the UN can ensure the perceived legitimacy of their interventions and garner continued support.

The paper begins with a historical analysis of early state-building attempts in Afghanistan in order to determine how Islam has featured in the country’s politics. Early state-building attempts failed at mobilizing Islam to unite the people under the banner of Islamic democracy, resulting in a rise of Islamism and the fracturing of the state. Finally, the Taliban emerged in the early 1990s seeking to violently expel all traces of foreign presence and purify Islam in the country by forcefully imposing their strict application of Sharia.²² This section concludes that although Islam appears as a source of conflict, other political issues that have little to do with Islam lead to the crisis of legitimacy that plagued the Afghan state for most of its history.

²¹ Call, Charles T. and Vanessa Wyeth., 1
²² Goodson, Larry P., ix
The following chapter analyzes the role of Islam in the daily lives of Afghans as well as in the political sphere. In effect, Islam appears at time to prevent Afghanistan’s transition to a modern society. Furthermore, according to Barnett R. Rubin “the political form of modernity is the territorial nation-state.” A feature of such nation-states is that they are rights-based and appeal to a codified rational-legal framework for legitimacy; meanwhile states that have not yet transitioned into a modern society often turn to less centralized traditional customs to guide society. This chapter argues that in order for a state to transition to the modern form, it needs a degree of political unity.

In theory, Islam is supposed to provide the basis of identity for the Afghan people and a common heritage for its followers, which lead some actors to believe that it can be used to cultivate civic nationalism. This chapter argues that creating civic nationalism requires that all Afghans can participate in the country’s political process. However, identity communities splinter along tribal or ethnic lines, which have prevented the formation of a national identity. Furthermore, despite the inclusive nature of the Islamic principles of shura, ijtihad, ijma, and ikhtilaf, democracy has proved difficult to establish in Afghanistan. Thus, this chapter argues that Muslims must first establish a theoretical precedence for Islamic democracy, before it may be realized in practice.

The final chapter analyzes the present international state-building effort in Afghanistan by first examining the importance of a state’s legitimacy in the

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international system. The chapter relies on Max Weber’s definition of a state is supported and built upon by state-building theorists. According to Max Weber, a state is “the collection of institutions that successfully claims the monopoly on legitimate authority and use of force over a given territory.”\textsuperscript{25} Since the welfare of human beings degrades if a state fails to do so, this chapter supports the human security argument, which posits that a state will lose its right to sovereignty if it proves unable or unwilling to provide basic services to its people, and the international community is expected to intervene through military, economic and political channels.\textsuperscript{26} It argues that the dismal human security situation created by the Taliban’s tyrannical rule, coupled with their support for the terrorists who attacked the US in the 9-11 terrorist attacks necessitated the international intervention. Next, an examination of current state-building efforts reveals that the international community is trying to bolster its perceived legitimacy by including as many Islamic actors as possible. Creating local ownership of the state-building process is believed to be a vehicle to improving governance in Afghanistan, since reciprocal participation creates an environment of legitimacy.\textsuperscript{27} To illustrate this point, this paper contends that country has upheld the stipulations of the 2001

\textsuperscript{25} Quoted Call, Charles T. and Vanessa Wyeth., 7
\textsuperscript{26} Ghani, Ashraf and Clare Lockhart., 7
Bonn Agreement, and subsequent 2006 Afghanistan Compact\(^\text{28}\), which demonstrates that the people are willing to work with the international community to establish rights-based authority in Afghanistan. Nevertheless, there remain many barriers to democratization, therefore this chapter argues that the international community and Afghan government will need to develop a new strategy to improve rule of law, strengthen institutional capacity and install a steadfast human rights regime.

\(^{28}\) The 2001 Bonn Agreement established an interim authority in Afghanistan after the US, NATO and UN mission deposed the Taliban. The Agreement also called for the creation of a new constitution in 2004. See UNAMA, <http://unama.unmissions.org/Portals/UNAMA/Documents/Bonn-agreement.pdf> The Afghanistan Compact sought to build upon the Bonn agreement and “resolved to overcome the legacy of conflict in Afghanistan by setting out conditions for sustainable economic growth and development” by “strengthening state institutions and civil society; removing remaining terrorist threats; meeting the challenge of counter-narcotics; rebuilding capacity and infrastructure; reducing poverty; and meeting basic human needs.” See UNAMA, <http://unama.unmissions.org/Portals/UNAMA/Documents/AfghanistanCompact-English.pdf>
2: HISTORICAL ANALYSIS OF STATE-BUILDING EFFORTS IN AFGHANISTAN

The aim of Chapter 2 is to provide a background of the crisis of legitimacy that has plagued Afghanistan’s statehood for decades through a historical analysis of its state formation. Reviewing Afghanistan’s early attempts at building a strong central state reveals that leaders rarely maintained a monopoly over the legitimate use of force within their territory and failed to establish a system of citizenship rights and accountability. Moreover, rulers failed at mobilizing Islam to create national unity while undertaking reforms, squashed opposition from rival ethnic and sectarian groups with violence and repression and overruled time-tested channels of political participation resulting in a series of crises of legitimacy. A brief description of the Soviet Invasion and subsequent civil war reveals that political and military elites attempted without success to make Islam the basis of their legitimacy claims. Finally, an analysis of the case of the Taliban further demonstrates that the Afghan state failed to mobilize Islam to maintain a monopoly over the legitimate means of violence and create a system of accountability between the citizens and the guardians of state power.
2.1 Afghanistan’s Early Statehood

Afghanistan has only officially existed as a de jure nation-state since 1919, but “Afghans” have occupied that same territory for thousands of years.\(^{29}\) Foreign empires ruled Afghanistan until 1747 when Ahmed Shah founded the Durrani Empire. Since then, the Afghan people lived under native rule and their rulers managed to undermine Persian, Russian and British invaders often at great cost. This isolation laid the foundation for a united Afghan identity that might transcend tribal and ethnic loyalties. However, in the past three decades civil war, terrorism, revolution and foreign intervention by Russia, Pakistan, the Arab world and the United States have created internal strife and threatened national unity.\(^{30}\)

Thus, an analysis of Afghanistan’s state formation is important since it will illuminate why strong, central leadership has historically been difficult to establish in Afghanistan. Military Historian Stephen Tanner explains that “possession of Kabul does not translate into control of the entire country; but no one can hope to rule Afghanistan without holding Kabul.”\(^{31}\) This is because in the country’s more mountainous regions, tribes are governed on a feudal basis which is legitimated through local traditions, making the country difficult to rule as a united whole. In essence, political participation occurs at the local level between the people and their village or district representatives.\(^{32}\)

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\(^{29}\) Goodson, Larry P., 23
\(^{32}\) Tanner, Stephen., 3
Despite the tremendous ethnic, tribal and linguistic diversity, “certain qualities bind Afghans together. Religion is the strongest unifying factor, but many other social customs and traditions are shared among varying groups, as are many economic technologies and patterns.” Moreover, Islamic law and customs are widely practiced by Afghans. However, ethnic and tribal groups use tribal codes and customs as well as traditional structures, such as the loya jirga to regulate their daily lives. Therefore, creating national unity under the banner of Islam proves difficult in Afghanistan, because Afghan society is splintered along ethnic, tribal, sectarian and regional lines, and local, tribal customs come into conflict with national policies, which prevents a strong, national government from taking root.

Nevertheless, Habibullah Khan began securing independence for Afghanistan in 1901 by first granting latitude to khans in local governance, scaling back military conscription and allotting to the clergy a greater influence in politics, for which they “acknowledged his divine legitimacy.” Thus, representatives of local and traditional power bases could infiltrate the incipient central bureaucracy established by his father. However, by co-opting local

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33 Wahab, Shaista and Barry Youngerman.,13
34 According to M. Janil Hanafi, “the loya jirga at the disposal of the Afghan government at times of major crises. Essentially, the loya jirga is a framework in which the Afghan state has adopted distortions of Western ideas of popular representation in the government and have attached to them Paxtu labels. The loya jirga has functioned to confirm the legitimacy of the ruler, his government, and their policies and actions. In reality, little about the Afghan monarchy was tribal or Paxtun, and nothing about the loya jirga was meaningfully representative of the people of Afghanistan or of free, open, and uninhibited debate about the issues facing the state.” See, Hanafi, M. Janil. “Editing the Past: Colonial Production of Hegemony Through the “Loya Jerga” in Afghanistan.” Iranian Studies. 37.2 (2004): 295-322. 297. Note, Hanafi spells “loya jirga” with an ‘e’ and capitalizes it, for this paper, I will use the more common spelling with an ‘i’ and lower case, unless referring to specific loya jirgas. “Shura” is often used to describe a similar consultative council to the loya jirga, see Hanafi 299.
35 Wahab, Shaista and Barry Youngerman., 98
maliks\textsuperscript{36} into government roles, they could block unpopular decrees, either out of loyalty to the community they represent, or to secure bribes. In addition, local khans, major landowners and elected tribal officials could become regional governors or district officials. This laid the foundation for a vast patronage network that reinforced traditional power structures at the expense of creating a strong, effective central government.\textsuperscript{37} Still, Habibullah sought to secure complete independence in Afghanistan’s foreign policy from the British, but was assassinated in 1919.\textsuperscript{38}

Amanullah Khan, Habibullah’s third son ascended the throne with a clear set of goals, the first of which was to realize father’s vision of an independent Afghanistan. In addition, he sought to modernize the country in a similar manner as Turkey’s Kemal Ataturk. Amanullah embarked on a nation-building campaign. The 345 distinct tribal entities fought each other for political power but eventually resolved to build a strong central government.\textsuperscript{39} Inspired by a tour of the Western world, he sought to distance Afghan politics from Islam. To that end, he allowed women to appear in public without the veil, implemented a secular code of law, ended parents’ rights to betroth their children, permitted women to travel for their education, and fired government employees who had more than one wife. In contrast to these attempts to modernize Afghan society, he also drafted a constitution that secured his place as the absolute pashah, or king, and

\textsuperscript{36} Shaista Wahab and Barry Youngerman defines maliks as village chiefs chosen by male heads of households. See Wahab, Shaista and Barry Youngerman., 98
\textsuperscript{37} Ibid, 98-99
\textsuperscript{38} Ibid, 102
\textsuperscript{39} Goodson, Larry P., 27
institutionalised only hereditary succession. The constitution also limited the power of religious judges and instituted an independent court system that issued new civil, commercial and penal codes, and outlawed the practice of blood money. Nevertheless, his reforms, especially in the area of education and legal reform won the support of Afghan intellectuals, but antagonised political traditionalists and hardly registered in the rural countryside.\textsuperscript{40}

Moreover, he cut military pay and troop levels, thereby alienating the one force that might have protected him against a rebellion.\textsuperscript{41} Prominent clerics began accusing him of abandoning Islam, so he executed the chief religious judge of Kabul and other mullahs, and jailed the Hazrat Sahib of Shor Bazaar, who was considered by some to be the most respected cleric in Afghanistan. In response to this, the Shinwari tribe near Khyber staged a rebellion and destroyed the royal palace and a resistance movement headed by a Tajik bandit named Bacha-i-Saqao threatened from the north. Amanullah rescinded his reforms, freed the political prisoners and abdicated in 1929 giving power to his half-brother.\textsuperscript{42}

However, the resistance movements had grown too strong and the royal family fled in exile. The army and monarchy collapsed leaving Bacha to take Kabul and install a government that comprised mostly of his friends and family. His supporters took control in Heart, Mazar-e Sharif, and Kandahar, which resulted in an entrenching of patronage networks that are divided along ethnic,

\textsuperscript{40} Wahab, Shaista and Barry Youngerman., 106
\textsuperscript{41} Ibid, 109
\textsuperscript{42} Ibid, 109
tribal and sectarian lines that would threaten state cohesion for most of the country’s history.\textsuperscript{43}

In addition, the new government cancelled Amanulah’s reforms, “handing education and the courts back to religious authorities, closing many schools (…), girls who had just the previous year begun to study in Turkey were recalled, libraries were destroyed and rare manuscripts burned.”\textsuperscript{44} Thus, the first attempt at state-building in Afghanistan failed because attempts at modernization were met with widespread opposition, ethic and tribal loyalties superseded national unity, and there was little consensus amongst early leaders about how national politics should be carried out. Finally, attempts to mobilize Islam to unite the Afghan people under one flag, failed to produce a community of believers that transcended ethnic and tribal ties, because many early reforms “threatened religions and traditional sensibilities.”\textsuperscript{45}

Nadir Shah put the country back on the modernization track by building roads, trying to create a national army, and attempting to establish the country’s first university. Moreover, he implemented some procedures to codify accession to the throne. To that end, he called to order a loya jirga to approve his right to rule and drafted a new constitution that “gave official status to the laws of the Hanafi school of Sunni Islam.”\textsuperscript{46} His reforms represented some steps toward creating a more representative, democratically inspired government. However, the constitution provided room for very little political participation, since it would

\textsuperscript{43} Ibid, 109
\textsuperscript{44} Ibid, 110
\textsuperscript{45} Ibid, 103
\textsuperscript{46} Ibid 110
have allowed him and his family to rule indefinitely. Thus, despite taking certain steps toward creating a more representative and participatory government, Shah’s rule was too tyrannical to create the foundation for democratic governance.

