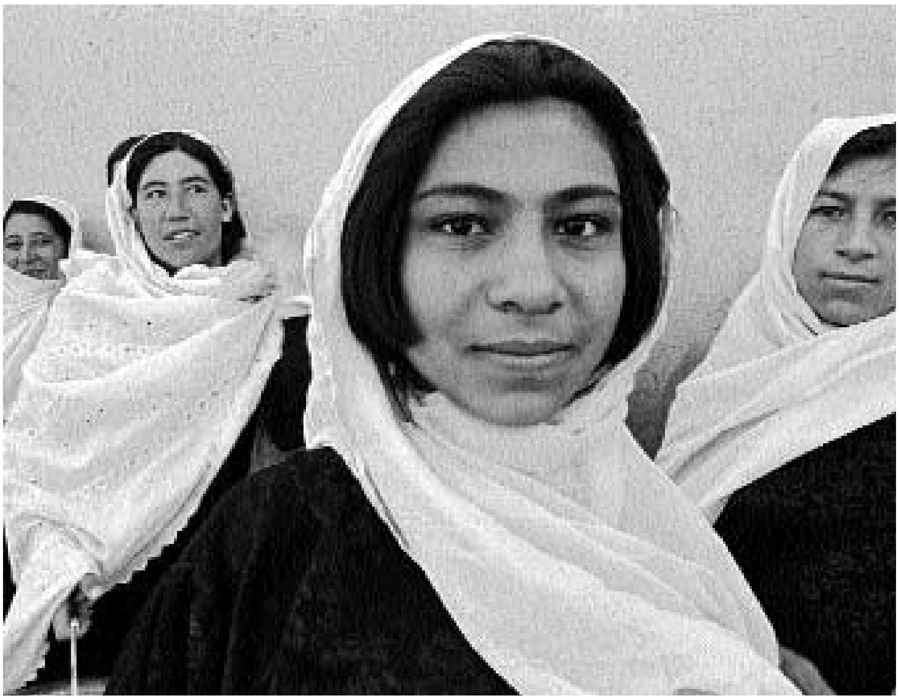
briefing

minority rights group international

Afghanistan: The Search for Peace

By Conor Foley

Introduction



Teachers at a girls' school, Balkh Province, Afghanistan. *Iva Zimova/Panos Pictures*

The sudden collapse of the Taliban government in Afghanistan at the end of 2001 following the US-led military intervention, the conclusion of the Bonn peace accords [1] and the astonishingly quick return of almost two million refugees in 2002 were hailed as a major achievement at the time.

It now seems that some of the congratulations may have been somewhat premature. Hundreds of people have been killed in fighting over the summer of 2003, including fighting between rival militia groups in the north. Aid workers have been murdered and beaten, and aid supplies have been looted in recent months. In one of the most gruesome attacks, in September, five workers from the Danish Aid Committee were taken from their vehicle, had their hands tied behind their backs before they were roped together, lined up on the road and shot. Attacks have also been mounted against the International Security Assistance Force (ISAF), including rocket and grenade assaults and suicide car bombings. Increasingly, Taliban fighters have been mounting audacious large-scale attacks in the south and are claiming *de facto* control of two provinces.

Even before the re-emergence of the Taliban, the writ of authority of Afghanistan's central government did not extend much beyond the outskirts of Kabul. Much of the country has remained essentially lawless since the fall of the Taliban in November 2001. The criminal justice system is barely functioning and, even in the areas where they operate, the police and courts are unable to protect basic human rights. The re-emergence of large-scale poppy cultivation, reduced under the Taliban, is another indication of Afghanistan's continuing instability. The International Monetary Fund warned in September 2003 that, although the official economy was growing, opium growing was responsible for half of the country's wealth and provided about 75 per cent of the world's opium crop. Corruption is rife, people are routinely subject to arbitrary detentions and mistreatment, and often denied the right to a fair trial. Popular alienation from the government recalls, in some ways, the situation when the Taliban first swept to power.

