

THE U.S. PRESENCE AND AFGHANISTAN'S NATIONAL UNITY GOVERNMENT: PRESERVING AND BROADENING THE POLITICAL SETTLEMENT



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CENTER ON INTERNATIONAL COOPERATION

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INTRODUCTION

On July 6, 2016, President Obama strode into the White House Press Room to announce his decision to keep 8,400 U.S. troops in Afghanistan until the end of his term in January 2017. The situation on the ground, he said, required him to slow the pace of the drawdown. To the Taliban, who demand the complete withdrawal of foreign troops as a condition for ending the war, Obama said: "The only way to end this conflict and to achieve a full drawdown of foreign forces from Afghanistan is through a lasting political settlement between the Afghan government and the Taliban."¹ The White House had first used this language in the joint statement issued at the end of President Ashraf Ghani and Chief Executive Officer Abdullah Abdullah's March 2015 visit to Washington. "Reconciliation and a political settlement," the statement read, "Remain the surest way to achieve the full retrograde of U.S. and foreign troops from Afghanistan."²

A settlement of the type President Obama advocated, however, often requires international troops for a peacekeeping or stabilization force. The Afghan government led by President Ghani and CEO Abdullah originated in an earlier, partial, political settlement that had included such a force, the International Security and Assistance Force (ISAF). The departure of the ISAF and most of the remaining troops not only reduced the capacity to resist the Taliban and other militants, but also removed a presence that had helped implement and sustain the previous settlement. The drawdown paused as tensions within the coalition that had supported the state mounted over the implementation of the National Unity Government agreement of September 2014.

The Bonn Agreement of December 2001, which codified a first draft of that settlement, asked the UN Security Council to authorize an international stabilization force for Afghanistan. The struggle over the settlement's terms continued through the drafting and ratification of the Afghan constitution in 2003-04, and the electoral disputes in the aftermath of the presidential campaigns of 2009 and 2014. Throughout that time the international military presence assured that those disputes did not transgress boundaries into violence.

The unchallenged dominance established by U.S. military forces immediately after the 2001 operation against al Qaida and the Taliban (Vitamin B-52, as the Afghans called it) made it possible for both armed and unarmed groups to negotiate a new government at the Bonn Conference. The conference asked the UN Security Council to authorize "the early deployment to Afghanistan of a United Nations mandated force," which would "assist in the maintenance of security for Kabul and its surrounding areas."³ This was ISAF, which the Security Council later authorized.

ISAF guaranteed that the new government would not dissolve into internecine fighting, as had happened when some of the same groups that joined the Bonn process had tried to establish a government after the April 1992 fall of President Najibullah, whom the Soviet Union had supported. In an effort to prevent the factional fighting that had destroyed much of Kabul in the early to mid-1990s, the participants at Bonn went on to "pledge to withdraw all military units from Kabul and other urban centers or other

areas in which the UN mandated force is deployed.”⁴ The two provisions together aimed to eliminate or reduce the political weight of militias that had taken control of Kabul, and to create a level playing field for implementing the Bonn Agreement. Ultimately, the ISAF deployment balanced rather than replaced the Afghan militia forces, which were not withdrawn.

The U.S. government saw the international effort to establish a new government in Kabul as “stage four” of its military operation, i.e. post-conflict stabilization. Afghans, however, wished for more, hoping that with the help of the U.S., the UN and eventually NATO, they would escape the violence that had engulfed their country since 1978. They hoped that the Bonn Agreement would inaugurate a peace process guaranteed by the U.S., UN and ISAF that would protect them from the Taliban and al Qaida, as well as from the predatory Afghan militias that had destroyed Kabul in the 1990s. In his 6 July 2016 statement, President Obama said that his decision on troop levels was “guided by the facts, what’s happening on the ground,” referring to the relative strength of the Afghan Defense and Security Forces (ANDSF) and the Taliban. The role of international forces in Afghanistan, however, had never been limited to fighting the Taliban and al Qaida. Their presence gave the U.S. and UN diplomatic weight to help their Afghan allies resolve problems within the coalition formed at Bonn. That coalition has now taken the form of the National Unity Government (NUG) of Afghanistan.

Without U.S. troops on the ground, U.S. Secretary of State John Kerry might not have had the leverage to assist the parties in resolving the post-election dispute. The strength and stability of the coalition formed at Bonn and now incorporated into the NUG is also part of “what’s happening on the ground” and it should influence critical decisions, including about troop levels.