The end of World War 2 created an East-West ideological divide, and raised the scope of potential international conflicts; however, for the developing country, it meant they could expect substantial financial assistance as the superpowers competed for Afghan allegiance. In effect, by the 1950s, the Mohammed Daoud Khan regime required assistance with dealing with Pakistan and to overcome the economic underdevelopment brought about by being ignored by the US. The Soviets assisted Afghans in building roads, dams, schools, airfields, even irrigation systems.

Meanwhile, Americans provided aid and expertise to the South by damming the Helmland River, and building an airport in Kandahar, believing it would become a valuable stopover between the Middle East and India. The airport project raised Afghan and Soviet suspicions that development was not the only motive behind the US’s state-building effort, and eventually in 2001, the Kandahar airfield became the US’s base of military operations for Operation Enduring Freedom. In both cases, securing a sympathizer in the region motivated the two superpowers, and their presence only exacerbated regional, ethnic and sectarian tensions.48

47 Goodson, Larry P., 50
48 Tanner, Stephen., 226
The relative stability the American and Soviet assistance provided in the 1950s allowed rulers to attempt democratization in the 1960s. The royal family forced Mohammed Daoud to step down so they could attempt to implement a more liberal constitution, and decentralize power in order to curb the central government’s tendency to rule ruthlessly. Nevertheless, history has demonstrated that when a regime transitions from “harsh autocracy to liberal freedoms”\(^{49}\), it risks “unleashing pent-up frustrations, including more energy and fanaticism than would have been present in a traditionally open society.”\(^{50}\) In Afghanistan, traditional sources of authority came into conflict with new, rights-based authorities.

Shah’s “quazi-democratization”\(^{51}\) was considered “culturally provocative”\(^{52}\) to most of the more traditional factions in Afghan society. In the case of 1960s Afghanistan, over 90% of the population was illiterate, so the stipulations of Shah’s new constitution hardly registered with the self-governed countryside, and only appealed to students at Kabul University or those who were educated abroad.\(^ {53}\) Moreover, Shah had neglected to consult local authorities would could have explained the new constitution to their village or district.\(^ {54}\) The constitution included a clause that limited Daoud’s ability to return to power, so he staged a coup with the help of the Soviets and reclaimed Kabul in 1973.\(^ {55}\) In addition, he

\(^{49}\) Ibid, 228  
\(^{50}\) Ibid, 228  
\(^{51}\) Chesterman, Simon., Michael Ignatieff and Ramesh Thakur eds., 198  
\(^{52}\) Ibid, 198  
\(^{53}\) Tanner, Stephen., 226-228  
\(^{54}\) Goodson, Larry P., 51  
\(^{55}\) Chesterman, Simon., Michael Ignatieff and Ramesh Thakur eds., 198
abolished the monarchy and declared a republic for the first time in Afghanistan’s history. Nevertheless, Daoud’s coup represented the last in a series of turnovers with one ambitious relative replacing another. In response, revolutionary circles grew more steadfast in their resolve to transform every aspect of their country’s culture and society, often at the expense of building democratic governance and national unity.\(^{56}\)

Both Shah and Daoud’s regimes expanded central power to beyond the major population centres “through traditional processes of coercion, co-optation, patronage-building, foreign aid and the provision of basic services.”\(^{57}\) However, Daoud was not a democrat, but an “autocratic, nationalist modernizer with a socialist mode of development.”\(^{58}\) He neglected to promote the representation required to create legitimate central governance by failing to establish neither integrative nor federative mechanisms for participation.\(^{59}\)

Still, the democratization efforts of the 1960s created a small, but influential class of intellectuals committed to the idea of changing Afghanistan dramatically. These early Islamists, who made their base at the University of Kabul, sought to modernize Afghanistan while upholding the values and ethics of Islam as they interpreted them. To them, previous attempts at modernization tried to emulate the secular West, which was counterintuitive to Afghanistan’s nature as an Islamic state. However, they also recognized that education and investment in industry could relieve some of the country’s problems related to its

\(^{56}\) Wahab, Shaista and Barry Youngerman., 129
\(^{57}\) Ibid, 198
\(^{58}\) Ibid, 198
\(^{59}\) Ibid, 198
endemic poverty. To that end, all Muslims, including women and girls, were encouraged to pursue education as far as they wanted and often went out in public without their burqas, risking acid attacks at the hands of fundamentalists. The objections to the 1950s and 1960s Islamic revival movements demonstrate that their influence was “felt among the small group of educated young, rather than in the population at large.” Moreover, many Muslims outside of the University of Kabul where Western influence was most prevalent did not question their own piety, thus they did not recognize the need for “re-Islamization.”

Eventually, in 1975 a group of Islamists staged a coup but failed and were exiled to Peshawar. Thereafter, the modernist Islamist faction disappeared from Afghanistan’s politics. The quick diffusion of the Islamist modernizer movement represents a common trend in the Muslim world where rulers must choose between imposing policies of repression and allowing greater popular participation. If they opt to restrict democracy and participation, they risk being overthrown; however, if they open the political system to elections, they risk being defeated. In the case of Afghanistan, leaders opted for violent repression when the people demanded a more representative government. This undermines the state’s legitimacy, as it turned violence against its own people. To illustrate this point, soon after the failed Islamist rebellion, Daoud ordered the arrest of all

61 Ibid
62 Ibid
63 Ibid
64 Esposito, John L. and John O. Voll., 3
communist party leaders that led to a violent communist takeover in 1978. However, they quickly lost power due to internecine conflict that resulted in the subsequent 1979 Soviet invasion.\textsuperscript{65}

Furthermore, in response to the Soviet invasion political and military leaders opted for violence again. The mujahideen banded together and called upon all Afghans to take up arms against the Soviet incursion. Despite regional, tribal and sectarian differences, Afghans united to fight the foreign invader, but without such external pressure, the country has historically remained in a state of constant internal conflict.\textsuperscript{66} The arrival of warlords to the political scene and their subsequent violent skirmishes to hold Kabul further undermined the previous attempts at democratization and prolonged the central government’s crisis of legitimacy.

One final tragedy of this time is that Afghanistan is not naturally a poor country, contrary to current appearances. It has large mineral deposits, including copper, marble, oil and gas and precious and semi-precious stones. Moreover, in the 1970s, it was one of the world’s largest exporters of dried fruits and nuts, so if the internal market system had been improved it could have become a significant exporter of minerals, polished stones, jewellery, textiles and fruit products. The economic gains from these exports could have been used to turn Afghanistan into a well functioning state by investing in infrastructure and creating a growth

\textsuperscript{65} Goodson, Larry P., 51-53
\textsuperscript{66} Tanner, Stephen., 4
generating market. Nevertheless, rulers opted to pursue policies that ensured their private gain at the expense of public interest.\textsuperscript{67}

Moreover, the tendency of political and military elites to use violence and patronage networks to rule disrupted economic production, hindered the free movements of people and undermined political certainty. Charles T. Call and Vanessa Wyeth refer to this phenomenon as “reverse development”\textsuperscript{68}, or impoverishment that is difficult to overcome. Afghanistan’s descent into extreme poverty in the 1980s and 1990s illustrates this tragic situation.

In sum, early state-building exercises in Afghanistan were undertaken without consulting local authorities, without regard for the will of the people, and with little to no respect for public interest. Moreover, attempts to mobilize Islam to create national unity often resulted in deepened ethnic conflict and demonstrations to demand greater political participation were quelled with violence and brutality. All of these factors lead to a crisis of legitimacy in Afghanistan’s politics that would be further exacerbated with the arrival on the political scene of the warlords.

\textbf{2.2 The Warlordization of Afghanistan}

The Soviet invasion “led to extensive political, economic and social fracturing of the Afghan state.”\textsuperscript{69} As a result, after the 1988 Soviet withdrawal the warlords had little else but Islam to legitimate their claims to rule. Islam gained an

\textsuperscript{67} Ghani, Ashraf and Clare Lockhart., 75-76
\textsuperscript{68} Call, Charles T. and Vanessa Wyeth., 2
\textsuperscript{69} Chesterman, Simon., Michael Ignatieff and Ramesh Thakur eds., 199
increased presence in Afghanistan’s politics; however, it would take on a different shape than that of the previous Islamists. The religious resurgence in response to the Soviet invasion was part of a larger phenomenon in the Muslim world. John L. Esposito expands on this point:

Religious resurgence and democratization are two of the most important developments of the final decades of the twentieth century. In many areas, movements of religious revival coincide with and sometimes reinforce the formation of more democratic political systems. In other areas, the two dynamics are in conflict.  

Esposito’s description of trends in the Islamic world is relative to the case of Afghanistan, because the warlords sought to consolidate their rule by appealing to Islam for legitimacy and halting attempts at democratization. The Islamic revolutionaries rejected the previous steps taken toward democracy, and sought to dismantle society and rebuild it in their religious image. To them, there is no separation between religion and politics; moreover, Islam uses its own system of politics and economics, so Muslims must use these Islamic systems to return to the unity it is believed existed under the earliest caliphates. To that end, the government acknowledged the supremacy of Islam in the 1980 constitution and attempted to “make religion work in the service of the state” by created a Department of Islamic Affairs and offering economic incentives to mullahs and ulemas. Nevertheless, this unity was more mythical than factual, so aspiring to recreate it only further exacerbated tensions.  

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70 Esposito, John L. and John O. Voll., 3  
71 Wahab, Shaista and Barry Youngerman., 163  
Moreover, the warlords effectively destroyed existing state structures and halted the country’s transition to democracy. To illustrate this point, A. Giustozzi and D. Orsini explain how the military elites undermined local authority structures and instituted a patronage regime that stalled democratization.

The military leaders dominated the local communities, to the extent that the local population called them ‘rulers’. (Their) main concern was therefore with the distribution of patronage necessary to keep them on board. They were always privileged in the distribution of resources, at the expense of civilians. They had become ‘new khans’, assuming the power and attitudes of former elites. They could often bypass the qazis (judges) and try people themselves, or in any case interfere in the execution of sentences.73

Orsini and Giustozzi’s description of the warlord’s patrimonial regime in Afghanistan demonstrates that by usurping local authorities and community ties to install patronage networks, Afghanistan was left shattered, impoverished and without legitimate leadership. Warlords and their accompanying ethnic groups vied for power to the detriment of the Afghan people, the functioning of the state and regional stability. Factions fought to occupy ministerial buildings, but possession seldom accompanied any legitimacy leading to a weak and unconsolidated central power in Kabul.74 Moreover, the warlords, Islamic extremists and drug traffickers overruled public interest and sought to modify the Afghan state to their own benefit.75

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75 Goodson, Larry P., ix
Finally, the war rendered civil society in Afghanistan vulnerable, so the warlords used Islam as a legitimiser which meant it acquired a greater importance in shaping the country’s national politics than in most other societies. Still, Afghan society was not homogenous enough for people to build trusting relationships outside of their tribe or village. Thus, early 1990s Afghan politics was characterized by a dearth of central authority and ordinary politics with warlords filling the void.