This paper is an update to the report *Afghanistan: Minorities, Conflict and the Search for Peace*, published by Minority Rights Group International in November 2001. It considers the scale of the problems Afghanistan currently faces, nearly two years after the Bonn agreement, focusing in particular on human security, the rights of minorities and tribal groups, and the challenges for the current constitution-building process.

Refugees and internal displacement

The rapid return of so many refugees has exacerbated many of Afghanistan's problems.[2] The United Nations High Commissioner for Refugees (UNHCR) estimates that almost 2 million refugees returned to Afghanistan from abroad in 2002 while 700,000 internally displaced people (IDPs) went back to their places of origin.[3] Some of these were assisted by UNHCR programmes, while many others returned spontaneously. The numbers returning in 2003 have been much lower and it is clear that many of those who went back last year did so on the basis of inadequate information about the poor security conditions and the lack of economic opportunities that they were likely to face. Many are now completely destitute and this is leading to further cycles of displacement as returnees leave their homes once again. As Mohamed Shah, a recent returnee commented: 'We wish now we hadn't returned. If we had known the real situation, we would not have come back.'[4]

At the same time, continuing pressure from neighbouring countries is forcing many Afghan refugees to return in conditions where their basic human rights cannot be safeguarded. Amnesty International, among other organizations, has documented cases of police harassment of refugees in Pakistan and Iran, and has also noted that the authorities have applied a variety of other pressures, including denying refugee children regular access to schooling and closing down camps which had been providing refugees with shelter. It concludes that: 'Many of the return movements from Iran and Pakistan in 2002 and 2003 were not an act of free will on the part of the refugees, who were constrained by explicit or implicit pressures emanating from the local or national authorities.'[5]

Pakistan and Iran together provided a place of refuge for up to 6 million Afghan refugees during the conflicts that wracked the country for 23 years. The reluctance of both countries to continue to provide sanctuary to so many Afghans is understandable, given the huge strain that this placed on their resources. However, there is increasing evidence that both countries are now returning Afghan refugees in contravention of international human rights standards, including the fundamental principle of *non-refoulement*. In this context, the forcible return of Afghans from other countries, such as Britain and France, which have hosted far fewer refugees, sends out completely the wrong message to the Iranian and Pakistani authorities.

The Afghan refugee crisis began in the late 1970s, following a communist *coup d'etat* in 1978 and a Soviet invasion the following year. The Soviets finally withdrew in 1989, by which time up to a third of the country's civilian population had fled their homes, either seeking refuge abroad or becoming internally displaced. The pro-communist regime, led by President Najibullah, survived the Soviet withdrawal until 1992, when it fell to a Mujahidin assault on Kabul that produced another huge refugee flow. Factional fighting between rival Mujahidin groups led more people to flee and caused widespread destruction in Kabul and other areas. The Taliban's seizure of power in the mid-1990s brought more fighting and human rights violations, and their repressive rule compounded Afghanistan's poverty and isolation. The US military intervention in Afghanistan, following the attacks on the USA of 11 September 2001, caused hundreds of thousands more to flee their homes.

As Minority Rights Group International had warned, the toppling of the Taliban by the US-backed Northern Alliance led to more human rights violations, particularly against ethnic Pashtuns, who were identified by many Uzbek and Tajik militias as supporters of the previous Taliban regime. UNHCR estimates that some 60,000 Pashtuns fled northern Afghanistan in December 2001.[6] Most of these are still not able to go back to their homes and are currently internally displaced.

UNHCR estimates that there are around 250,000 internally displaced persons in Afghanistan today, two-thirds of whom are still relying on UN agencies for food aid.[7] Other observers put the number of IDPs at twice that figure.[8] The issue is controversial as the definition of who constitutes an IDP and how long a person remains one is complex. The international community has still failed to agree on how to deal with people who have fled their homes in refugee-like circumstances, but who have not crossed an international frontier. The practical implications of this failure continue to be felt in Afghanistan and elsewhere across the world.