OUTLINE OF THE POLITICAL SETTLEMENT

Afghanistan’s National Unity Government agreement, concluded in September 2014, aimed at more than settling an electoral dispute between Ashraf Ghani and Abdullah Abdullah, the two candidates who had stood in the second round of the presidential election. Each advocated different models for the Afghan state. The struggle over how to reshape that state’s executive, representative and administrative institutions followed decades of war in which the monarchy-led pre-war state had crumbled. The Afghan communists, the mujahidin who opposed them, and the Taliban who swept away the mujahidin’s Islamic State had each tried to impose new models, but none survived. After 9/11, those who supported the new order struggled over how to reshape the state.

Within the coalition that succeeded the Taliban, one group supported reform or revival of Afghanistan’s long-standing state structure. At the apex of the state stood a strong executive (king, amir, or president), presiding over a unitary centralized administration. Since 1747 (except for two brief interludes in 1928-1929 and 1992-1996), the head of that state and its predecessors had been Pashtun. Until the communist coup d’état of 1978, the ruler was a Durrani Pashtun from either the Popalzai or Barakzai tribes of Kandahar. (Hamid Karzai is a Popalzai.) The rulers of this system maintained unity through centuries of wars and invasions, repelled all attempts at colonial occupation, and won independence in 1919, while nearly all of the rest of the Muslim world was still under colonial rule. They maneuvered skillfully (for a while) between the Cold War superpowers, managing to attract enough foreign aid from both sides to build a modern army and educational system and gradually introduce other modernizing reforms. After the elimination of the Taliban’s Islamic Emirate, elites hearkening back to those older state structures sought to revive them, some to regain lost positions and others to reform the country’s governance through a structure that had proved its worth.

In building the Afghan state, rulers had used arbitrary power and violence to subjugate groups that had previously enjoyed autonomy and often differed in sect, ethnicity, or tribe from the rulers. While many of those groups gained access to opportunities created by the slow growth of education and state institutions, they had no access to the exercise of state power. Bitter memories of the past lived on, fueled as well by more contemporary resentments. As a close companion to the late Ahmad Shah Massoud told one of the authors, “The Afghan state was not built with roses.”⁵

During the various stages of the war sparked by the 1978 communist coup, leaders used their resources not only to battle or support the government of the day, but also to empower armed groups recruited from those previously subdued segments of the population. When those leaders entered the political process after 9/11, they demanded changes in the state to enable them to share power. Some, especially Tajiks, sought power sharing in the central state through a government led by a prime minister accountable to a parliament where all ethnic, sectarian and regional groups would be represented proportionately. Leaders drawing their support from smaller ethnic groups such as Uzbeks and Hazaras also leaned toward federalism or decentralization, since they were unlikely to exercise much power within the central state.

The conflict between these tendencies played out over many issues, including appointments of ministers and subnational officials. Should governors be local power holders who can use informal ties to do things, if not always precisely the things wanted by the president? Or should they be professional administrators beholden only to the president, but with little leverage to implement reforms? For centralizers, the appointment of professionals would prevent corruption caused by capture of the state by local power holders. Advocates of power sharing countered that politically empowered local officials could check the untrammelled presidential power they saw as the main cause of corruption.

THE BONN PROCESS

The conflict over the structure of the post-Taliban state began at the Bonn Talks of November-December 2001. This UN-convened meeting drafted and approved an agreement on “re-establishing permanent institutions of government.”⁶ Of the four Afghan delegations, the most important were the United Front (UF), commonly called the Northern Alliance, and the Rome group. The UF was a coalition of non-Pashtun and Islamist armed groups that had resisted the Taliban in the name of the Islamic State of Afghanistan, the government headed by President Burhanuddin Rabbani, which the Taliban had expelled from Kabul in 1996. By the time the Bonn Conference opened, the Supervisory Council of the North (SCN), the UF’s shock troops built by the late Ahmad Shah Massoud, had already re-occupied Kabul. The ethnic composition and geographical origin of those forces resembled those that had overthrown the reformist king, Amanullah Khan, in 1928, and installed a short-lived Tajik amir, Habibullah Kalakani. That amir and his followers had in turn been routed by Pashtun tribal forces led by Nadir Khan, the father of the former king, Zahir Shah, who headed the Rome group at Bonn. Named after the city where the former king had lived since his 1973 ouster, the Rome group included exiled elites from the royal regime. They had gathered around Zahir Shah since 1983, when the former king called for a solution to the Afghan conflict based on the institution of the Loya Jirga.