### 2.3 The Taliban

Islam gained even more influence in local and national politics with the rise of a more extreme group of Islamists, known as the Taliban. The movement began when a local strongman in the South brutalized several girls in the summer of 1994, which prompted the local population to appeal to a mullah, named Mohammed Omar for help who responded by mobilizing his religious students. The gang of students executed the strongman and intimidated those who remained loyal to him. Locals responded by calling on the students for security when they experienced violence at the hands of lawless bandits. In effect, local support for the movement seemed to grow in proportion to the society’s need for order.

Furthermore, the Taliban introduced a campaign to purify the Islamic country of the remnants of decades of foreign scourges that won over the local Shaikh, Farzana., 595


78 Tanner, Stephen., 65
population rendered weary by their Cold War and civil war experiences.\textsuperscript{79}

However, the mullahs who taught in the madrassas confused Pashtun custom with Islamic law, especially considering gender roles.\textsuperscript{80} In addition, they sought to consolidate their power by erasing the public memory of the civil war, so they appealed to a myth of a purified Afghanistan, steeped in Sharia\textsuperscript{81} traditions, for legitimacy. By September 1996, the Taliban seized Kabul and implemented arguably the most severe Islamist regime the world had seen. In effect, they were more interested in theology than state-building. Their aim was to reform the society through the imposition of sharia, but they went further than the Islamists did by presuming that state boundaries were artificial constructs and by seeking to unite a universal community of believers under their organizational framework. Their programme of Islamization targeted both local and national constituencies, and did not hesitate to use violence to eliminate competitors.\textsuperscript{82}

Finally, the lack of legitimate leadership during the Afghan civil war allowed their “transnational Islamic religio-political networks to compete with national states as sources of patronage.”\textsuperscript{83} In effect, the Taliban supplanted local customs, tribal beliefs and divergent Islamic practices in favour of their sharia based application of Islam, making it the sole source of legitimacy. As a result,

\textsuperscript{80} Wahab, Shaista and Barry Youngerman., 205
\textsuperscript{81} Sharia law is a body of Muslim religious law that is founded in the Quran and in the statements and actions of the Prophet. Muslim jurists believe it upholds the criteria for justice and legitimacy within a given system and binds both rulers and the ruled. See El Fadl, Khaled Abou, Cohen, Joshua and Deborah Chasman eds., 3
\textsuperscript{82} Shaikh, Farzana., 597
\textsuperscript{83} Ibid, 597
the people were once again excluded from using local channels to pursue any meaningful participation in the political sphere.

Nation-building under the Taliban meant tearing down what little remained of the post-Soviet state in order to remove any impurities\textsuperscript{84}, and replacing it with Islamist structures. Mullah Omar placed himself at the top of the Taliban ranks and although he did not meet with foreigners or leave Kandahar, he made all the final decisions for the Taliban government and was reluctantly endorsed by the Supreme Shura. Perhaps the most devastating change to the Afghan political landscape during the Taliban reign was the ‘brain drain’ that left the country without a secular, or even moderate voice, and purged ministries of their best administrative and technical minds.\textsuperscript{85}

The Taliban further destroyed the Afghan state by taking aim at traditional and local sources of authority. Their strict application of Sharia forced women to adhere to the rigid conceptions of morality and propriety promoted by paltry mullahs who interrupted or completely obliterated local and time-tested channels and mechanisms of authority.\textsuperscript{86} For example, the Taliban imposed their own form of harsh corporal punishment in Helmland province where a “traditional Pashtun system of dispute resolution based on mediation, honour and consensus”\textsuperscript{87} existed for centuries without consideration for local views or customs concerning justice.

\textsuperscript{84} Montgomery, John D. and Dennis A. Rodinelli eds., 56
\textsuperscript{85} Goodson, Larry P., 115; 129
\textsuperscript{86} Ibid., 90
The international community took note of what was going on the country as early as 1998, specifically because of the regime’s rigid interpretation of Sharia law which focused heavily on controlling women’s behaviour and activities in public, most often to their detriment. Legitimacy in the West is rights-based in the sense that the sovereign has to earn the right to rule by first upholding the rights of the citizens. The Taliban deprived their subjects of many of the most basic human rights, which angered the West. In addition, the UN and international relief organizations found their working environment to be increasingly hostile and eventually withdrew in 1998.\(^8\) During their fighting phase, the Taliban were suspected of having massacred non-Pashtun ethnic minorities which provoked even more international scrutiny. Moreover, the US stiffened their stance toward the country when anti-US terrorist Osama Bin Laden reappeared on the scene after vanishing for most of 1999.\(^9\)

Still, the US had its hands full in the Balkans and was reeling from its nation-building disaster in Somalia and the Taliban remained hostile toward the UN and refused negotiations. The neglect the international community afforded Afghanistan would prove disastrous when on September 11\(^{th}\), 2001, terrorists trained by Osama Bin Laden in Afghanistan hijacked American Boeing 747 passenger planes and flew them into the World Trade Centre and the Pentagon killing over 3000 civilians. In order to maintain the support of the people while they carried out their training and planning, the terrorists marketed themselves as the representatives of the laments of the underprivileged and browbeaten in the

\(^{8}\) Goodson, Larry P., 79  
^{9}\) Ibid, 83
Islamic World. These claims were shallow, since many of the 9-11 terrorists were middle class and Osama Bin Laden is a millionaire, so they were absconding with local grievances to lend legitimacy to the violence they propagate.\textsuperscript{90}

The US went to the UN and asked for a self-defence resolution to legally topple the Taliban and capture Osama Bin Laden in retaliation for the losses it suffered. In October 2001, US forces invaded Kabul and the Taliban quickly fled to the Pashtun southwest. Nevertheless, the idea of a consolidated international reconstruction and state-building effort remained absent from discussions until much later.\textsuperscript{91} In the meantime, the country continued to suffer its usual set of ills, absent political leadership, ethnic and sectarian tensions, severe economic underdevelopment and a dismal human security situation.

The international community was undoubtedly affected by neglecting to respond to the Taliban regime, but Afghanistan was equally worse off. During the Taliban reign, average life expectancy dropped off to an abysmal 47 years, infant and maternal mortality rates skyrocketed because the Taliban hindered women’s access to healthcare. Per capita incomes plummeted to virtually nothing for some families, who lost their homes, farms, land and jobs in the post-Cold War fighting. State structures, such as welfare, education, transportation, and communication systems disintegrated which exacerbated existing social problems.\textsuperscript{92}

\textsuperscript{90} Ignatieff, Michael. \textit{Empire Lite: Nation-Building in Bosnia, Kosovo and Afghanistan}. Toronto: Penguin Canada, 2003., 6-7
\textsuperscript{91} Stein, Janice Gross and Eugene Lang., 10-11
\textsuperscript{92} Goodson, Larry P., 88
All these factors converged to allow a new set of elites with few governing skills to rule by the barrel of a gun and with a misguided religious doctrine imported from abroad without being perceived as legitimate by local or international actors.\(^{93}\) As a result, democracy in Afghanistan seemed like a distant, even unachievable vision for it appeared to be irreconcilable with Islam.

### 2.4 Concluding Remarks:

To conclude Chapter 2, an analysis of Afghanistan’s early history as a state revealed that strong central leadership was never established, because the local population never saw central powers as legitimate. Leaders failed to mobilize Islam to create unity, and modernization attempts confused and alienated more traditional factions of society. Furthermore, after the Soviet invasion, warlords supplanted local customs in favour of a patrimonial regime that benefited no one but themselves and whichever ethnic group they claimed to represent. Finally, the Taliban introduced a severe interpretation of Sharia to Afghanistan by overruling all other sources of authority and participation. These factors contributed to the failure of the Afghan state and its crisis of legitimacy.\(^{94}\) An examination of the perceived incompatibility of Islam and democracy will follow.

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\(^{93}\) Ibid, 90

3: ISLAM, LEGITMACY AND DEMOCRACY

“[Islam] demands loyalty to God, not to thrones. . . . The ultimate spiritual basis of all life, as conceived by Islam is eternal and reveals itself in variety and change. A society based on such a conception of Reality must reconcile, in its life, the categories of permanence and change.” \(^{(95)}\) (Allameh Mohammad Iqbal Lahori)

Chapter 3 seeks to identify the ways in which Islam serves as the basis of identity among the many diverse groups that make up the nation. In theory, Islam provides its followers with a common heritage and a community to which they belong. However, an explanation of how Afghan society splinters along ethnic, tribal, linguistic and sectarian lines demonstrates that ethnic, tribal, linguistic and sectarian cleavages prevent the formation of a national identity. Second, an examination of Islamic values indicates that they encourage participation, freedom of speech and opposition; nevertheless, a consolidated vision of how to install Islamic democracy is needed to unite the Afghan people under a legitimate, representative state.

3.1 Islam and Identity

The historical analysis of Afghanistan’s state-formation and early state-building attempts undertaken in Chapter 2 reveals that although Islam is an important feature of Afghan politics and daily life, it has not succeeded in uniting the people under one national identity. In order to understand how Islam is a

feature in politics in Afghanistan, it is important to understand how it features in everyday life. According to Barnett R. Rubin:

The Islam of Afghanistan is part of an entire civilization. Besides the classical heritage of the Qur’an that civilization encompasses the poetry of Persia, the military feats of the Timurids, Uzbeks, and Mughals, the reinterpreted philosophy of the Greeks, whose heritage the Muslims kept alive when it was forgotten in Western Europe, and all the arts-miniature painting, carpet weaving, architecture, jewelry, calligraphy-of the Indo-Turco-Persian Islamic world (...). Islam is the source of universal values and ethics that give life a transcendent meaning. It is through debate about religious principles that the peasant tries to understand the foreign visitor, and this same peasant knows that membership in the community of Islam (the umma) makes him or her a member of a supranational fellowship and a participant in world history. Many villagers express this allegiance through orthodox forms of piety: daily prayer alone or in the neighbourhood mosque and communal Friday prayer in the central mosque. 96

Despite providing a framework of values and ethics for Afghans, Islam has not been the unifying force many predict it would be. In effect, “the marriage of religion and politics is unique in Afghanistan, where rather than producing a unified Muslim state it has tended to have a splintering effect. Muslim Sunni (80%) and Shi’a populations (20%) in the country divide along class and ethnic lines, relegating religious to political solutions that are otherwise inimical to Islam.” 97

In fact, two trends have dominated the country’s history, one of attempts at modernization, and the other of tribal and ethnic particularism. 98 Prior to the arrival of the Taliban, the country “has consistently highlighted the difficulties

97 Montgomery, John D. and Dennis A. Rodinelli eds., 56
98 Ibid, 54
confronting a weak state dynamic relationship with a strong society." Power and politics have been largely personalized in nature, rather than institutionalized, and the authority of the central governments appeared weak when compared to the strength of the various micro-societies. These micro-societies tended to function as almost entirely autonomous enclaves organized by ethnic, tribal, sectarian and linguistic allegiances.

In effect, clan loyalties are often more important than any ‘national’, central government, or a united Afghan identity. In fact, many groups in Afghanistan can be considered ‘Islamic segmentary societies’ that have a ‘sensitive network of interlocking, reciprocal rights, and obligations, not only between kin units, but between patrons and clients.” These kinship ties hindered national unity and allowed for patronage networks to trump attempts at democratization.

Moreover, if one group is perceived as being privileged over another, conflict may result. To illustrate this point, ethnic Pashtuns have occupied Kabul for most of the country’s history while other groups fought to replace them. The constant skirmishes for control of the capital and the perceived supremacy of the Pashtuns have impeded the formation of an Afghan identity, which disrupts


\[100\] Ibid, 193

\[101\] Peacock, James L., Patricia M. Thornton and Patrick B. Inman., 11

national unity. In essence, these tribal, ethnic and sectarian divides have historically led to civil wars that destroyed the state from the inside out.

A consolidated identity is crucial to holding a state together. To that end, David Brown contends that there are three distinct forms of national identity; civic, ethnocultural and multiculturalist, which intertwine to create a strong national unity. Moreover, it is the “civic conception of the nation-state as a moral community that performs the crucial role of the buffer between the other two, thereby mitigating the potential for ethnic conflict.” However, these conceptions of identity may disentangle when the interactive communities come into contact with certain factors and when elites cannot maintain their legitimacy. In this situation, overarching civic attachments disintegrate which can provoke ethnic conflict.