Land, water and aid

Continued fighting and human rights violations mean that many other Afghans remain internally displaced, often occupying other people's lands. The looting and destruction caused by war was recently compounded by severe drought, which devastated much of the countryside over a four-year period. Disputes over land and property remain a significant cause of internal tension in Afghan society. The inability of the courts to deal with these problems is also having an extremely destabilizing effect. A recent report by the independent Afghanistan Research and Evaluation Unit (AREU) described land disputes as the 'number one source of conflict' in Afghanistan today.[9]

The miserable living conditions of much of Afghanistan's population highlight the need for the international community to make good its promises of continuing international assistance. Abd al-Mannan, for example, a middle-aged father of four who returned to Kheyrabad last year with 90 other families, found conditions back home far worse than in the refugee camp that he had left. His village has no electricity, no health care facilities, no proper road and only one school for a thousand families. 'We have to depend on agriculture for survival', he commented, 'and we don't have enough water for that.' [10]

According to the Asia Development Bank, only a small proportion of the US $5.1 billion pledged at the Tokyo donor conference in 2001 has yet been received.[11] Returning people to areas where there is no infrastructure to support them is likely to be a self-defeating process.[12] Habibollah Qaderi of the Afghan Ministry for Refugees and Repatriation has emphasized that return should be 'voluntary, informed, gradual and [done] in a controlled way.' [13] UNHCR has also stressed that sustainable return must be linked to securing access to shelter, water, livelihood and income-generating projects, health facilities and education. Short-term humanitarian assistance must now be matched by longer-term development programmes.

However, the crisis in Afghanistan, as in other countries that have experienced conflicts and widespread human rights violations, makes the distinction between short-term and long-term support quite difficult to draw. Donors and international aid organizations, who provided the bulk of the emergency assistance, are increasingly focusing their activities on capacity-building and strengthening the institutions of civil society and governance. International non-governmental organizations (NGOs) are setting up legal aid centres, along with their shelter projects, and deploying property law specialists alongside their water sanitation engineers. The Norwegian Refugee Council (NRC), for example, has recently established a network of legal aid and information centres to provide advice to refugees and returnees. This reflects a growing recognition that good governance, respect for human rights and the rule of law are not 'optional extras' when it comes to rebuilding a country, but an intrinsic part of the process of reconstruction.

Land and housing disputes provide one illustration of this. The unorganized land registration system, the large number of missing title deeds, and the fact that disputed land has often been sold many times over, makes it very difficult to determine who owns what. Nearly a quarter of a century of conflict has seriously destabilized land relations, and the absence of a rule of law in much of the countryside means that, even where the courts or customary dispute resolution mechanisms – such as village *Shuras* – issue fair judgments on land and housing disputes, there is no guarantee that these decisions will be enforced.

Returning refugees and IDPs often find themselves entangled in property disputes, are unable to reclaim their property or simply fall victim to extortion rackets run by local commanders. In the ethnically divided northern provinces, in particular, where Kabul's authority holds little sway over powerful regional warlords, this is one of the most significant factors hindering return. However, problems of land ownership and land reform in Afghanistan go far deeper than this. No clear regime for managing land rights exists and land rights are governed by a number of different legal systems, including customary law, civil law, Islamic law and state law.

Successive governments have also pursued markedly different policies in relation to land ownership and management. Land ownership in Afghanistan is starkly inequitable and a significant proportion of the rural population is landless. While it is possible that allocation of government land to returnees would help to improve this situation, land distribution is currently banned by presidential decree. Moreover, a mismanaged attempt at land reform was one of the major causes of uprisings against the communist regime in 1978, and disputes over land ownership continue to be a major source of ethnic conflict down to the present day.[14]

Tackling such problems requires more than just returning land to its pre-war owners, as this ignores fundamental grievances about land distribution in Afghan society. However, there seems little political will on the part of the authorities to address this difficult issue. A Land Court has been established to address the property concerns of returnees, but it is overburdened, politicized and, like Afghanistan's formal courts, subject to both intimidation and widespread corruption. More recently, a special commission has been established to look at the issue of land rights following the high-profile demolition of some houses in the Shiropur district of Kabul to make room for private houses for a number of government ministers.