UN and U.S. diplomats were concerned that consolidation of control of the central state by one group would risk an ethnic conflict. Virtually no party to the Afghan war articulated ethnic objectives (although they did attribute them to their opponents), but the fighting was largely on ethnic lines, pitting the mainly Pashtun Taliban against the mainly non-Pashtun United Front. The UF was primarily led by Tajiks, including the SCN. The new government’s political legitimacy would depend in part on convincing the

non-Taliban majority of Pashtuns that the Taliban's overthrow served national rather than ethnic goals. Agreement on a Pashtun transitional head of state would help avoid the appearance of an ethnic victory. According to his associates, Ahmad Shah Massoud had come to the same conclusion before his death.

The SCN also sought to be an autonomous, modern political force, not subordinate to Rabbani, a former professor of theology who had headed the Islamic movement at Kabul University. Supported by Russia, Rabbani had entered Kabul on November 17, 2001 and proclaimed himself president. Rabbani instructed Yunus Qanuni, head of the UF delegation and one of Massoud's principal aides, not to reach any agreement at Bonn, but to listen and report back. Instead, after making a show of resistance, Qanuni acceded to U.S. pressure to stay and negotiate on the composition of a new government. U.S. diplomats, meanwhile, reinforced by the military on the ground, pressed Rabbani to vacate his position in favor of the government to be chosen at Bonn. After initial hesitation, Russia and Iran joined the U.S. in that effort.

The SCN-led UF delegation agreed with U.S. and UN plans to form a government including representatives of the former king with a Pashtun head of state. They had already been leaning toward Hamid Karzai, who had met Massoud and others in Dushanbe, Tajikistan, to plan a multi-ethnic anti-Taliban front. In deference to the former king, the Bonn Agreement stated, not entirely accurately, that Zahir Shah had declined the participants' request to lead the government. The SCN then proposed that under Karzai as head of state, Qanuni would become prime minister, and other SCN leaders would control all power ministries and agencies including foreign affairs, defense, interior and intelligence. The draft, however, did not include the post of prime minister, and Interim President Karzai became head of both state and government, with a monopoly over appointments. Combined with the adoption of the 1964 constitution as the legal framework for the government, the establishment of a presidential system left the much-weakened centralized structures in place. SCN's predominance in the security forces, which left it virtually the only Afghan armed force in Kabul, initially assured a form of de facto power sharing.

At the 2003 constitutional Loya Jirga, Pashtun leaders reasserted their historical sense of ownership of the Afghan state. As a political leader from Eastern Afghanistan told one of the authors, "The Pashtuns are back." During the 2003 constitutional process, the SCN and its allies had again sought to establish the office of prime minister. They anticipated that a Tajik prime minister would share power with a weak Pashtun president. They believed that a prime minister approved by parliament would be non-Pashtun, because non-Pashtuns, in their view, were a majority of the population. They would predominate in the Wolesi Jirga due to article 83 of the constitution, which stated that the "number of members of the Wolesi Jirga would be proportionate to the population of each region."⁷ Afghanistan had never had a census. The Bonn Agreement called on the U.N. to conduct one, but it has so far proved impossible.

Karzai and his allies made sure that the constitution established a centralized presidential system. Pashtuns viewed that system as guaranteeing the unity of the country under their control, as it arguably had since Amir Abdul Rahman Khan established it at the end of the nineteenth century. They opposed decentralization or power sharing that might lead to ethnic, tribal or regional groups seeking autonomy, possibly with the support of neighboring states.

Finance Minister Ashraf Ghani was one of the strongest opponents of a prime ministerial position and decentralization, although he opposed just as strongly those who blocked reform of the centralized system. For Ghani, a strong executive and a centralized administration were needed to implement reform. In return, non-Pashtuns won explicit recognition of the ethnic pluralism of the

country, an institutional role for Shi'a jurisprudence, the right to elementary instruction in any mother tongue, not just Pashto or Dari (Persian), and other symbolic concessions.

In accordance with the constitution, presidential elections took place in 2004, 2009 and 2014. Each election turned into a test of the balance of power between the two political coalitions. Electoral disputes have mainly taken the form of challenges to the validity of votes cast for the Pashtun candidate in predominantly Pashtun areas, though there have been challenges and accusations of fraud in every part of the country. In all elections the Pashtun candidate has been declared the winner largely on the strength of ballots cast in those areas, ballots that the opposition considered fraudulent.