To illustrate this point, in attempt to secure central power, many elites have appealed to Islam as a basis for national consensus to consolidate their rule, but they did not succeed at uniting the different ethnic groups under one Islamic banner. This is because the social system is organized around the qwam:

which may be any communal group, including village, extended family, tribe, or ethnic group. In rural Afghan society virtually all meaningful social relations occur within the qwam, which is typically governed by the jirga or shura (which also means council or assembly of elder males). If the government attempts to impose laws alien to the social codes of the qwam, especially if the

103 Tanner, Stephen., 277
104 Peacock, James L., Patricia M. Thornton and Patrick B. Inman., 9
105 Ibid, 4
106 Ibid, 4
religious hierarchy also objects, then there is a strong likelihood of violence in response.\textsuperscript{107}

Loyalties of the Afghans were to their qwam, and the only force that could bring people from different qwams together was an outside threat, however this unity was usually short-lived. Since Islam is the common thread that ties all the identity groups in Afghanistan together, the Taliban attempted to legitimate their claims to leadership through references to Islam, by implementing Sharia law and by violently establishing an Islamic state.\textsuperscript{108} They effectively reversed the phenomenon of society being organized through the qwam by enforcing an extreme Islamic regime that attempted to control individual and societal identities.\textsuperscript{109}

Afghanistan during the Taliban reign could be considered a “‘Samson state’: one that makes policy decisions that imperil its own viability or even harm its material interests in order to satisfy the perceived dictates of culture.”\textsuperscript{110} In light of this, very few actors recognized the legitimacy of the regime as Islamic, and many of its actions provoked outcry within the Muslim world. Still, the regime was able to exist relatively unchallenged in war-torn Afghanistan for a number of reasons. Namely, the post-Cold War refugee population, comprised mostly of Pashtuns, was taught the Deobandi school of Islam in the madrassas.

\textsuperscript{107} Goodson, 19
\textsuperscript{108} Ibid, 104-105
The Deobandi school rejects the notion of *ijtehad*, which posits that the finer details of the Quran should be understood within context and circumstance. Rather, the Deobandi school believes that individual behaviour and the details of life are coded through a series of religious orders. The rigidness of this school of Islam allowed for the easy indoctrination of soldiers, and did not seem too foreign to the Pashtun who were accustomed to tribal rules ordering their daily lives, but not every ethnic and sectarian group perceived their rule or their version of Islam as legitimate.\(^{111}\)

However, Islam was only one of a number of cultural factors that inspired their tyrannical way of ruling. Taliban policies also adhered to the *Pashtunwali*, or the codes of the Pashtun tribal society. In effect, the Taliban represented a mixture of a particular form of Islam and Pashtun culture, and as Mullah Omar’s power grew, the impact of culture on the regime’s policies became more evident.\(^{112}\)

The Taliban incursion into Afghan politics demonstrates that various manifestations of political Islam have been a feature of the Afghan state throughout its long history. However, ethnic, tribal and sectarian divides, coupled with the perceived supremacy of the Pashtuns, have degraded the cohesion of the Afghan state. As a result, Afghan state-building has experienced a series of crises of legitimacy which often result in ethnic and sectarian conflict. Furthermore, certain Islamist factions vehemently denounce the actions of the

\(^{111}\) Cornell, 272
\(^{112}\) Ibid, 263-264
West which seems to suggest that Islam and the democracy the international community is attempting to build in Afghanistan are functionally incompatible.

In the end, facilitating peaceful cohabitation should be an important policy objective of state-building efforts. In effect, for democracy and state-building to encounter success in Afghanistan, the international community and Afghan government must work with local actors in order “to find ways to resolve such conflicts, it is necessary for all to react creatively, to understand what is at stake for each identity, and to create new identities that bridge yet respect the old, lest mutual distance fuel prejudice and violence.”\textsuperscript{113} The next section discusses the compatibility of Islam and democracy.

\subsection*{3.2 Islam and Democracy}

The above section demonstrated that ethnic and sectarian violence has prevented political unity in Afghanistan for most of its history. Nevertheless, not all identity memberships, whether sectarian, ethnic and/or political necessarily provoke conflicts; therefore, Charles Taylor and Max Weber suggest “that the core problem is to facilitate communication between identity groups.”\textsuperscript{114}

In this light, Islam provides a community and shared heritage to its followers. Yet despite providing a framework of values and ethics, and important state and social structures for Afghans, Islam has not been the unifying force many hope it could be. This is because when political and military elites appeal to Islam for legitimacy and to consolidate their rule they often do so with little

\textsuperscript{113} Ibid, 11
\textsuperscript{114} Ibid, 8
respect to the divergent manifestations of Islamic beliefs and tribal customs present in Afghan society. Moreover, they resort to violence, repression and tyranny to rule which is contrary to Islamic principles, ultimately resulting in their perceived illegitimacy. Finally, Islam, in addition to all of the other important worldviews and religious traditions is ripe with symbols and concepts that can either support absolutism and hierarchy, or lay down the foundations for liberty and equality.\textsuperscript{115}

Islam is at its core, a peaceful religion that considers inequality in society to be the worst form of injustice, and posits that humans cannot be judged by their race, colour and gender. Nevertheless, political and military elites have pursued policies that are inimical to Islam, such as the Taliban’s extreme restriction of daily life through the application of their interpretation of Sharia. Islamic scholar, Laith Kubba, denounces their restrictive rule by stating that “Islamic authority is the Quran’s alone.”\textsuperscript{116} More importantly, scripture has influenced certain traditions, such as Sharia law, even formed them, but it falls short of having sanctified them.

Furthermore, Benazir Bhutto, the late leader of the Pakistan Peoples Party contends that the terrorists who attacked the West perverted “the values of a great and noble religion and potentially set the hopes and dreams of a better life for Muslims back a generation.”\textsuperscript{117} Essentially, Muslims were also the victims of their attacks, and the real battle taking place today is for the soul of Islam.

\textsuperscript{115} Esposito, John L. and John O. Voll., 6
\textsuperscript{117} Ibid, 17
between the moderates and the fanatics, between those that live in the past, and those who are working toward creating Weberian style ‘modern societies’\textsuperscript{118} in the Islamic world. It is therefore necessary to identify the values of a modern society in order to determine how Islam can contribute to building democratic governance in Afghanistan.

There are a multitude of values, ethics and beliefs associated with modern society that are among others, tolerance, freedom of speech, enhanced order, women’s rights, participation in political life and the right to stability in life. The most important modern value is democracy.\textsuperscript{119} Democracy liberates human beings from the depravation of the most elementary necessities of life and it can only prevail where “its seekers are not weighed down by poverty and insecurity.”\textsuperscript{120} Furthermore, it is desirable end for all, but it is not available to all in practice since it requires “a certain level of normative, political, and governmental development that is contingent upon economic development.”\textsuperscript{121}

As a system, it is designed to protect the rights and liberties of the people and to uphold their freedom to express their views.\textsuperscript{122} With this in mind, one of the most fundamental expressions of democracy is freedom of speech. It allows people to denounce the injustices they may suffer at the hands of their government without being rejected by the regime or their society. In essence, freedom of speech protects the right of democratic subjects to participate.

\textsuperscript{118} Udogu, E. Ike., 13
\textsuperscript{119} Surush, Abd al-Karim, 45
\textsuperscript{120} Ibid, 45,
\textsuperscript{121} Ibid, 46
\textsuperscript{122} Ibid, 34
Moreover, it allows for knowledge and ideas to be shared which is both a prerequisite and consequence of development.

With this in mind, establishing democracy in Afghanistan will restrict political and military elites from ruling the country tyrannically. To that end, Iranian intellectual and political activist, Abd al-Karim Surush posits that democracy can be pursued by encouraging participation through local channels:

On the path of development we should draw on our traditions. However, traditions may prove to be both fetters and fulcrums. They should be, at once, sought as shelters and avoided as prisons. The (Islamic) mores of science and prosperity are two groups of useful traditions that we need now more than ever before.\(^\text{123}\)

Thus, the challenge here is to incorporate Islamic sources of authority with democratization. First, the Islamic notion of mutual consultation (\textit{shura}) provides a basis for democratic-style political participation within an Islamic state. All adult Muslims, male and female alike, are agents of God who delegate their authority to the ruler. In turn, the ruler is expected to seek their opinion to approve the conduct of the state.\(^\text{124}\) This right to consultation is egalitarian in nature and is taken directly from the Quran where some scholars have interpreted the passage as meaning that outcome of \textit{shura} should be “mutual advice through mutual discussions on an equal footing.”\(^\text{125}\) However, in Afghanistan rulers frequently ignored this principle or put up barriers to prevent people from practicing consultation resulting in the subversion of democracy.

\(^{123}\) Surush, Abd al-Karim., 53
\(^{124}\) Esposito, John L. and John O. Voll., 27
\(^{125}\) Ibid, 60
Second, a similar Islamic operational concept that is democratic in nature is *ijma*, or consensus. Consensus validates Islamic law and contributes significantly to the corpus of law or legal interpretation that joins an Islamic tradition to a rational-legal framework. This is significant for understanding how legitimacy functions in Islamic societies such as Afghanistan. John L. Esposito expands on this point:

In broader discussions, consensus and consultation were frequently seen as the effective basis for Islamic democracy operating in modern terms. The concept of consensus provided the basis for acceptance of systems recognizing majority rule. It is noted by some contemporary scholars that, in Islamic history, because there are no explicit formulations of state structure in the Quran, the legitimacy of the state depends upon the extent to which state organization and power reflect the will of the ummah, for as classical jurists have insisted, the legitimacy of state institutions is not derived from textual sources but is based primarily on the principle of *ijma*. On this basis, consensus can become both the legitimation and the procedure of an Islamic democracy.126

Esposito’s understanding of *shura* provides an outlet for the people to participate and *ijma* supplies a foundation upon which the people may judge the legitimacy of those in power. If a ruler does not consult the people and/or does not have the support of the majority, he or she will be received as illegitimate.

A third operational concept that links Islamic principles to democracy is *ijtihad*, or the exercise of informed, independent judgement. Pakistani Islamist leader Khurshid Ahmad interpreted *ijtihad* in the following way: “God has revealed only broad principles and has endowed man with the freedom to apply them in every age in the way suited to the spirit and conditions of that age. It is

126 Ibid, 60
through the *Ijtihad* that people of every age try to implement and apply divine
guidance to the problems of their times.”\(^{127}\)

However, bad actors, such as the Taliban used *Ijtihad* to justify rulings that
were not based in traditional Islamic jurisprudential criteria. Afghans understood
this contradiction which contributed to the failure of the Taliban regime.\(^{128}\) More
importantly, when used properly some scholars suggest *Ijtihad* “will make it
possible for Muslim social scientists to study social phenomenon with an Islamic
framework and epistemological paradigm and then begin the process of
rebuilding Islamic civilization on the basis of its own understanding of the social
sciences.”\(^{129}\) Thus, *Ijtihad* provides access to knowledge and learning, which is a
fundamental element of democracy and development.

*Shura, Ijma and Ijtihad* establish the accountability and participation that is
essential to democracy but they do not necessarily outline an outlet for dissent.
This omission is of tremendous significance since the cornerstone of democracy
is the right to hold free and fair elections. Furthermore, these elections must be
open to multiple parties or representatives, the winning party must be able to
deliver on its mandate, and relinquish power if the election results call for it. In
this case, the opposition party must not dramatically alter the constitution or try to
stop further elections.\(^{130}\) Thus, opposition in democracy can function as an outlet
for disagreement without undermining the existing order.