In the meantime many Afghans prefer to settle disputes informally, using customary practices. As John Dempsey, a property lawyer based in Kabul, stated, 'Because so much of the conflict still pervasive in Afghanistan centres on disputes over land, fair resolution of these disputes, as well as sufficient mechanisms to enforce these resolutions, is needed to improve security throughout the country. But both the formal and customary justice systems lack the capacity to counter the influence of local commanders and other politically-connected persons.' Lawyers from the Norwegian Refugee Council have convened a number of Jirgas that have settled disputes, in a fair manner, but the legal standing of these informal settlements is uncertain and they are also vulnerable to political pressure.

Ethnic tensions and the rights of minorities and tribal groups

Equal rights for Afghanistan's different ethnic minorities and tribal groups is also not an issue that can be 'put off for later'. Afghanistan consists of a number of different ethnic groups – none of which constitute an absolute majority of the population. The Pashtuns, who are the largest, and historically most powerful, single ethnic group, are currently significantly under-represented in a central government dominated by the Uzbeks and Tajiks of the Northern Alliance. The Pashtun were prominently represented in both the previous communist and Taliban governments, and their virtual exclusion from the current administration – with the notable exception of President Mohammed Karzai – is a major cause for continuing concern. The Pashtun people straddle both sides of the Pakistan border and this is one reason why the government of Pakistan has pursued such an interventionist policy towards Afghanistan.[15]

Other groups, such as the Hazaras, have been more traditionally marginalized in Afghan society. The Hazaras are thought to be descendants of the Mongol tribes who once devastated Afghanistan, and are said to have been left to garrison the country by Genghis Khan. The Hazaras have often faced considerable economic discrimination – being forced to take on more menial jobs – and have also found themselves squeezed from many of their traditional lands by nomadic Pashtuns. Starting at the end of the nineteenth century, successive Pashtun leaders pursued active policies of land colonization, particularly in the northern and central regions, rewarding their supporters, often at the expense of the Hazaras. This policy was partially reversed during the Soviet occupation, but started again under the Taliban.

A Hazara-backed political party/militia group, Hisb-e-Wahdat, had sought to expand its influence when the Mujahidin captured Kabul in 1992. The Hazaras are Shi'a and Wahdat had been formed as a result of an initiative by the Iranian government. They were opposed on this occasion by a Saudi-backed Pashtun militia, Ittihad-i-Islami, and eventually driven back from the city after suffering heavy casualties. Five years later the Hazaras helped to inflict a significant defeat on the Taliban in the northern town of Mazar-e-Sharif. Thousands of Hazara civilians were systematically murdered in retaliation when the Taliban finally recaptured Mazar in 1998. The Taliban also murdered a number of Iranian diplomats at the same time. The following three years also saw a number of ethnically based killings during fighting between the Taliban and the predominantly Uzbek, Tajik and Hazara militias who together now formed the Northern Alliance. Hazara civilians were massacred by the Taliban at Robatak Pass in 2000 and Yakawlang in 2001. Tajik civilians also faced forced displacements in Shomali valley and Taloqan during this period.

Today civilians continue to bear the brunt of a contest for power in the northern provinces between three of these militia groups: Jonbesh-e Melli Islami, led by Rashid Dostum, Jamiat-e-Islami, led by Mohammed Ustad Atta and the Iranian-backed Hisb-e-Wahdat. Dostum is an Uzbek, who once fought alongside the Soviet-backed regime of President Najibullah. Mohammed Atta is a Tajik and *protégé* of the former leader of the Northern Alliance, General Massoud, who was murdered by Al Qaeda on 9 September 2001. Both of these men have sought to broaden the ethnic bases of their support by wooing local commanders of a different ethnicity, but all three groups have been engaged in murderous clashes over the summer of 2003, that have often taken on an ethnic character.

Disagreements remain about the extent to which a common Afghan culture can be said to override the ethnic identity of most Afghans. Afghanistan's borders have left Pashtuns, Uzbeks, Tajiks and Turkomans stranded on both sides. In fact the only exclusively Afghan ethnic group are the Hazaras. Nevertheless, despite a quarter of a century of conflict, Afghanistan has not experienced a Balkan-style disintegration. Nor, despite the many horrific massacres that have taken place, did the warring factions engage in the type of 'ethnic cleansing' that has marked other conflicts elsewhere in the world. The durability of the 'Afghan identity' can be shown by the fact that Kabul continued to be regarded as the legitimate centre of political authority by most Afghans – whatever their disagreements with the forces occupying it at the time.