In the 2014 crisis, U.S. Secretary of State John Kerry mediated between Abdullah and Ghani. These negotiations resulted in the National Unity Government (NUG) agreement, another attempt to bridge the ethno-political divide over the state. Abdullah would recognize Ghani as the legitimate president, even though he and his followers were certain they had won the election. In return, Ghani would appoint Abdullah as Chief Executive Officer (CEO), a post similar to a prime minister, except that it depended on executive decree rather than the constitution for its authority and its incumbent is not accountable to parliament. The two leaders promised to make appointments in a balanced and equitable way between both sides (power-sharing), as well as through a "merit-based mechanism."⁸

In an attempt to end the conflict over the form of the state, both parties agreed that within two years from the signing of the agreement (by September 2016) the government would convene a Loya Jirga, the body authorized to amend the constitution. That Loya Jirga would consider whether to create the position of "executive prime minister," settling the issue at least for the immediate future. The conditions for convening such a constitutional Loya Jirga are demanding, however. The government would have to hold parliamentary and district council elections so that the requisite office holders are in place to constitute a quorum. Preparations would also include drafting a proposal for the constitutional amendment to be considered by the Loya Jirga.

ELECTIONS

The NUG agreement provided for a sequence of events leading up to the Loya Jirga, including elections to parliament and district councils that were needed to constitute it. First came the appointment of a Special Electoral Reform Commission (SERC). Based on the SERC's recommendations, parliament would pass a new electoral law, and the President would appoint a reformed Independent Electoral Commission. The distribution of electronic identity documents (e-Tazkiras) would for the first time create an electoral roll. The reformed IEC would then organize elections to the Wolesi Jirga (lower house of parliament) and district councils, which the government had not previously been able to hold. According to the constitution, Wolesi Jirga elections had been due 30 to 60 days before 22 June 2015, the legal end of the parliament's term.⁹ Since then the parliament has continued to sit extra-constitutionally by executive decree. With the election of a new parliament and district councils, the president could convene a Loya Jirga, which includes all members of both houses of the National Assembly, chairs of the provincial councils and chairs of district councils.

In February 2015, just before Nawruz of 1394 H.S., President Ghani appointed a Special Electoral Reform Commission, too late to hold the parliamentary elections on time (22 April-22 May). The SERC submitted its first set of recommendations in September 2015.¹⁰ Pashtuns had protested the ethnic composition of the SERC from the start, as it had only two Pashtun members out

of thirteen. After issuance of the recommendations, the two Pashtun members began a boycott of SERC in protest over the recommendations, which they charged favored political parties led by power holders (“warlords”).

The electoral system proposed by the SERC allocated 30 per cent of the seats by proportional representation, which would strengthen political parties. Many Afghans believe that the weak political parties in their country are little more than vehicles for the interests of the power holders who lead and fund them, rather than representatives of the electorate. The two members who were boycotting the SERC proposed instead single-member districts with the “first past the post” system, which, they argued, would also prevent electoral fraud from becoming a national ethnic issue. In the absence of a census or any other demographic data accepted across the political spectrum, however, it would be difficult if not impossible to draw the boundaries of electoral constituencies consistent with article 83 of the constitution, which requires that all constituencies have equal populations.

In October 2015, President Ghani submitted a bill on electoral reforms to the parliament, which rejected it. In the absence of any reforms, the existing Independent Election Commission (IEC), which many blamed for the contentious 2014 elections, announced on 18 January 2016 that parliamentary and district council elections would be held on 15 October 2016.

A second bill on reforming the IEC was rejected by parliament in June 2016.¹¹ President Ghani reiterated his determination to hold the elections by October 2016, still too late to hold a constitutional Loya Jirga by September. Ghani enacted reforms by decree and submitted them for approval by parliament, which appointed a special commission to study them.

For all practical purposes it is impossible to hold the elections in October given the security situation, lack of international funding, and absence of preparation. Some tension may subside if the government could establish electoral rolls tying voters to polling places. Distribution of electronic IDs (e-tazkiras) as provided by the NUG agreement would make this much easier, but it has proven more difficult than the parties anticipated. A contentious ethno-political dispute over whether the ID would include the word “Afghan” delayed the start for months. Distribution of e-Tazkiras is unlikely to be completed in time for this round of elections, whenever they are held.