\(^{127}\) Quoted in Esposito, John L. and John O. Voll., 29

\(^{128}\) Ibid, 30

\(^{129}\) Ibid, 30

\(^{130}\) Esposito, John L. and John O. Voll., 38
In the Islamic heritage, there exists a concept that describes disagreement and can be interpreted as opposition. To that end, *Ikhtilaf* is a more technical term that is used in the study of Islamic jurisprudence. It represents the acceptance of the diversity of views in the legal world. Moreover, John L. Esposito contends that:

The ultimate authority of the Quran and Sunnah provide the basis for critiques of existing conditions throughout Islamic history. Movements of Islamic opposition, renewal, and reform have been able to find their justification and legitimacy in this appeal to higher authority. In the modern era, this can become the basis for an Islamic constitutionalism that aids both in state definition and in providing a framework for recognizing legitimacy of opposition.\(^{131}\)

The most important expression of this tolerance for diverging views is in its application to Sharia. Some actors, such as the Taliban, have interpreted Sharia judgments to be final and thus have not subjected them to *itijad* which renders them illegitimate. Contrarily, the principle of *ikhtilaf* suggests that there is flexibility in interpretations of law, including Sharia expressions of it.\(^{132}\)

However, democracies do not simply materialize; rather, they develop on a continuum, and as democratic governance is sustained, democracies grow stronger. With this in mind, the international community should provide incentives for democratic transitions in less than democratic states such as Afghanistan, as it will ultimately benefit democratic development around the world. Nevertheless,

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\(^{131}\) Ibid, 44  
\(^{132}\) Ibid, 41-45
Bhutto concludes that democracies do not tend to go to war with each other, so promoting and building democracy in the Muslim world, should reduce conflict.\textsuperscript{133}

In the end, Islam provides both the common heritage and the ideological impetus to create a legitimate and representative government in Afghanistan and end the decades-long conflict. However, democratic governance has proved difficult to establish in Afghanistan, and its present incarnations is tenuous and depends on international support to keep it in place. A question then remains, if Islam and democracy are so compatible, why then has it been so difficult to establish in Afghanistan?

### 3.3 Islamic Democracy in Afghanistan: From Theory to Practice

Despite the compatibility between Islamic principles and democracy highlighted in the above section, many challenges remain at the theoretical level to installing democracy in Afghanistan. First, the Quran does not identify a specific form of governance, but it highlights “a set of social and political values that are central to a Muslim polity”\textsuperscript{134}, such as “pursuing justice through social cooperation and mutual assistance, establishing a non-autocratic, consultative and mutual method of governance, and institutionalizing mercy and compassion in social interactions.”\textsuperscript{135} According to Islamic scholar, Khaled Abou El Fadl, the

\textsuperscript{133} Ibid, 264
\textsuperscript{134} El Fadl, Khaled Abou, Cohen, Joshua and Deborah Chasman eds., 5
\textsuperscript{135} Ibid, 5
political system that is best suited to upholding these values is democracy, and it must be pursued at all cost.\textsuperscript{136} El Fadl expands on this point in the following way:

We have a provisional case for democracy, then, founded on the fundamental Islamic idea about the special status of human beings in God’s creation. It is provisional because we have not yet considered the great challenge to that case: how can the higher law of Shari’ah, founded on God’s sovereignty, be reconciled with the democratic idea that the people, as the sovereign, can be free to flout Shari’ah law?\textsuperscript{137}

Nevertheless, he affirms “without will power, inspired vision, and moral commitment there can be no democracy in Islam.”\textsuperscript{138} Still, he believes that “Muslims, for whom Islam is the authoritative frame of reference, can come to the conviction that democracy is an ethical good, and that the pursuit of this good does not require abandoning Islam.”\textsuperscript{139}

Thus, El Fadl posits that Muslims must secure a better future for themselves by establishing a theoretical approach to consolidate Islamic democracy. The Prophet identifies all Muslims as viceregents of God whose role is to make the world more just.\textsuperscript{140} To that end, El Fadl posits that “to understand the democratic possibilities of Islam we must look more deeply into the role of human beings in God’s creation and the central importance of justice in human life assigned by the Qur’an.”\textsuperscript{141} To him, justice is the ultimate expression of democracy because it renders those who commit injustice subject to punishment. Furthermore, this imperative for a leader’s accountability is compatible with Islam,

\textsuperscript{136} Ibid, 5  
\textsuperscript{137} Ibid  
\textsuperscript{138} Ibid, 6  
\textsuperscript{139} Ibid, 5  
\textsuperscript{140} Ibid, 6  
\textsuperscript{141} Ibid, 18
so Muslims must pursue a theoretical, Islamic approach to justice and individual rights.\(^{142}\)

However, Muslim scholar Tariq Ramadan remarks that “Muslims seem to be at a loss for a vision and projects for the present and future.”\(^{143}\) This undoubtedly has complications for state-building efforts in Afghanistan, since Afghan ownership is necessary for the pursuit of democracy to overcome the nation-wide “villager’s dilemma”\(^{144}\) vis-à-vis the foreign presence. In effect, many villagers are fearful of the foreign “man with a gun”\(^{145}\), which is contributing to a “new extremism”\(^{146}\) that eschews democracy as foreign and inimical to Islam.

Another complication is that the sovereignty of Sharia law comes into conflict with both human sovereignty and rational-legal justice. Some jurists argue that humans cannot supplant God’s sovereignty in interpreting the Sharia, which poses a theoretical problem for the integration of Islam and democracy. El-Fadl further explains this problem: “especially in the second half of the last century, a considerable number of Muslims have made the unfounded assumption that Islamic law is concerned primarily with duties, not rights, and that the Islamic conception of rights is collectivist, not individualistic.”\(^{147}\) The Taliban’s rigid attempt at regulating Afghan’s daily lives effectively illustrates this

\(^{142}\) Ibid, 18
\(^{145}\) Van Wie Davis, Elizabeth and Rouben Azizian., 17
\(^{146}\) Ibid, 17
\(^{147}\) El Fadl, Khaled Abou, Cohen, Joshua and Deborah Chasman eds., 28
phenomenon. In essence, Islam and democracy must be theoretically compatible before an Islamic democracy may be pursued in practice.\textsuperscript{148}

To overcome this theoretical disjunctures, Tariq Ramadan advocates for a renewal of \textit{fiqh} (the scriptural sources in the fields of law and jurisprudence) and \textit{islah} (reform) to achieve more justice in Islam. He urges Muslims to establish a modern \textit{fiqh} to distinguish which aspects of texts are immutable from those that may be changed.\textsuperscript{149} The main tools at their disposal will the “critical and autonomous interpretive reasoning”\textsuperscript{150} of \textit{ijtihad}, the “public interest and common good”\textsuperscript{151} of \textit{maslahah}, and “detailed \textit{fatawa}.”\textsuperscript{152} Thus, Muslims must use these tools to adapt the ancient texts to the modern context in order to achieve meaningful reforms in the area of Islamic democracy. This will require “not only the fortitude and local knowledge”\textsuperscript{153} of Afghanistan’s distinguished ancestors, but also their “patience and flexibility.”\textsuperscript{154}

Nevertheless, the civil war and Taliban engendered a brain drain thereby purging the country of some of its best minds. Moreover, the Taliban gave the mullahs in the \textit{madrassas} greater influence in the public sphere and Mullah Omar the ultimate power to decree \textit{fatawas}. In light of such repression, M. A. Muqtedar Khan argues that “the content of law in an Islamic democracy should be a

\textsuperscript{148} MA Mutedgar Khan in EF, 67
\textsuperscript{149} Ramadan, Tariq., 1
\textsuperscript{150} Ibid, 2
\textsuperscript{151} Ibid, 2
\textsuperscript{152} Ibid 2
\textsuperscript{153} Ibid 2
\textsuperscript{154} Ibid, 489
democratically negotiated conclusion emerging in a democratic society"¹⁵⁵, but society must first be free for open negotiation to occur. In the absence of freedom and negation, he argues that “Islamic democracy will be a procedural sham that relegates voting mechanisms to secondary matters.”¹⁵⁶ In effect, “freedom comes first, and only the faith that is found in freedom has any meaning. The practice of religion under duress violates the Qu’ran.”¹⁵⁷

Nevertheless, the repressive tendencies of Afghanistan’s rulers have impeded the pursuit of justice and the negotiation of jurisprudence. To illustrate this point John L. Esposito posits that “across the political and ideological spectrum, the Muslim experience has been one of kings, military rulers, and ex-military rulers possessing tenuous legitimacy and propped up by military security forces.”¹⁵⁸ Furthermore, extremists denounce democracy as “haram, or forbidden, and idolatrous threat to god’s rule (divine sovereignty). Their unholy wars aim to topple governments and impose an authoritarian Islamic rule. Conservatives often argue that popular sovereignty contradicts the sovereignty of God, with the result that the alternative has often been some form of monarchy.”¹⁵⁹

This phenomenon is evident in Afghanistan where the monarchy remained in power until 1973, and the Islamists and warlords that replaced it routinely inhibited democracy from taking root because of its supposed subversion of

¹⁵⁵ El Fadl, Khaled Abou, Cohen, Joshua and Deborah Chasman eds., 64
¹⁵⁶ Ibid, 64-65
¹⁵⁷ Ibid, 66
¹⁵⁸ Ibid, 93
¹⁵⁹ Ibid, 96
Islam or to consolidate their illegitimate rule. In order to overcome the dearth of homogenous public debate surrounding Islamic democracy in Afghanistan and the repression of democratic reformers, John L. Esposito proposes the following:

The most important challenge for Islamic reformers will be the transfer of their reformulations from the elite few to the institutions and peoples of Islam. Training the next generation of religious scholars and leaders and the laity requires institutional change, in particular curricular reforms in seminaries (madrassas), universities, and schools. As in all faiths, the religious understanding of the vast majority of believers is initially learned at home and at a local mosque, from the parents and local religious leaders and teachers. Hence the importance of training those who preach and teach.\textsuperscript{160}

However, unless the rule of law and economic situation improves, corruption in the government is weeded out so that public servants are appointed on merit-based criteria rather than on existing patronage networks or affiliation with a particular ethnic, tribal, sectarian and/or linguistic group, it will continue be difficult to pursue a meaningful commitment to Islamic democratic theory in Afghanistan. In effect, Anatol Lievin describes three powerful hindrances to Islamic democracy in Afghanistan: first, the ancient cultural traditions of the divergent ethnic groups; second, the splintering effects of a generation of brutal warfare; and third, the fact that not only does this warfare continue in the present day, but that it appears to be intensifying in scope and severity.\textsuperscript{161}

In addition, the Guardian reported that in 2008, Taliban support was increasing amidst the students of the University of Kabul.\textsuperscript{162} This represents a

\textsuperscript{160} Ibid, 100
\textsuperscript{161} Lieven, Anatol., 487
common problem in Central Asia where it is difficult to distinguish between “religious-political radicalism and terrorism. (...) The imprecise definition of terrorism makes it possible to describe as “Islamic terrorists” any opposition force that appeals to Islam.”¹⁶³ As suspicious as the intentions of these groups may be, in a democratic system, they retain the right to be heard. Moreover, Noah Feldman anticipates that “some Islamists are bound to win office.”¹⁶⁴ These actors risk becoming ‘spoilers’ in a recently democratized system by gaining political power through elections and subsequently unravelling the very system that permitted them to do so.¹⁶⁵ To conclude, Feldman advises that "all Islamic democrats face the challenge of grappling with those elements of their tradition that potentially conflict with liberal-democratic commitment.”¹⁶⁶

3.4 Concluding Remarks:

To conclude Chapter 3, an understanding of how the different ethnic, sectarian and tribal groups exist in Afghanistan indicates that perceived exclusion is most often the source of the conflict that results in the degradation of the Afghan state. Second, an examination of the Islamic values of shura, ijma, itijhad, and ikhtilaf reveals that Islam provides the ideological building blocks necessary to create a representative and democratic government in Afghanistan. Nevertheless, there remain challenges at the theoretical level to establish Islamic

¹⁶³ Van Wie Davis, Elizabeth and Rouben Azizian., 101
¹⁶⁴ Noah Feldman, quotes in El Fadl, Khaled Abou, Cohen, Joshua and Deborah Chasman eds., 60
¹⁶⁵ Call, Charles T. And Vanessa Wyeth., 63
¹⁶⁶ El Fadl, Khaled Abou, Cohen, Joshua and Deborah Chasman eds., 60
democracy and structural impediments that have both historically prevented and presently hinder Islamic democracy from taking root in Afghanistan.

Robert I. Rotberg remarks that “if the nascent Afghanistan is going to build a state successfully, much less a nation, doing so will depend on a healthy provision of security, rule of law and economic opportunity. Participation, political freedom, accountability and civil society will all have to be strengthened as well.” Nevertheless, Noah Feldman does not believe that Islamic democracy is impossible; rather, he posits that “Islamic democracy will not emerge spontaneously or as a historical inevitability. But it can emerge as a product of self-conscious efforts by Muslims and others to produce a synthesis that is true to both of its elements.” The following chapter analyzes attempts at producing this synthesis and offers further suggestions for creating lasting democracy in Afghanistan.