Politics in Afghanistan is, nevertheless, both ethnic and local. One of the long-standing fault-lines of Afghan politics is the tension between the demands of the central state and the traditional influence of local leaders. Attempts to impose reform from above, either in the name of modernization or ideology, have often been bitterly resisted at the village, clan or community level. Some argue that a weak, and politically neutral, central government is the best, and least disruptive, means of governing Afghanistan.[16] However, this would be to collude in the denial of many basic rights for ordinary Afghans, by leaving local injustices unchecked.

Human security

Afghanistan also cannot escape the influence of outside forces. Politics in Afghanistan has always had an international dimension, and the country has been the victim of repeated invasions and external interference. First Tsarist Russia and then the Soviet Union saw Afghanistan as a potential threat to its southern frontier, while Britain and the USA have both, on occasion, feared that a Russophile regime in Kabul could threaten their vital interests. Iran and Pakistan have similarly invested much time and effort in shaping the outcome of Afghanistan's internal power struggles. All of these countries have played an active role in undermining the authority of Afghanistan's central government for short-term, and often extremely short-sighted, tactical advantage.

One of the most recent examples of this was the decision by the US military to continue to provide direct military support to particular local commanders in its fight against the remnants of the Taliban in 2002. This decision particularly alienated Pashtuns in the south.[17] One of the most pressing tasks facing the government in Kabul is to build up a central Afghan National Army (ANA) and to weaken the influence of these militias. Recruitment for the ANA has now started, with active US support, and the Disarmament, Demobilization and Reintegration (DDR) of the militias was announced as having commenced on 1 July 2003. DDR is envisaged as a purely voluntary process, however, and it is unlikely to have much impact in the north in the short term. While the militias remain in control of much of the country, little progress can be made on tackling most of Afghanistan's other problems.

The militias often forcibly recruit soldiers from the villages under their control and levy local 'taxes' from the villagers by seizing cash and crops. Young men have been shot dead or imprisoned and tortured for refusing to enlist. People have been forced to work for local commanders, harvesting crops and carrying out other duties. Collective reprisals have also been inflicted on villages including the burning and looting of property and the murder and rape of villagers. Indeed 'forced recruitment' has been identified by UNHCR as one of the major factors – along with access to land – that is inhibiting the return and reintegration of refugees and IDPs to northern Afghanistan.

The Afghan Independent Human Rights Commission, which was established under the Bonn Agreement, has a huge case-load of complaints about the behaviour of the militias. Dr Rafiullah Badir, the Regional Programme Manager of the Commission in Mazar-i-Sharif notes that their influence also extends into the institutions of government. 'Many departments are headed by former commanders', he says, 'and this can lead to politicization and corruption when the provincial authorities are dealing with the people.'

In February 2003 UNHCR inaugurated a Return Commission, which comprised representatives of the central government in Kabul, the UN, the Afghan Independent Human Rights Commission and the leaders of the northern political factions: Jonbesh-e Melli Islami, Jamiat-e-Islami, and Hisb-e-Wahdat. The Commission has created its own working group that meets regularly and has been discussing some of the continuing obstacles to return. The working group has visited over 200 of the areas that have been identified as potential places for return and has produced reports detailing some of the issues that need to be addressed in order to give people the confidence necessary to come home. These reports, which include details of human rights violations committed by local commanders, have been used in lobbying and advocacy by the UN agency with the militia groups concerned.

Michael Zwack, head of UNHCR's northern sub-office, commented: 'The working group is functioning well as a reporting mechanism and its members have shown a genuine commitment to highlighting problems relating to the protection of human rights. Solving these issues is going to take far more time, however, and needs to be linked to the wider process of disarmament and political reform.'