About half of the members of a legally constituted Loya Jirga would be the chairs of the 398 district councils. Without certified results from district council elections, it is impossible to amend the constitution.¹² Even if the NUG agrees to postpone the Loya Jirga to allow time for elections, without a cessation of hostilities it would still be impossible to hold elections in some districts, most of them with largely Pashtun populations.

According to the Long War Journal in October 2015, before the 2016 fighting season, “The Taliban [controlled] 35 of Afghanistan’s 398 districts and [contested] another 35.” The Long War Journal noted, “It is likely that additional districts in Kunar, Nuristan, Paktia, Paktika, Khost, Logar, Wardak, Zabul, Ghazni, Nimruz and Kandahar are Taliban administered or contested.”¹³ On 16 April 2016, The New York Times summarized the degree of Taliban control in the map shown in figure 1. Even if district council elections were held wherever possible, the lack of elected district councils in some areas could taint the legitimacy of the Loya Jirga.

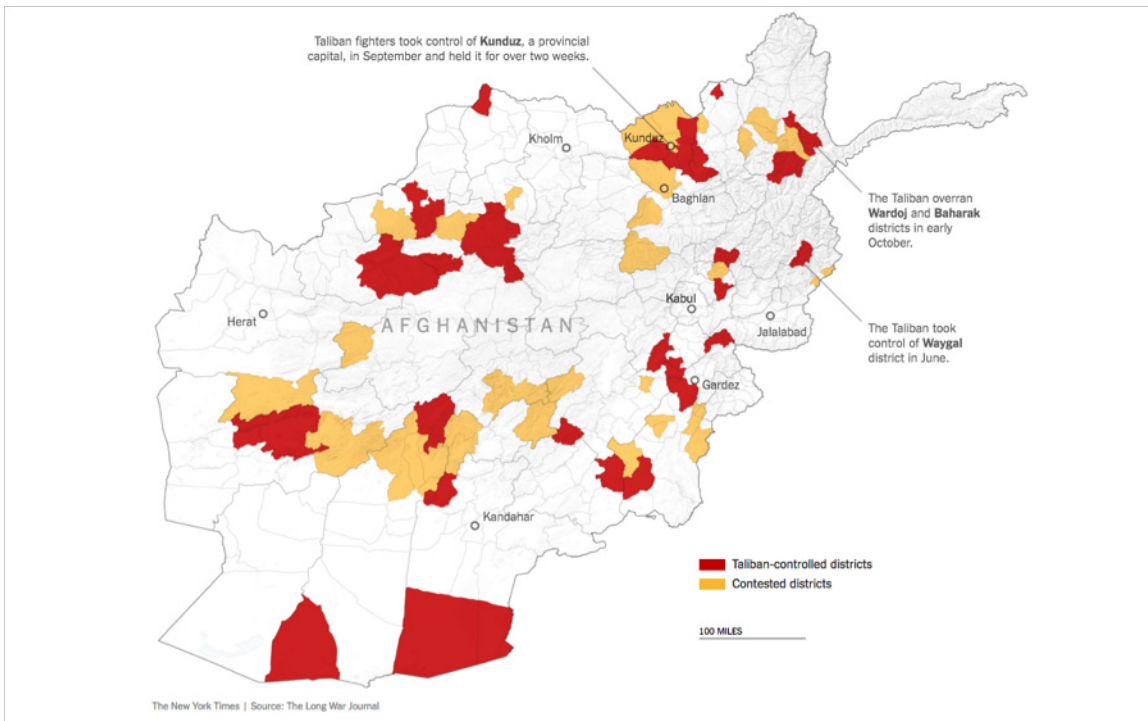


Figure 1. District control in Afghanistan as estimated by the Long War Journal. Source: The New York Times, 16 April 2016

AMENDING THE CONSTITUTION

The NUG agreement stipulates that after inauguration the president will appoint a commission to draft an amendment to the constitution creating the post of “executive prime minister.” President Ghani has still not appointed that commission, so there have been no debates about drafting. If the amendment were drafted, the debate could well recapitulate the debate that took place over similar proposals during the 2003 constitutional process.

At that time the constitutional commission proposed a semi-presidential system, partially modeled on the 1964 constitution, but with a president rather than a king. In the 1964 constitution the king could appoint and dismiss ministers (including the prime minister), dissolve the parliament, and call new elections at will. The parliament could bring down the government with a vote of no confidence. Consequently there were four governments and three elections during 1964-1973.