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167 Rotberg, Robert I., 8
168 Noah Feldman in El Fadl, Khaled Abou, Cohen, Joshua and Deborah Chasman eds., 61
4: RULE OF LAW, ISLAM AND LEGITIMACY: FOUNDATIONS OF A BETTER STATE IN AFGHANISTAN?

The previous two chapters demonstrated that Islam is an essential feature of the Afghan state, but also that “there are no inherent contradictions between Islam and the freedoms of democracy.”169 Rather, Islam and democracy share certain important values, such as pluralism, representation and participation. Nevertheless, political and ethnographic problems that have little to do with Islam threaten the cohesion of the state and have historically, impeded democratization. With this in mind, this chapter seeks to discuss ways in which the international community and Afghan government can work together to create a stable and legitimate government.

Nevertheless, a state’s legitimacy must be accorded to it by the international community and by its own citizens. To illustrate this point, an overview of state-building literature indicates states must provide a degree of security to its citizens if it is to be perceived as legitimate by the international community. If a state fails to do so, the international community may intervene. In this case, the international community must also experience perceived legitimacy in their actions if they are to be successful in building well-functioning Afghan government.

169 Ibid, 224
Second, an analysis of state-building efforts in Afghanistan thus far indicates that the UN is committed to including as many Afghan staff as possible by employing a 'light footprint' approach. This approach however, has not been successful in reducing some of the more pressing issues that are preventing democracy from taking root in Afghanistan. In effect, this chapter concludes by outlining the need for the international community and Afghan government to develop a new strategy to improve rule of law, strengthen government institutions and uphold women’s rights.

4.1 State-Failure and State-Building

To begin, it is important to analyze where states gain their legitimacy to intervene in the international system. According to international authorities, such as the UN, if a state intervenes in another state’s affairs without the legitimacy to do so, it risks compromising the success of the mission. Therefore, improving human lives and safety must be the ultimate goal of state-building operations; otherwise, the mission could fail and result in new conflicts.170

Thus, it is necessary to examine the context in which human lives are placed in danger by their own governments, in order to understand why the international community is mandated to intervene. An analysis of state-building literature reveals that in the post-Cold war, many states emerged fragmented and fractured, however very little international attention was paid to state collapse and underdevelopment in the immediate aftermath of the decades-long ideological conflict. As a result, ethnic violence, displacement of populations, and sexualized

170 Ibid, 1
violence became increasingly prevalent in these new states. Additionally, the weak and faltering states were unable to maintain effective control over rule of law in their country, which in some cases resulted in violence directed against large portions of the population.\footnote{Human Security Centre 2005. “Human Security Report 2005: War and Peace in the 21\textsuperscript{st} Century”. New York and Oxford: Oxford University Press. Human Security Centre. 8 March 2009. <www.humansecurityreport.info>.}

Consequently, as states crumbled from the inside out, the people often suffered abuse at the hands of inept and corrupt governments; “indeed, humanitarian and human rights constituencies often saw the state mainly as the perpetrator of oppression and mismanagement.”\footnote{Chesterman, Simon., Michael Ignatieff and Ramesh Thakur eds., xv International Crisis Group. June 2009. “The Responsibility to Protect.” ICG. 14 June 2009. <http://www.crisisgroup.org/home/index.cfm?id=4521&l=1>.} In essence, the 1990s proved that states were often the most serious violators of human rights, but also the sole actors who could guarantee human rights within their territory. Therefore, such states must improve their ability to rule a territory and respect the basic rights of their citizens. However, if these states proved unable to do so, the international community would have to provide financial, development and at times, military assistance.\footnote{International Crisis Group. June 2009. “The Responsibility to Protect.” ICG. 14 June 2009. <http://www.crisisgroup.org/home/index.cfm?id=4521&l=1>.}

Thus, a state loses its right to stake a legitimacy claim in the international system if it is unable to provide a secure environment for its citizens. In response, the international community is mandated to step in and attempt to improve the conditions for people living in states that are incapable or unwilling to secure the welfare of their citizen so long as most other countries perceive those actions as
legitimate. With this in mind, Afghanistan’s international legitimacy and existence as a de jure nation state also suffered under the restrictive Taliban government, as only three countries, Pakistan, Saudi Arabia and the United Arab Emirates, recognized their rule as legitimate.

Max Weber defines a state as a human community that “successfully claims a monopoly of the legitimate use of force within a given territory.” This does not simply mean that state must maintain a monopoly over violence within its boundaries; rather, it asserts that the violence used must be legitimate, meaning that a state cannot intentionally place its citizens in harm’s way. Moreover, “Weber anchors authority in traditional authority, charisma, or legality” by virtue of the belief in the validity of legal statute and “functional competence based on rationally created rules.” Finally, he also outlines certain “basic functions” that the state must perform in order to maintain its legitimacy, such as the legislature, the policy, the judiciary, and civil and military administration. This is important for former Afghan finance minister, Ashraf Ghani, who expands on this definition of a state legitimacy stating:

175 Goodson, Larry P., 85
176 Quoted in Ghani, Ashraf., and Clare Lockhart, 116
177 Ibid, 116
178 Ibid, 116
179 Ibid, 117
180 Ibid, 117
must be a virtuous circle in which authority translates into collective power that is kept accountable to the citizenry.\textsuperscript{181}

Both Ghani and Weber highlight the crucial importance of a state's ability to perform the basic functions needed to maintain their perceived legitimacy. Nevertheless, some states, such as Afghanistan, have proven to be incapable of maintaining order within their territory and fulfilling their basic functions. Specifically, in post-colonial societies, state-building, nation-building\textsuperscript{182} and economic development were required to be pursued simultaneously, but "at times they worked against each other, leading to crises of state legitimacy and the weakening of state institutions."\textsuperscript{183}

Given the gravity of state collapse, it became apparent that preventing state-failure is much simpler than bringing a state back from it.\textsuperscript{184} Nevertheless, there is little consensus of what the definition of a failed state is, and even less consensus about how to assist them. Firstly, the most often cited definition of state failure draws upon the notion of the social contract, where a state collapses if it fails at performing its "basic functions."\textsuperscript{185} Former Afghan Finance Minister Ashraf Ghani, builds on Weber's functions of a state by stating that the following its essential functions: the upkeep of rule of law, a monopoly on the legitimate means of violence, administrative control, sound management of public finances,

\textsuperscript{181} Ibid, 8
\textsuperscript{182} Charles T. Call and Vanessa Wyeth define nation-building as the 'actions undertaken, usually by national actors to force as sense of common nationhood (1) to overcome ethnic, sectarian or communal differences; (2) to counter alternate sources of identity and loyalty; and (3) to mobilize a population behind a parallel state-building project. Call, Charles T. Building States to Build Peace. London: Lynne Reinner Publishers, Inc., 2008., 5
\textsuperscript{183} Chesterman, Simon., Michael Ignatieff and Ramesh Thakur eds, 3
\textsuperscript{184} Chesterman, Simon., Michael Ignatieff and Ramesh Thakur eds., 14
\textsuperscript{185} William Zartman quoted in Chesterman, Simon., Michael Ignatieff and Ramesh Thakur eds.,15
investments in human capital, creation of citizenship rights through social policy, provision of infrastructure services, formation of a market, management of public assets and effective public borrowing. The performance of these functions creates a “virtuous circle in which decisions in the different domains reinforce enfranchisement and opportunity for the citizenry. This supports the legitimacy of the decision makers and their decisions, builds trust in the overall system, and thereby provides a ‘sovereignty dividend’. The lack of trust in the system is evident in Afghanistan where few governments benefited from a sovereignty dividend.

The dismal rule of law situation in Afghanistan has impeded the country’s transition to democratic governance; therefore, maintaining a monopoly over the legitimate use of force is the most fundamental function of a state, so the international community must take action to strengthen the Afghan state during its state-building operations. In the end, strengthening the Afghan state will render the people more secure and create an environment that is favourable for popular participation, democracy and development. In doing so, the mission’s mandate will continue to experience perceived legitimacy and garner sustained international support. This is of utmost importance for “legitimacy begins with that of the international operation”

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186 Ghani, Ashraf and Clare Lockhart., 125-160
187 Ibid, 163
188 Barnett, Rubin R. (article), 183
4.2 The People and State Power

The mission in Afghanistan represents a partnership between three of the most important international actors, which lends them a high degree of legitimacy to pursue their actions in the international arena.\textsuperscript{189} For the past 60 years, the UN has promulgated an international rational-legal framework to which states are expected to adhere. Moreover, the Security Council acts as an arbitrator in the international system. According to Ian Hurd, the Security Council represents “a crucial test case for the operation of legitimacy in the international system”\textsuperscript{190} in view of the fact that the Council’s effectiveness depends less on any coercive powers in its possession than on its ability to persuade.\textsuperscript{191} If a mission is endorsed by the Security Council, it gains the necessary “legitimacy to participate in post-disaster governance through the language of human rights.”\textsuperscript{192}

However, the UN has encountered difficulties maintaining order in Afghanistan, so state-building efforts have been perceived as contradictory since the US seeks to eliminate terrorist threats by eliminating the Taliban and al-Qaeda, even if it means collaborating with warlords. Erstwhile, the UN and ISAF are attempting to secure the burgeoning administration from warlord pressure. Furthermore, the international community sought to consolidate central state power and improve internal legitimacy in Afghanistan with the 2001 Bonn Agreement. Here the UN adopted a ‘light footprint’ approach where it tried to

\textsuperscript{191} Hurd, Ian. 14
bolster both governmental and non-governmental capacity, by relying on as many Afghan staff as possible.\textsuperscript{193}

The United Nations Assistance Mission in Afghanistan (UNAMA) pursues the ‘light footprint approach’\textsuperscript{194} to lend legitimacy to their operations by maintaining a degree of Afghan ownership. In theory, people-centered governance will reduce human rights violations of the poor and excluded, which indicates the importance of the relationship between rights and governance.\textsuperscript{195} In addition, “practices of global governance may legitimate themselves best by recourse to human rights language.”\textsuperscript{196} Here political legitimacy resembles the Habermasian principle that “political orders draw their recognition from the legitimacy claim of the law” whereby “a law may claim legitimacy only if those possibly affected could consent to it after participating in rational discourses.”\textsuperscript{197}

Therefore, the concept of legitimacy in international efforts is linked to the notion of reciprocal participation. Likewise, legitimacy in Islam is exercised through the reciprocal relationship between rulers and the ruled.

However, in a repressive society such as a Taliban controlled Afghanistan, large portions of the population encounter legal and cultural barriers that prevent them from participating in the political participation process. Furthermore, the

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\textsuperscript{193} Chesterman, Simon, 37
\textsuperscript{194} UNAMA describes itself in its mandate as “a political Mission directed and supported by the United Nations Department of Peacekeeping Operations. As an ‘integrated’ Mission, UNAMA has two main areas of operation, development and humanitarian issues, and political affairs. The Mission currently has some 1,500 staff, the vast majority of whom (around 80 per cent) are Afghan nationals.” The heavy reliance on Afghan state exemplifies the light footprint approach. See UNAMA <http://unama.unmissions.org/>.
\textsuperscript{195} Krishnadas, Jane., 348
\textsuperscript{196} Ibid 350
\textsuperscript{197} Ibid, 350
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rights the international community seek to establish in the country may contradict local customs and undermine existing judicial structures. Thus, the international community encouraged Afghans participate in the process to demonstrate that the international community respects their demands.