UNHCR has also been attempting to monitor the conditions of those who have returned – although this was made quite difficult by the sheer scale of the return that took place in 2002. Returnee monitoring exercises were conducted in many rural areas in late 2002. The information gathered was used both to target assistance more effectively and to identify the concerns of returnees about the conditions that they have encountered. Amnesty International has criticized UNHCR for not commencing this monitoring earlier and also for restricting its monitoring and assistance activities to rural areas – given that most returnees went back to the main towns.[18]

Some donors attempted to restrict assistance activities to rural areas, for fear of increasing the 'pull factor' to the towns, which have all seen rapid growth over the last year. Around half a million people settled in Kabul alone in 2002, and the city is struggling to cope with such a large population increase. It is very difficult for the urban authorities to distinguish between IDPs – who have been compelled to leave their own homes – and those who have simply migrated from the countryside in search of work. The ending of the drought has seen some people return to rural areas, but it is not known how many still feel that they cannot return to their homes because of protection or security concerns.

UNHCR is now starting up an urban returnee monitoring project in the north with an NGO implementing partner, the International Rescue Committee (IRC). Brian White, Program Manager for the IRC's Protection Unit in northern Afghanistan, stated: 'Our monitors are documenting a range of violations, which show that urban centres can be just as dangerous as rural areas. We have particular concerns about crime, overcrowding and violence against women. Although returning women's access to employment and education is better in cities than in villages, cases of forced and early marriages are unfortunately common. This situation, however, does not apply just to returnees, it falls equally on Afghan women who never experienced displacement.'

The Taliban's notorious edicts forbidding women from working or attending school and imposing rigid behavioural and dress codes brought international attention to the plight of Afghan women. This neo-conservative attempt to return Afghanistan to a pre-modern society was partly a response to the turmoil and insecurity that had engulfed the country in previous years. The Taliban went further than the Mujahidin parties in their interpretation and espousal of the institution of *purdah*. Unlike the Mujahidin parties they also imposed these restrictions on female mobility on the towns that they conquered.

However, the systematic denial of women's rights pre-dates the rise of the Taliban and remains a deep-rooted phenomenon in Afghan society. Forced and early marriages, discrimination against women in employment, and the exclusion of women from education and much of public life, as well as violence against women in both the public and private spheres, remain endemic and controversial problems today. There was a spate of kidnappings of women in the northern provinces of Balkh, Samangan and Baghlan in early July 2003, and some of these may have been the result of 'honour killings' ordered by local commanders.

Towards a new constitution

The position of women was one of the issues that was due to be addressed in Afghanistan's long-awaited new constitution. Hopes were high that this would also entrench human rights protection and the rule of law, as well as provide a workable distribution of power between central government and the provinces.

A preliminary draft constitution was prepared by a constitutional drafting commission, comprising nine members (including two women), in March 2003 and presented to President Karzai. A 35-member constitutional commission (a fifth of whom are women), chaired by Vice-President Nematullah Shahrani, then worked on the draft before embarking on a nationwide public education and consultation campaign. The first publication of the draft constitution was originally scheduled for the end of August but it was eventually released on 3 November, in advance of a constitutional *Loya Jirga* (grand tribal assembly) that is due to agree the constitution in December.[19]

Perhaps the most controversial issue in the drafting process was the precise status accorded to Islamic law in the draft, and whether it would be the only legal tradition followed or be accorded superiority to other forms of law. The vice-chairman of the constitutional commission had maintained that the draft constitution would conform fully with international law and international human rights standards.[20] The draft describes Afghanistan as an 'Islamic Republic' and provides that 'no law can be contrary to the sacred religion of Islam and the values of this Constitution' (article 3) but entrenches international legal standards, including the Universal Declaration of Human Rights (article 7). There is little specific provision for women's rights, beyond the establishment of programmes for women's education.