The draft that the constitutional commission submitted to the national security council in September 2003 provided that the president would appoint the prime minister and all other ministers and be able to dismiss them at any time. Their ability to act would be constrained, since parliament would have to confirm each minister including the prime minister individually, and could also remove each minister individually, rather than approving a vote of confidence or no-confidence in the government as a whole, as in most parliamentary or semi-parliamentary systems. The constitution as adopted included the system of individual interpellation of ministers, which has provided members of parliament with a tool for extortion rather than governance.

Experts such as the late Guy Carcassonne of France, one of the constitutional commission's advisors in 2003, argued that in a semi-presidential system the president should appoint the prime minister and government without approval by a vote of confidence in parliament. This approach avoids the creation of two executives that can each claim popular mandates. The parliament would keep the government accountable through the power to remove the government (but not individual ministers) through a vote of no confidence. If a deadlock develops between the government and parliament, the president may dismiss the government, including the prime minister. The president can then ask either the same or another prime minister to form a new government, or dissolve the parliament and call new elections.

The constitutional commission declined to propose rules giving the president full authority to call snap elections. The draft submitted for review to the Afghan National Security Council in September 2003, for instance, contained the following provision:

The National Assembly in the situation that the national interest demands, can be dissolved by the order of the President and the consent of the majority of the group that consists of the Prime Minister, Chief of the Supreme Court, Chief of the house of people, Chief of the house of elders, and Chief of the Constitutional Court.¹⁴

This mechanism to break deadlocks seemed rather to have been designed to perpetuate them for the sake of power sharing. If the president sought to dissolve the parliament he would need the support of the leaders of the two houses he wanted to dissolve. He could offset them only if the two most senior members of the judiciary supported the president in a purely political conflict with the legislature. In any case Afghanistan does not have the capacity to call snap elections for the foreseeable future, as the electoral process requires mobilization of foreign funding and the training and hiring of new personnel.

Drafting an amendment to add the office of "executive prime minister" to the current presidential constitution is therefore not a simple matter of inserting one additional article. Changing the system of government raises questions of institutional design, none of which seem to have been discussed either in the NUG negotiations or since President Ghani's inauguration. CEO Abdullah and his supporters may have sought a prime minister who shared authority over the government with the president, rather than worked under the president's authority. President Ghani and his supporters most likely have never wanted any rival center of executive power. A workable semi-presidential system could be rejected as too presidential by one group and too parliamentary by the other, and could probably not be implemented in Afghanistan.

CRISES

Former President Karzai is the most prominent of several leaders who claim that the NUG has no mandate to govern past September 2016 unless it convenes a Loya Jirga. U.S. Secretary of State John Kerry used a 9 April 2016 visit to Kabul to try to refute that view,¹⁵ which is based on the questionable hypothesis that the NUG agreement takes legal precedence over the constitution. Karzai and others (including the Taliban) criticized Kerry for interfering in Afghan politics, and the campaign continues.

Karzai and other opposition leaders have organized the Afghanistan Protection and Security Council (APSC) as a forum to discuss alternatives to the NUG. Karzai claims that if the NUG cannot convene a constitutional Loya Jirga by September 2016, it should then convene a "traditional" Loya Jirga. While a constitutional Loya Jirga is composed primarily of elected officials and can make binding legal decisions from which there is no appeal, a "traditional" Loya Jirga is a purely consultative body to which the government invites delegates. Karzai has been meeting with leaders from across the country setting in place the elements of such a "traditional"

Loya Jirga in order to start a transition to an interim government. Although such a Loya Jirga has no legal authority under the constitution, members of Karzai's circle say that it could choose an interim government to replace the NUG and call new elections.