Furthermore, the Bonn Agreement sought to increase the scope and strength of the interim government through improving Afghan’s access to political participation, and to build enough authority to transition to a more permanent legitimate government. To do so, UN deployed an Emergency Loya Jirga\textsuperscript{198} to decide on a transitional authority that selected Hamid Karzai as the President. Second, they enlisted a constitutional loya jirga draft a new, moderate, Islamic constitution. Finally, UNAMA focused on including Islamic actors in the state-building process by calling for an Islamic judicial commission to “to rebuild the domestic justice system in accordance with Islamic principles, international standards of rule of law and Afghan legal traditions.”\textsuperscript{199}

 Achieving this synergy may however, lead to the creation of a state that does not necessarily conform to Western structures and ideals. For example, the caveat to include respect for Islam in the constitution has engendered some problems for both the Karzai administration and the international operation’s

\textsuperscript{198} The Bonn agreement defines the role of the ELJ as follows: an Emergency Loya Jirga shall be convened within six months of the establishment of the Interim Authority. The Emergency Loya Jirga will be opened by His Majesty Mohammed Zaher, the former King of Afghanistan. The Emergency Loya Jirga shall decide on a Transitional Authority, including a broad-based transitional administration, 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. See UNAMA <http://unama.unmissions.org/Portals/UNAMA/Documents/Bonn-agreement.pdf>.

commitment to ensuring human rights. Consider the international outcry provoked by the controversial law introduced under the Karzai administration in 2009 that suggested husbands could rape their wives and strips Shia women of their right to leave the house without a male relative. Furthermore, the synergy of Islamic and rights-based authority may allow for Islamist spoilers to undermine the fledgling state at any chance and attempt to install their ideological vision for Afghan society.

Nevertheless, the Bonn Agreement also presumes that the UN will continue to have a meaningful role in ongoing negotiations and reconciliation efforts despite not necessarily having the authority to do so. Yet “through high-level diplomacy and subtle interventions in its capacity as an assistance mission, (the UN) is endeavouring to ‘cook’ the political process into a sustainable outcome.” Essentially, although the Bonn Agreement provides for the participation of Islamic actors, it also allows the UN to intervene should the country swing too far into extreme Islamism. Yet despite UNAMA, NATO and the US’s efforts to strengthen Afghan governance, by 2006 Thomas Johnson characterized the situation as follows:

The actual influence and control of the new, democratically elected government of Hamid Karzai extends only weakly beyond the outskirts of Kabul; ethno-linguistic fragmentation is on the rise; an increasingly sophisticated insurgency threatens stability; large areas of Afghanistan are still ruled by warlords/druglords; and possibly most damning for the long-term stabilization of Afghanistan, the country is fast approaching narco-state status with

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201 Chesterman, Simon., 39-40
its opium crop and transport representing 35-60 per cent of the country’s licit GDP.\textsuperscript{202}

In effect, warlordism represents one of the biggest hindrances to the peace-building process.\textsuperscript{203} The Bonn Agreement gave ministries to these potential spoilers, leading sceptics to call Bonn a ‘warlord democratization.’\textsuperscript{204} As a result, old warlord networks maintained their access to power and resources, which undermines the international community and Afghan government’s attempts to secure rule of law.\textsuperscript{205} Furthermore, during the 2004 elections, many voters cast their ballots based not on the democratic vision of the candidate, but on his or her ethnicity. The single non-transitive voting scheme lead to the creation of an unrepresentative parliament, and the election of ethnic Pashtun, Hamid Karzai seemed to reify long standing ethnic biases and conflicts. Finally, continued to pursue political power through Karzai, leading to the regression of the political system to its historical personalized character.\textsuperscript{206} More importantly, “electing officials to preside over a non-functional pseudo-state that can provide neither security nor services does not constitute democracy”\textsuperscript{207} and represents dubious legitimacy.

As a result of UNAMA’s association with what the Lichtenstein Institute on Self-Determination’s 2009 Report calls a “highly flawed electoral process”\textsuperscript{208}, its

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\textsuperscript{203} Wie Davis, Elizabeth and Rouben Azizian., 3
\textsuperscript{204} Rubin, Barnett R. (Article) 180
\textsuperscript{205} Johnson, Thomas H., 15
\textsuperscript{206} Ibid, 16-22
\textsuperscript{207} Rubin, Barnett R. (Article) 184
\textsuperscript{208} Lichentenstein 2009, 4
\end{flushright}
role as an impartial actor has been challenged by many Afghans. Thus, the Institute argues that “it is essential to the security, development and political outreach efforts of the international community that UNAMA be an unbiased and impartial intermediary.” Therefore, it recommends that UNAMA take advantage of the August 2009 elections and future elections to regain an appearance of impartiality.

Robert I. Rotberg describes Afghanistan’s narco-economy as yet another pitfall stating that “the moral authority and political legitimacy of the Karzai government are threatened by corruption and equally by wholesale narcotrafficking.” Post-conflict countries need their economy jumpstarted, but attempts to do so in Afghanistan have not proved fruitful and the trafficking of opium continues to fund the Taliban. Foreign designed crop substitution programs offer neither steady income streams nor attractive returns. Furthermore, many farmers destroyed their traditional crops, for example, by cutting down apricot trees to make room for poppy cultivation. This means even if new trees are planted, they will take as long as seven years to bear fruit again. In the meantime, the international community and Afghan government will require income subsidies and price guarantees for up to a full decade. This will

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209 Ibid, 4
210 Ibid, 4
211 Rotberg, Robert I., 19
212 Ibid, 8
213 Ibid, 16
undoubtedly prove challenging given the at times, insufficient international assistance dedicated to Afghan state-building.\textsuperscript{214}

One final challenge for state-building in Afghanistan is that the country has in some ways become more unsafe. Robert I Rotberg explains: “The failure of the government to unify the country and substitute future progress for the tough reality of day to day rural living has emboldened the defeated Taliban and other insurgents.”\textsuperscript{215} The 2009 Lichtenstein Institute on Self-Determination Report elaborates on this problem: “the lack of rule of law, rampant corruption, insecurity and decreasing conviction that the government and its international backers can deliver, are driving Afghans to turn to the otherwise largely unpopular Taliban insurgents.”\textsuperscript{216}

Thus, until rule of law improves so Afghans can work, travel and live without fear, there will be little success for Afghan state-building efforts. In the end, the aforementioned problems have little to do with including Islam in the political sphere; rather, they represent larger structural problems within the nascent political system, the illegitimate patronage networks and narco-economy and the civil society weekend by decades of wars and social upheaval.

With these complications in mind, Amen Sail contends that “unless Afghanistan is transformed into a multi-level state where dynamic interactive relationships are established between the central authority, and micro-societies, and among the

\textsuperscript{214} Van Wie Davis, Elizabeth and Rouben Azizian., 37
\textsuperscript{215} Rotberg, Robert R., 19
latter through appropriate, institutionalized processes of political, economic, social and security reconstruction, Afghanistan is likely to remain in the wilderness for the years to come.”\(^\text{217}\)

### 4.3 A New Strategy to Improve Participation, Rule of Law and Rights

The previous section revealed that the Bonn Agreement sought to institutionalize Islam and Afghan participation in Afghanistan’s fledgling democratic order. To that end, “Islam has been the theoretical common thread in Afghanistan.”\(^\text{218}\) However, recently a fragmentation has emerged between the urban elite, many from the Diaspora, who are in favour of a secular approach to democracy and those who are wary of Western-led reforms and seek to pursue a more Islamic approach. Thus, Afghans are often torn between choosing to implement the reforms suggested by the more secular West, and those promoted by indigenous Islamists. Moreover, political issues unrelated to Islam threaten to undermine democratization at any moment. To overcome these obstacles, “a bridge is needed to link these groups and will require a new strategy, if the Afghan elite and the international community are prepared to rise to the challenge.”\(^\text{219}\)

Throughout its history, the Afghan government has not been successful in conveying its authority across the entire country. A government’s authority is

\(^{217}\) Chesterman, Simon., Michael Ignatieff and Ramesh Thakur eds., 194  
\(^{219}\) Ibid
rooted in its capacity to uphold rule of law and to rule in a manner that the people
view as legitimate.\textsuperscript{220} Therefore, it must develop a strategic political and security
plan to improve its legitimacy and provide an environment that ensures all
Afghans can participate in the August 20\textsuperscript{th}, 2009 elections, and all elections
thereafter. This is especially important in the wake of the Taliban’s August 15\textsuperscript{th}
car bomb attack on ISAF headquarters in Kabul that aimed to deter people from
participating in the elections.\textsuperscript{221} Nevertheless, President Hamid Karzai
denounced the attack stating: “the enemies of Afghanistan, through such attacks
in the run-up to the elections, want to spread terror among people, but they must
know that Afghans are fully aware of the value of the elections and will cast their
votes for the sake of security and peace in their country.”\textsuperscript{222}

The international community has been working since 2001 to improve
Afghan capacity to maintain rule of law. However, many Afghans are frustrated
with the high degree of civilian casualties at the hands of the international forces,
so the Afghan National Army (ANA) and Afghan National Police (ANP) must
begin to assume responsibility for peace and security in Afghanistan.\textsuperscript{223}

\textsuperscript{220} Ghani, Ashraf and Clare Lockhart., 125
\textsuperscript{221} Gall, Carlotta and Sangar Rahimi. 15 August 2009. “Bomb Kills 7 Near NATO’s Afghan
\textsuperscript{222} Quoted in Gall, Carlotta and Sangar Rahimi. 15 August 2009. “Bomb Kills 7 Near NATO’s
\textsuperscript{223} Ibid
To do so, they must first ramp up efforts to disarm the Taliban. In essence, The Taliban exist as a political entity, but also employ a number of farmers, drug lords and young men seeking work. These actors may not maintain the same degree of ideological commitment to improving the society by imposing Sharia as core members do. Therefore, a plan to demobilize the less ideological factions of the Taliban may include providing access to legitimate employment opportunities and convincing soldiers to use the ballot instead of the gun to change society. To that end, once international and Afghan troops have secured the majority of areas currently under Taliban rule, reconciliation talks should be held. This reconciliation will require a new strategy coordinated by the Afghan government with the international community acting as neutral intermediaries, and should “include clear “red lines” for negotiation agreed upon by all actors.”

The talks should first seek to reconcile insurgent leaders who are fighting because of localized grievances, rather than for their adherence to an Islamist ideology. These “moderate Taliban” members could be reintegrated into the political system after presenting Afghan and international authorities with an apology or other proof that they have renounced the Taliban.

Nevertheless, these actors could become spoilers in the burgeoning democratic system, so more institutional gains are needed to ensure the

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226 Ibid

227 Ibid
government may maintain order. Moreover, disarmament must occur among drug lords and non-Taliban militia groups, as deputizing them while they are still armed may undermine the authority of the central government.  

Second, is the question of which portions of the Taliban’s operations should be dealt with immediately and which should be left to the international community. To that end, the international community has been responsible for seeking out the terrorists and using intelligence to search out and capture or kill high ranking Taliban officials. In effect, the ANA and ANP will require better education and equipment to conduct such measures. However, they do have the capacity to secure and patrol existing transportation routes to ensure the uninhibited flow of aid and legitimate commerce. More importantly, the police and army can work at the local level to break linkages between villagers and mid-level Taliban commanders. Next, they must use their connections to Afghan civil society to keep information flowing about the actions of the international community as well as national efforts to install a veil of legitimacy to their operations.

Finally, previous rule of law strategies and the Obama administration’s Aft-Pak policy have focused too narrowly on the threat of al-Qaeda and has reduced attention to the Durand Line border that separates Afghanistan and Pakistan. Therefore, insufficient resources are committed to securing the Quetta Shura, 

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228 Ibid
229 Ibid
230 The Shura is a consultative council headed by Mohammed Omar and based in Quetta, Pakistan that is sympathetic to the Taliban. Farmer, Ben and Javed Siddiq. “US May Escalate Drone Attacks to Target Taliban Leadership.” The Daily Telegraph, 28 September 2009.
and Taliban bases in the Afghan province of Baluchistan and Pakistan. Furthermore, aid needs to be targeted in the insurgency-free yet poor provinces in order to prevent new pockets of Taliban resistance from forming. Finally, a more far-reaching strategy is needed to “address the drugs-insurgency-corruption nexus” that is funding the war economy.

Therefore, a new strategy is needed to address these overlooked obstacles to ensuring lasting rule of law. However, the new strategy must avoid creating new groups and contact organizations “that could add further bureaucratic layers” to the already overburdened central government. Furthermore, it should involve “institution-building and combating corruption as a means of countering and preventing the rise of the insurgency.” Most importantly, more attention and resources must be paid to the causes of the insurgency “by building basic rule of law and Afghan civilian capacity in order to strengthen the government’s delivery of services to the Afghan people.”