Rather less attention has been paid to the potentially divisive issue of which form of Islamic law is recognized in the constitution. The 1964 Constitution, an amended version of which is currently in force following the Bonn agreement, establishes that in matters not covered by the Constitution or parliamentary legislation, 'The provisions of the Hanafi jurisprudence of the Shariaat of Islam shall be considered as law.' This left Muslims (including notably the Shi'a Hazaras) who do not follow the Hanafi (Sunni) doctrine unprotected. Article 131 of the draft constitution, however, says that the courts will apply the Shi'a school of law in cases dealing with personal matters between members of the Shi'a sect. Similarly, although the 1964 Constitution required that the Head of State be Sunni, the new draft specifies only that the President should be Muslim and of Afghan parentage. (There has been some speculation that the roles of president and deputy president might be reserved by custom for a Pashtun and a Tajik, to ensure some ethnic balance.) Article 2 of the draft constitution establishes Islam as the religion of Afghanistan, but importantly also provides that followers of other religions are free to perform their religious ceremonies within the limits of the law.

Perhaps most importantly from the perspective of conflict prevention, the draft goes further in protecting minority rights, in an attempt to heal ethnic divisions in the country. The preamble sets the tone by stating that 'Afghanistan is a single and united country and belongs to all ethnicities residing in the country'. Article 6 of the draft provides that the state is obliged to ensure national unity and equality among all ethnic groups and tribes, and to provide for balanced development in all areas of the country. The official languages will be Pashto and Dari, but the constitution also requires the state to implement effective plans for strengthening and developing all the languages of Afghanistan (article 16) and to provide the opportunity to teach native languages in the areas where they are spoken (article 43), provisions which go beyond the minority language protection available in many Western states.

It is not surprising that the draft constitution provides for a strong central state, given that extensive devolution under current conditions would come close to constituting an effective break-up of the country. Providing for appropriate devolution to the provinces, recognizing Afghanistan's diversity while seeking to preserve its unity and the rule of law, is thus one of the hardest problems facing the whole constitutional process, particularly given that Afghanistan's warlords will seek to strengthen their own hands. The head of a recent UN Security Council mission to Afghanistan told the Council on 11 November: 'The conditions necessary for a credible national political process are not yet in place – national reconciliation requires greater focus; political parties need time to develop; national institutions must undergo reform and the power of the factional leaders must be diminished.'[21]

However, there has been criticism about the fact that the draft itself was not made publicly available until a few weeks before the constitutional *Loya Jirga* needs to agree it. This is hardly an encouraging indicator of the seriousness with which the authorities are approaching the task of nation-building. As Dr Badir of the Afghan Independent Human Rights Commission commented: 'Some people are quite cynical about the process and think that the UN and the government in Kabul have decided everything behind closed doors.'

Under the Bonn agreement, the deadline for elections to choose a 'fully representative government' falls in June 2004. However, the UN Secretary-General's July 2003 report on Afghanistan noted that the security environment that would allow eligible Afghans to participate fully in an electoral process 'does not really exist', and called for ISAF, which is currently only 5,000 strong, to be deployed beyond Kabul to other key cities. In October the Security Council extended ISAF's mandate to enable this to happen, but the decision has not yet been implemented.

In the meantime, international assistance is helping to make up for the central government's lack of revenue while recalcitrant militia commanders are being cajoled into handing over some of the customs revenues that they are able to raise through their control of Afghanistan's borders. If the peace can be firmly established, the flow of assistance stepped up and genuinely representative and accountable institutions of central and local government created, there are some grounds for optimism. For the moment, though, these look like very big ifs.

Conor Foley is Programme Manager for the Norwegian Refugee Council's Information and Legal Aid Centres in Afghanistan. He has previously worked for a number of human rights and refugee organizations and as a freelance consultant. The views expressed in this article do not necessarily reflect those of the Norwegian Refugee Council.