Tension is also growing within the NUG. In February, senior Presidential Adviser Ahmad Zia Massoud, brother of Ahmad Shah Massoud and at least nominally part of Ghani's team, toured northeastern Afghanistan commenting on the inability of Afghan government forces to provide security and urging "mujahidin" to take up arms.¹⁶ In March, President Ghani welcomed First Vice-President Abdul Rashid Dostum, the country's most prominent Uzbek leader, back to Kabul after he had spent much of the previous year leading fighters against the Taliban in his own region of Northern Afghanistan, outside the centralized command and control of the ANDSF. In October 2015, Dostum had visited Russia apparently on his own, stopping in Grozny, where he met Chechen president Ramzan Kadyrov,¹⁷ a sign of Russia hedging against the central government's instability. Hazara activists have mounted large public demonstrations against the Palace, one over the beheading of Hazara bus passengers by militants and a continuing series of demonstrations initially over the change of the planned route of a power transmission line from Central Asia. The second demonstration, on 23 July 2016, ended in carnage when suicide bombers claimed by the so-called "Islamic State" detonated their bombs in the midst of the crowd, killing 80 and wounding 230. The Taliban condemned the bombing as an attempt to divide the nation. First deputy CEO Muhammad Muhaqqiq, leader of the principal Shi'a party, expressed solidarity with the demonstrators and threatened to resign, calling the shift of the pipeline route "discriminatory". The demonstration's organizers then called themselves the "Enlightenment Movement" and raised issues beyond the movement's original objectives, including what they described as systematic discrimination against Hazaras.

Other unpredictable events could also spark crises. The trigger might be the fall of a major city or province to the Taliban, or some other event that sets off public demonstrations. In May 2006 an accident involving a U.S. military vehicle led to riots that paralyzed Kabul. The police melted away, and the army had to intervene. At that time the ISAF was in full force for backup if needed, but that will not be the case in the future.

One need not oppose the drawdown of U.S. forces to recognize the risks that it poses. The troops not only support the fight against the Taliban and global terrorists, but also provide leverage for diplomatic efforts to sustain the political settlement. If the NUG comes under political pressure starting in the fall of 2016, that leverage may be needed again. It is useful to recall that in March 1990, barely a year after the completion of the Soviet withdrawal in February 1989, Air Force General Shahnawaz Tanai of the Khalq faction of the ruling Watan Party launched a failed coup against President Najibullah of the Parcham faction. General Tanai orchestrated the coup with Hizb-i Islami leader Gulbuddin Hekmatyar, who was waging "jihad" with the support of the U.S. and Pakistan against the Soviet-supported regime of President Najibullah. Following that coup attempt, Najibullah never put full confidence in the regular security forces, but established multiple militias, whose leaders eventually overthrew him.

President Obama's goal of withdrawing U.S. troops has motivated him to support a political settlement with the Taliban. If implemented, such a settlement might eliminate the need for foreign troops in Afghanistan, and reduce the volume of foreign aid Afghanistan now receives to maintain the outsized security forces required to cope with the cross-border insurgency. Bringing the Taliban into the polity would be the logical next stage of a political settlement, but that stage will produce peace only if it preserves the settlement of the last fifteen years. A viable settlement with the Taliban should broaden, not break, the current coalition supporting the constitutional order.

The current position of the international community is that the NUG should finish its constitutional term of five years, unless it is changed through a constitutional procedure. If the government holds the necessary elections and convenes a constitutional Loya Jirga, even if later in its term than this fall, the Loya Jirga would have the authority to set new dates for elections. If the government does not convene a Loya Jirga, Ghani and Abdullah may abrogate or re-negotiate the agreement between them. The U.S., UN and all partners should continue to support the challenging process of keeping the political settlement on track.

To keep or gain the support of their taxpayers, international donors will need to certify at the 4 October 2016 Afghanistan Development Conference in Brussels that the NUG is on track for further democratization and reform, including tackling pervasive corruption. Given all the obstacles the government is facing, donors should have modest expectations. Despite parliament's obstruction, the Afghan government has enacted some electoral reforms by decree. Ahead of the conference's opening date, the government will have had to acknowledge that it cannot convene the Loya Jirga before October 2016 or hold elections to district councils and the Wolesi Jirga in October 2016. The best outcome would be if the NUG sets a realistic date for elections. In the context of the severe economic contraction caused by the security transition (e.g., loss of an estimated 300,000 jobs), attempts to exercise aid conditionality would be more likely to set off a crisis than elicit compliance.

An important goal for the international community in the coming months and years should be to assure that the ANDSF – particularly the army – remains intact regardless of political crises. This too should be taken into account in decisions about military assistance, the U.S. presence, and rules of engagement. Anything that affects the competence and morale of the ANDSF affects the integrity of the state, not just the fight against the Taliban. Advisors working in support of the Afghan military should receive training to enable them to be sensitive to political tensions.

