Governance Issues in Afghanistan

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1. Introduction:

Governance in Afghanistan has had serious downfalls and is suffering from rampant corruption, weak rule of law, limited sub-national governance, and a stumbling national government. Revealing facts such as the country’s highly unbalanced population (60% under the age of 25) and the resurgent ethnic tensions coupled with alarming sectarian conflicts, religious fanaticism, and personalized politics worsen the situation. Virtually all the literature argues national and sub-national governance is weak in Afghanistan while Transparency International (TI) puts the country as the most corrupt in the world, a position it shares with war-riddled Somalia and rogue North Korea. The state structure in Afghanistan is highly centralized, which sometimes detracts from state’s popularity in the public eye. Principles such as accountability, transparency, legitimacy, respect for human rights and rule of law, and empowerment & participation, are gravely missing in the Afghan governance structure though at diverse levels.

2. Theoretical Background:

What’s governance? Why is there governance? And how did it come about? These are fundamental questions and yet contending opinions tend to surround them. At its very core, governing in a rapidly transforming world constitutes governance. It is designed to effectively and efficiently respond to the needs of modern citizens while traditional nation-states may have difficulty doing so. However, it is the desire to give attention to details that cause controversy and scholar disagreement. *Neo-liberalism*, for example, tends to focus on the new challenges that arise from globalization and looks at governance as the formal and informal set of institutions that arrange for collective decision-making. To them, nation-states and national possessions wane in prominence as globalization and regional organizations increasingly press to fill those voids, and therefore we need governance for the ability to respond to new challenges that lie outside the traditional state’s sphere of influence.

In contrast, *discourse* theorists tend to lean towards Foucault’s concept of power and knowledge in cohesion with discourse to understand governance. Finding government’s position within the society and pointing different actors concern discourse theorists. For them, it is realizing the dominant-discourse from among a long list of alternative options that make for governance. According to Foucault, leading, directing, guiding, steering and rowing are governance factors that shape our behaviour, characteristics, habit and actions.

And then there are *critical theorists* who defy both liberal and discourse theories and, with a little help from Jürgen Habermas, the positivist scholar, have successfully derived their own definition

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of governance. They use the terms “lifeworld” and “system” to explain how social cohesions and human interaction (lifeworld) coupled with the institutions and legalized organizations, be it economic, social, or political, (system) work together to have control over our actions. Governance to critical theorists, and any other area that critical theory covers, is not such a systematic affair after all. Interactions, values, opinions, and structures usually play the biggest role in formulating the eventual outcome and weighs in greatly on the eventual impact that our actions may produce.

And yet, as Anne Mette Kjaer, an international authority on governance theory, puts it, all approaches to defining governance have one thing in common: all are designed to ensure the setting, application, and enforcement of rules. She suggests that governance deals with both the input side, concerned with democratic procedures, and the output side, which is concerned with efficiency and effectiveness of institutions, of the state apparatus. In the public administration context, Kjaer credits the 1980s for the emergence of a distinction between government and governance, with the latter including civil-society actors and a focus on network management, particularly with regard to service delivery. To her, networks in governance can be defined as informal rules governing the interactions between the state and organized interests.

Good governance, now a famous term, came mainly from the World Bank conditionality on loans to developing countries.

3. Governance in Afghanistan

a. National Governance
Since the dawn of the century, state building efforts in Afghanistan have focused on a strong center with a relatively weaker and yet center-dependent periphery. A report by Center for American Progress says, “Karzai controls more than a thousand direct appointments and many more indirectly controlled positions countrywide without any parliamentary oversight.” The new government structure was, understandably, designed this way to avoid warlords, Mujahidin leaders who were still armed and ambitious, and regional power-holders from dominating the state apparatus. By 2003 and 2004, regional power brokers still controlled most of rural Afghanistan whilst assisting US forces in their hunt for Al-Qaida members. Lacking resource and the needed structure to pursue such an ambitious plan, Afghan leaders had to reluctantly rely on the international donor countries. That however meant incorporation of other, non-Afghan, priorities into the agenda.