Notes

1 'Agreement on provisional arrangements in Afghanistan pending the re-establishment of permanent government institutions', Bonn, 5 December 2001.
2 See, for example, *Out of Sight, Out of Mind: The Fate of the Afghan Refugees*, London, Amnesty International, June 2003, and Turton, D. and Marsden, P., *Taking Refugees for a Ride, the Politics of Refugee Return to Afghanistan*, London, Afghanistan Research and Evaluation Unit, December 2002.
3 See *The Internally Displaced in Afghanistan: Towards Durable Solutions*, Report of the UN Inter-agency Mission, May 2003.
4 Cited in Amnesty International, *op. cit.*, June 2003.
5 Amnesty International, *op. cit.*, June 2003, para 3.1.
6 'Afghanistan: focus on returns and reintegration in the north', IRIN Humanitarian News, UN OCHA, 18 June 2003.
7 UN Inter-agency Mission, *op. cit.*, May 2003, p. 1.
8 See, for example, *World Refugee Survey, 2003*, United States Committee for Refugees.
9 Wily, L., *Land Rights in Crisis, Restoring Tenure Security in Afghanistan*, Afghanistan Research and Evaluation Unit, March 2003.
10 Quoted in IRIN, *op. cit.*, 18 June 2003.
11 Press Release, Asia Development Bank, 6 June 2003.
12 On a visit to London in June 2003 President Karzai stated that the previous amounts pledged would be insufficient for Afghanistan's needs. He asked the international community for between US $15 and US $20 billion.
13 IRIN, *op. cit.*, 18 June 2003.
14 For details see Wily, *op. cit.*, March 2003.
15 See Marsden, P., *Afghanistan: Minorities, Conflict and the Search for Peace*, Minority Rights Group International, November 2001; and Roy, O., *Afghanistan: Internal Politics and Socio-economic Dynamics and Groupings*, WriteNet/UNHCR Emergency and Security Service, March 2003.
16 See Roy, *op. cit.*, March 2003.
17 See *Afghanistan: The Problem of Pashtun Alienation*, International Crisis Group, August 2003.
18 Amnesty International, *op. cit.*, June 2003, para 8.2.
19 See Secretariat of the Constitutional Commission of Afghanistan, *The Constitution-making Process in Afghanistan*, 10 March 2003, available at www.constitution-afg.com. The draft constitution is available on the same web site in Pashto, Dari and in an unofficial English translation.
20 See UN OCHA, *Afghanistan: Special Report on the New Constitution*, 2 June 2003, at www.reliefweb.int
21 See press release SC/7913, 11 November 2003.

working to secure the rights of minorities and indigenous peoples

minority rights group international

Recommendations

To the Afghan Transitional Authority:

1. All the country's different ethnic and religious communities should be able to participate fully in formulating Afghanistan's new constitution, and in the presidential and parliamentary elections that follow.
2. Afghanistan's new constitution should conform to international human rights norms, including protecting the rights of minorities and the rights of women and enshrining religious freedom, regardless of the legal tradition or mix of traditions followed.
3. The Afghan authorities should ensure that all necessary political and financial support is made available to implement constitutional provisions protecting minority rights and the rights of women, and promoting the development of Afghanistan's different languages and women's education.

To the international community:

4. The international community should provide all necessary support to the International Security Assistance Force to ensure adequate security both in Kabul and beyond so that free and fair elections can take place in 2004 in which all Afghanistan's communities can participate.
5. The international community should increase its current commitment to providing both short- and long-term development aid to Afghanistan. International development agencies should support the creation of a safe and habitable environment so that refugees and internally displaced persons from all ethnic and religious groups can return to their homelands. Such efforts should include support to assist returnees to reclaim land and property.
6. Neighbouring countries and other countries of refuge should continue to honour their obligations to refugees from Afghanistan and under no circumstances return refugees to Afghanistan if their lives or freedoms are at risk.

MRG Briefings provide concise, accurate information about issues and situations of immediate concern to minorities and indigenous peoples, and those working with them. Briefings deal with questions which warrant the attention of governments, policy-makers and the international community.

MRG Briefings are available online at *www.minorityrights.org*. Copies can also be obtained from MRG's London office.

Acknowledgements MRG would particularly like to thank all expert readers who commented on this Briefing. MRG gratefully acknowledges the support of NOVIB and all other organizations and individuals who gave financial assistance for this Briefing.

 Published November 2003. **ISBN** 1 904584 16 0

Minority Rights Group International 379 Brixton Road, London SW9 7DE, United Kingdom
Tel +44 (0)20 7978 9498 **Fax** +44 (0)20 7738 6265
Email minority.rights@mrgmail.org **Website** www.minorityrights.org