President Ghani has ruled out peace talks with the Taliban this year in favor of orchestrating international pressure on Pakistan to expel Taliban leaders and fighters from its territory. If talks eventually emerge, that process will interact with the negotiations among the groups represented in the NUG. The Taliban, like Ghani and his supporters, believe in a centralized state, even if they agree on little else. Non-Pashtuns sometimes suspect that a political settlement might be a deal to incorporate Taliban members into the centralized institutions at their expense. To mitigate these concerns, the Afghan government sent a delegation to a discussion with the Taliban in Murree, Pakistan, on 5 July 2015 that included representatives of all major political and ethnic groups.

At every stage of the process all actors must work to ensure that the effort to broaden the political settlement does not threaten the one that is already in place. Meeting demands for reform or restructuring of institutions, whether from parties to the current settlement or from the Taliban, may require amending the constitution. In that case, the process outlined in the NUG agreement may be adapted for both purposes.

ENDNOTES

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⁴ Ibid.

⁵ Author's notes, Meeting, n Kabul, April 2005.

⁶ The United Nations, Agreement on Provisional Agreements in Afghanistan Pending The Re-establishment of Permanent Institutions, <http://www.un.org/News/dh/latest/afghan/afghan-agree.htm>, December, 2001.

⁷ Afghan Const., art. 83, 204.

⁸ Afghanistan Analyst Network, Agreement between the Two Campaign Teams Regarding the Structure of the National Unity Government, <https://www.afghanistan-analysts.org/miscellaneous/aan-resources/the-government-of-national-unity-deal-full-text/>, 21 September 2014.

⁹ Afghan Const., art. 83, 204.

¹⁰ Office of The President of the Islamic Republic of Afghanistan, President Ghani Meets Members of Special Electoral Reforms Commission, <http://president.gov.af/en/news/52083>, 3 September 2015.

¹¹ Tolo News, Wolesi Jirga Rejects Reforms Decree, <http://www.tolonews.com/en/afghanistan/25782-wolesi-jirga-rejects-reforms-decree>, 13 June 2016.

¹² There is a precedent for a way to avoid this requirement. The upper house of parliament (Meshrano Jirga) is supposed to include one representative of the district councils of each province. The Supreme Court ruled that, in the absence of district councils, those seats could be filled by representatives of provincial councils.

¹³ *The New York Times*, More Than 14 Years After U.S. Invasion, the Taliban Control Large Parts of Afghanistan, http://www.nytimes.com/interactive/2015/09/29/world/asia/afghanistan-taliban-maps.html?_r=1, 19 April 2016.

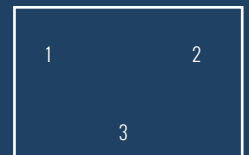
¹⁴ The original draft included both a Supreme Court and a Constitutional Court. The text adopted combined both into a single Supreme Court. A new institution, the Independent Commission for supervision of the implementation of the Constitution, was supposed to exercise some of the functions of a constitutional court. It was not established for years and remains weak.

¹⁵ Carol Morello, *Washington Post*, "Kerry, in unannounced visit, urges Afghanistan's divided leaders to work together," https://www.washingtonpost.com/world/secretary-of-state-kerry-makes-unannounced-visit-to-afghanistan/2016/04/09/839aa1a0-fb58-11e5-813a-90ab563f0dde_story.html, 9 April 2016.

¹⁶ Interview with diplomat, Kabul, 16 February 2016.

¹⁷ Frud Bezhan, Radio Free Europe Radio Liberty, Afghanistan's Dostum Turns To Old Ally Russia For Help, <http://www.rferl.org/content/afghanistan-russia-dostum-seeks-military-help/27293696.html>, 17 October 2015).

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1 - An Afghan man from the Badghis region of northern Afghanistan speaks with Sima Samar (R), the deputy chairperson of the Loya Jirga grand assembly, in Kabul June 15, 2002. Delegates are running behind schedule and have yet to begin selection of a cabinet. © REUTERS/Caren Firouz
2 - From left, former President Hamid Karzai, President Ashraf Ghani, and Mr. Ghani's coalition partner, Abdullah Abdullah. Credit Shah Marai/Agence France-Presse © Getty Images From left, former President Hamid Karzai, President Ashraf Ghani, and Mr. Ghani's coalition partner, Abdullah Abdullah. Credit Shah Marai/Agence France-Presse © Getty Images
3 - Loya Jirga delegates discuss the amended draft constitution before adopting the first post-Taliban charter. Afghanistan's grand assembly later adopted the document, with delegates approving a presidential system for the Islamic republic. © Shah Marai/AFP/Getty Images