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This continuing trend left Afghanistan with what seemed like four autonomous governing bodies that greatly lacked in coordination capacity and at times found themselves in awkward situations because of their clumsy attempts to outrun one another. These four were the US, the UN, NGOs (national and international), and the fragile Afghan state. Such developments, still continuing in some areas, have greatly undermined service delivery capacities of the central government. Adding to the mix is the recurring contending but equally embraced value systems that continue to define opinions, approaches, and level of significance in the Afghan society. As such, it is pretty visible how the secular international community, moderate Islamist Afghan government, Afghan society, and the radical Afghan insurgency all hold highly contending value systems. Taking the insurgency aside (unless the peace talks succeed!), the other parties should straighten their opinions and find consensus if a strong national government is what they want for Afghanistan.

Afghan national government also suffers from gross underdevelopment of civilian sectors while Afghan National Army (ANA) and Afghan National Police (ANP) are given most of the attention. With a $6.5 billion annual budget, Afghan National Security Forces (ANSF) remains pivotal in securing the country and avoiding its backslide into the hands of the insurgents. But governance decision-making almost always lies with the civilian structures. Therefore, stronger commitments to recruit, train, and deploy qualified Afghans in the public sector can help greatly with governance. Eying for an institutionalized meritocracy is the way to go.

Lastly, it took the international community almost a decade to realize that rebuilding Afghanistan requires long-term commitment. It was, most scholars argue, US’s unsettling desire for a “mission accomplished” statement in 2003 and 2004 that dragged the Afghan affair to these limits. The conflict and development agendas, including efforts at democratization, could have resulted in much better outcomes had there not been serious commitment issues early on. In addition, international aid was neither sufficient nor on time. Short-term political calculations driving U.S. foreign policy including resorting to the use of militia fighters instead of an on time formation of a National Army was another major setback.

### b. Rule of Law

Despite some reform and initiative, the judiciary remains largely crippled both as an organ providing justice and as a branch of oversight. In fact, application of justice is an old skirmish between the central government and rural Afghanistan. Afghan villagers prefer traditional conflict resolution mechanisms to the codified state law. An impoverished and conservative

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society, Afghans usually see traditional conflict resolution methods as more “Islamic” although almost all Afghan civil and penal codes take their roots from Sharia⁹.

In recent years, Taliban and other insurgent groups (Hekmatyar, Haqqani, Pakistani Taliban) claim to provide justice. This campaign has helped them enrich their “counter-state” positions greatly¹⁰. They have helped fill the legal void that has been caused by differing opinions about justice between the state and society. Both traditional and Taliban justice systems enjoy greater level of efficiency, lower levels of corruption, and are said to be more popular, particularly amongst rural and semi-urban populations.

Furthermore, a culture of impunity has undermined the legitimacy of Kabul immensely. This is especially true when it comes to former-Mujahidin commanders, warlords, war criminals and the Taliban. The mentioned groups, unpleasantly, make for an integral part of the government – more immanent early in the century – and usually enjoy support of prominent politicians and political groups. This trend was set off with abandonment of any transitional justice early in regime’s short history. The Afghan Civil Society is afraid Taliban will be given legal immunity before they will be ready to join peace talks and has spoken against it¹¹. Similarly, Hezb-e-Islami of Hekmatyar has recently shown willingness to participate in the upcoming election but will they be held accountable for the September 2012 suicide bombing near Kabul airport that claimed 12 lives?

Rule of law where nothing and nobody surpasses the generally accepted norms, procedures, rules, and where law will not discriminate, is of great importance. Despite some achievements, rule of law and judiciary in Afghanistan needs more institutionalization and maturation.

c. Sub-national Governance

Afghanistan’s unitary system is weakest and most corrupt at the local level¹². In the sub-national governance structure, laws are not implemented well while the establishments suffer from scandalous administrators and crooked officials. The provincial and district centers also make for the highly insecure areas in Afghanistan.