However, the Taliban have used the media to disseminate their propaganda. In contrast, the Afghan government and international community’s efforts to use various forms of media to promote Afghanistan’s democratization are less evident, especially in the country’s rural and insecure areas. The Af-Pak strategy could be employed to “strengthen the use of existing media to wage an

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232 Ibid

233 Ibid

234 Ibid

235 Ibid
effective campaign that disseminates information about reconstruction efforts by the Afghan government and the international community.\(^{236}\)

In addition to improving rule of law, the Afghan government and international community must install good governance in Afghanistan, since it is an essential component to Afghan self-determination.\(^{237}\) Thus far, the gains made in the area of governance have been mostly institutional and envisioned by the international community. However, some critics believe that there are too many ministries in Kabul and that the bureaucracy is overblown.\(^{238}\) Therefore, Afghans must establish which ministries are necessary from those that can be dismantled.

In addition to providing security for voters, the Afghan government should undertake a review of Afghanistan’s Constitution in order to determine if it is meeting the needs of the Afghan people. At this time, the president is overburdened with responsibility, so provincial and local actors might be able to take on some responsibilities at their level thereby increasing accountability throughout the country.\(^{239}\) To that end, civil society groups throughout the countryside require government support to influence policy decisions and act as the “crucial ‘bridge’ between people at the remote district level and the capital.”\(^{240}\)

\(^{236}\) Ibid 4
\(^{237}\) Call, Charles T. and Vanessa Wyeth., 306
\(^{239}\) Ibid
\(^{240}\) Ibid
If the Afghan government is able to improve rule of law through the combined efforts of the ANA, ANP and international community, its authority to carry out the functions of a democratic state will be respected. One of the most basic functions of a democratic state is holding fair and free elections. However, in the case of Afghanistan, democracy and elections do not necessarily beget the other. Rule of law institutions and proper vetting procedures must be established in order to prevent elections from becoming a fight between those with guns, such as militia groups and the Taliban, and those with money, such as drug lords, and those with power, such as internationally supported Hamid Karzai.\textsuperscript{241}

Furthermore, under the Bonn Agreement, 109 elections will occur over the next 60 years, which many critics consider unnecessary, expensive and could lead to voter fatigue. Therefore, the best course of action is to produce a legitimate leader as quickly as possible. In order for a leader to be perceived as legitimate, his or her rise to power will need to be legitimate. With this in mind, ISAF and Afghan security forces must work together to secure voter registration and protect voters that do turn out in order to ensure as many citizens are able to participate as possible. The international community can do its part to disseminate information through the recently improved media laws in order to pique the population’s interest in the national elections, and to demonstrate the respect for the diversity of opinions of the candidates.\textsuperscript{242}


Next, institutional reforms must be completed to improve the function of the Afghan government. Firstly, an updated census is needed in order to determine which regions need the most aid, so delivery can be channelled to the areas it is needed most. This will allow the Afghan government to take ownership and improve its legitimacy in areas that are wary of the central government due to decades of neglect and poor national policies. Furthermore, a census will help determine where to define electoral districts based on demographic and geographic data. This will quell the complaints of certain ethnic communities that claim the electoral boundaries are drawn in favour of other groups over their own. Finally, election workers at the national, provincial, district and village levels must be hired based on a rational, skill-based recruitment strategy to ensure fair elections. In amending the electoral system, Afghan subjects can be turned into citizens.\textsuperscript{243}

In addition, institutional improvements must be made to the educational system to improve the life chances of the Afghan people. The Afghan government must consult and cooperate with Afghan authorities to develop educational systems, curricula, and training programmes with the aim of educating not only children, but also the generation of adults who had little access to education during the civil war and Taliban years. In effect, a reinvigorated education sector could lay the groundwork for the return of an intellectual class to address the issues surrounding the role of Islam in democracy in Afghanistan. Furthermore, priority must be given to capacity

\textsuperscript{243} Shahrani, Nazif., 106
building, specifically with regard to the civil service. To that end, a civil service academy must be established. At the same time, the government should also focus on devolving state responsibilities to the provincial and district level.\textsuperscript{244} In essence, the proximity of the district government to the people makes it the appropriate “unit of stabilization.”\textsuperscript{245} The international community must coordinate its efforts and funds to assist in the performance of these institutional reforms.\textsuperscript{246}

Another area that needs institutional reform in Afghanistan is the legal system and rights regime. The Afghan government, with support from the international community, “needs to pursue urgent reforms to the legal system and to try to define what role and function that the formal and informal systems should play, through a process of broad and representative consultation. A draft model for developing a hybrid legal system might form the basis for further development of a new model.”\textsuperscript{247} To accomplish this, an Afghan legal institute must be established to conduct research and collect data concerning the current performance of the Afghan legal system. In addition, accountability in the legal system can be improved by creating a system of administrative law, “such as an Ombudsman’s office, or an independent administrative complaint mechanism like a tribunal for police abuse and misconduct.”\textsuperscript{248}

\textsuperscript{245} Ibid
\textsuperscript{246} Ibid
\textsuperscript{247} Ibid
\textsuperscript{248} Ibid
One last area of Afghan political life that needs dramatic improvement is women’s rights. For the Afghan government to function well and perceived as legitimate, it “must be able to launch a credible and inclusive peace process which respects the rights of all Afghans – men, women and children – and which brings the various parts of the Afghan society together in an inclusive manner.”

As mentioned earlier in this section, designing a constitution to enshrine the citizen’s rights to participate and holding democratic elections are two crucial milestones on the path to state-building after conflict. Nevertheless, in order for the emerging democracy in Afghanistan to be as inclusive as possible, it must ensure that “women’s rights and their entitlements to civic and political participation are, in principle, meant to be safeguarded through these processes.” In effect, including women in Afghanistan’s reconstruction will improve the state’s legitimacy in the eyes of a considerable portion of its population, as well as the international community. Moreover, it will create a legal framework to protect women from the restrictive and abusive policies of the extreme Islamists. Finally, if women’s rights are respected, they may return to the healthcare and education sector positions that they had to abandon during the Taliban’s reign thereby ensuring the sustainability of development.

Women’s rights are encoded in the constitution but societal pressures often prevent them from having direct access to the resources necessary to earn

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a sustainable livelihood. This is especially true for widows who are often left with few resources and children to care for. The international community and Afghan government must provide aid to widows and their children. In doing so, the children will have improved life chances which reduces the risk of them being persuaded to join the Taliban to support themselves and their family.\textsuperscript{252}

A rethinking of the treatment of women in Afghan society by the international actors involved is needed to ensure their rights are respected. In effect, the insecurity of the civil war and Taliban reign provoked even the most urban, educated middle-class families to restrict the behaviour of female family members out of fear more so than because they were committed to social conservatism. However, this phenomenon has often been interpreted as an expression of local culture by the international community, which makes international actors hesitant to pressure the government to uphold human rights. Thus, the international community must appreciate the local context and remain forceful in its expectations that human rights will be respected. Finally, improving the capacity of the Afghan government to maintain rule of law will create a safer environment for women and their families and free them from their fears.\textsuperscript{253}

The international community and Afghan government have made considerable institutional gains in Afghanistan thus far. However, they will need to continue working to remove barriers to participation by strengthening rule of law, improving the efficiency of institutions and ensuring women’s rights are upheld. If the international community lays the foundation for good governance,

\textsuperscript{252} Ibid
\textsuperscript{253} Kandiyoti, Deniz., 513
there is hope that the Afghan government will for the first time experience both internationally recognized sovereignty and internal legitimacy. Nevertheless, the international community must not make haste its exit, for “Afghanistan has been abandoned before only to resurface as a more serious issue – this time could be no different.”

4.4 Concluding Remarks:

Chapter 4 entitled “Rule of Law, Islam and Legitimacy: Foundations of a Better State in Afghanistan?” demonstrates that international actors require legitimacy in their state-building efforts. To that end, their cause must be to improve the security and safety of the citizens of weak or failed states. In doing so, they lend legitimacy to their intervention and allows for continued popular and financial support. More importantly, the legitimacy of the outcome of the mission begins with the legitimacy of the mission itself.

In addition to the need for perceived legitimacy in the international arena, the international community requires that the citizens of the country it is attempting to assist interpret their actions as legitimate. With this in mind, the Bonn Agreement sought to facilitate Afghan participation in the state-building process. Nevertheless, very few Afghans have the resources, means and knowledge to participate in the mission because many more reforms are needed in the area of rule of law, institutional capacity and women’s rights. Therefore, this chapter outlines some ways to accomplish those reforms and argues that in

doing so, the Afghan government can expect to be recognized as a legitimate sovereign entity by both its citizens and the international community.
5: CONCLUSION

This paper, with the intention of contributing to existing 'state-building' literature, argued that Islam and democracy are indeed compatible and analyzed the role that Islam can play during the international community’s post-9-11 state-building operations. In effect, although Islamic principles support the relationship between rulers and ruled that democracy entails and Islam provides its followers with a community of believers, the use of Islam in the political sphere has not resulted in the political unity necessary to successfully build Islamic democracy in Afghanistan. Political and ethnographic issues that are unrelated to Islam have historically threatened the state and continue to in the midst of the international mission.

The analysis of early Afghan state-building efforts in Chapter 2 reveals that Islam has been a feature of the state for most of its history. However, political elites either attempted to modernize the country too quickly, thereby alienating more traditional and rural factions; or, warlords and Islamists halted democratically inspired movements to install their own interpretation of Islam that few sectors of the population accepted as legitimate. The Taliban’s reckless management of the state and their extreme application of Sharia undermined local, traditional sources of legitimacy and delegitimized their rule in the eyes of the Afghan people and the international community. Furthermore, their constant appeals to Islam for legitimacy seemed to suggest that Islamic and Western
values are incompatible, and that democracy and Islam cannot coexist. Nevertheless, the paper argued that Islam did not hamper state-building in Afghanistan; rather, it is the lack of a consolidated vision for the installing of Islamic democracy and other political and ethnographic issues that ultimately lead to the state’s sustained crisis of legitimacy.

With this analysis in mind, Chapter 3 argued that Islam could provide the foundation for democratic and legitimate governance. However, despite Islam being a common thread among Afghans, their ethnic, regional, linguistic and sectarian divides provide stronger community ties. Individuals identify with their qwam, so building a united national identity to engage all Afghans in civic nationalism has proved difficult in Afghanistan. Next, the paper highlighted the fundamental compatibilities between Islam and democracy by analyzing the inclusive mechanisms and the vehicles for opposition that Islamic principles provide to the community of believers. Nevertheless, Afghan Muslims must develop their own theoretical vision for Islamic democracy and how it will be implemented in Afghanistan. This will undoubtedly prove challenging if the rule of law situation remains unchanged, as violence and insecurity is undermining the ability of the state to perform its basic functions.

Building on the assertion that Islam is not an impediment to state-building; rather, it is the lack of an indigenous vision for Islamic democracy and an at times, worsening rule of law situation are hampering democratization. Thus, Chapter 4 argues that if the international state-building mission is to be considered legitimate, its foremost goal must be to secure the welfare of Afghans
left insecure by decades or warfare. In addition, Chapter 4 argues that the international community ought to continue to rely on legitimate international authorities, such as the UN in its approach to guarantee sustained support and aid flows.

Nevertheless, the UN’s light footprint approach to state-building has experienced limited success despite its reliance on local actors. Many problems remain, especially in the area of rule of law and economic opportunity. As a result, few Afghans can legitimately participate in the state-building mission. Even worse, some Afghans must still turn to the Taliban to earn their livelihoods. Thus, this chapter concludes that a new strategy to improve rule of law, institutional capacity and women’s rights is needed ensure that the fledging democratic government can perform its basic functions. In doing so, the government will be perceived as legitimate by both its citizens and the international community. More importantly, the partnership between Islam and democracy in Afghanistan is the foundation upon which peace may be secured for the years to come.

To conclude, “as a rule, gradual and unforced change is better than sudden and compulsory change. Democracy cannot be born like Aphrodite from the sea foam.” Building a more democratic state that is respectful of human rights and faithful to Islamic traditions is not an impossible goal for the international community and the Afghan government. It will nonetheless, be a long and potentially arduous process, but if lasting peace and security for the Afghan people is the result, then it must be pursued at all cost.

255 Diamond, Larry Jay, Marc F. Plattner and Daniel Brumberg eds., 218
REFERENCE LIST