But sub-national governance also lacks power, resources and authority on paper. The 2004 Constitution gives overwhelming level of authority to central organizations while provinces and districts are mere representatives of Kabul. Ministries demand that critical paperwork, planning and decision-making be done in Kabul while local governments will apply the policies.

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Hence the 34 provinces – a growing number since 2002 – have remained ineffective at planning, rational administration, and service delivery. Taking authority away also strips the ability to develop creative mechanisms that ensure adequate service delivery.

Provincial Councils are similarly problematic and district councils have still not been elected 8 years after the Constitution. Provincial councils are designed to represent the public, hold Provincial Governors accountable, help design the provincial budget plan, and assign a delegate to the Upper House in Kabul. Aside from sending the delegates, the Provincial Councils remain weak and inefficient. Regional-power-brokers have infiltrated, the regime with a considerably strong presence at the sub-national level. Most of the former Mujahidin hold grudges against the Karzai administration (convinced that he is tribal leader instead of a Mujahid) and lack the political will to carryout much of Kabul’s orders. Yet, as a result of strong connections and supporting allies, they are immune to domestic law and the executive reach of Kabul.

It is well documented that provincial powers are personalized and the extent of their reach depends on the personality of the Governor and/or Chief of Police. For example, Atta M. Noor, Governor of Balkh, is considered one of strongest governors in Afghanistan because of his background and association with strong government and non-government groupings while Atiqullah Ludin, former Governor of Logar – a province that saw three new governors in less than a year – was a much weaker official.

4. Analysis

With the momentous year of 2014 approaching fast, the importance of governance and its service delivery capacities have been ever more scrutinized. In order for the Afghan government to survive the coming years and decades, it has to be legitimate in the eyes of the public. Democracy, of which Afghanistan form (an electoral democracy at best), and efficiency, which it is missing gravely, can boost legitimacy; they both share the unique ability to make governments popular. Therefore governance efficiency should be improved.

Afghanistan in 2013 is home to mounting forms of violence – inter-ethnic, sectarian, political, and identity bound – that put the future of the country at stark risk while a political settlement with the insurgent forces seems a long way off. However, some see signs of hope in the “Afghan-US Strategic Agreement” and the important Bilateral Security Agreement (BSA) that will be finalized later this year.

National governance, rule of law, and sub-national governance, as was drawn, all need saving, mostly from the people who run them. Governance is the act of governing at its very core and yet it goes beyond and can be pretty encompassing, influential and big. It can be that ultimate tool to securing a prosperous future for the country of Afghanistan.
5. Conclusion/Recommendations

National governance, rule of law, and sub-national governance in Afghanistan are seriously undermined by arbiter power-holders, insurgency, corruption, and a lack of human capacity.

To prevent the further entrenchment of problems discussed above, the state should empower and promote a strong autonomous decision making organ in the Afghan state. Meanwhile, it should form better coordinating bodies with the NGOs and International Community to ensure all the stakeholders are working for the same objectives. It should also help with forming better public opinion and a moderate value system. In addition, civilian sector should be emphasized upon as the main decision makers while short-term calculations avoided.

Also, the state should bear the informal legal systems of the villages in the short run while incorporating them into the formal legal system in the long run as time and resources permit. In order to gain legitimacy and trust in the judiciary sector in Afghanistan, which is gaining momentum as a relatively secular organ as of late, it should ensure that the offenders are prosecuted properly – with due process – to avoid unnecessary bureaucratic red tape, and overall show some teeth. Perhaps carrot is not always the solution.

And lastly, the subnational-governance organs must be given some freedom, which in turn should translate as room for creativity. Like a Smithean free market, it will cause positive competition among local authorities while also prove efficient. Perhaps a larger cut of the tolls and provincial revenues should be allocated to the respective province.

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