

Red Tape:
How Centralized Bureaucratic Legacies Undermine Liberal State Building

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Abstract: Liberal state building continues to fall short of its promise of political order and economic development. In this paper, I argue that a reason why is the persistence of bureaucratic legacies in states seeking to recover from conflict, especially the persistence of centralized administrative structures. These institutions were often the source of state collapse yet are often reinforced by the international community once the dust of war settles. This leads to a vicious cycle of centralization that reinforces rigidity through influxes of foreign aid. Elections often serve as a smokescreen that detract from meaningful administrative reform. The desire to concentrate power is at odds with societies that have governed without the state, or have become deeply distrustful of it, during conflict. Evidence from Afghanistan illustrates how failure to break from Soviet-era centralized public administration undermined the massive state-building project and perpetuated a wedge between Afghan civil society and a state that fails to deliver on its promise.

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Introduction

Liberal state-building, as currently practiced, has three interrelated components. One is establishing and improving state capacity to make and enforce laws (Krasner and Risse 2014). Since the end of the Cold War, state building has been a self-conscious effort to establish democracy and markets (Paris 1997), which provides its liberal character. Yet of these components—bureaucratic reform, democracy, and providing institutions that encourage market exchange—the focus is almost squarely on national elections as a measure of the success of these efforts (Doyle and Sambanis 2000). In the “golden hour” after the cloud of war clears, state-builders rush to congratulate themselves for holding successful elections that they believe congeal political transformation.

In this paper, I argue that these efforts struggle because state-builders do not do enough to break from legacies of previous administrative regimes. Social scientists from a variety of disciplines have long recognized that the past often shapes and constrains prospects for economic and political development (Boettke, Coyne, and Leeson 2008; Mahoney 2001; North 1990; Pierson 2000; Williamson 2009). In post-conflict reconstruction, the pernicious path dependence is the legacy of a centralized state. Centralized governments that prey on their own citizens are most prone to civil conflict and collapse (Bates 2008). If we look at countries that have experienced prolonged civil conflict over the past several decades, most had extremely centralized governments (e.g., Somalia, Yemen, Afghanistan, Syria, Libya, Myanmar). Improving the quality of governance does not require centralized administration, but rather responsive administration—which often occurs in polycentric governance systems (Ostrom 1990, 2005). Yet the centralized bureaucracy so often remains locked in place and even strengthened by efforts to rebuild states.

The literature on democratic transitions recognizes the importance of elites in defining the rules of the game as countries move from autocracy to democracy and vice versa (Acemoglu and Robinson 2006; Mesquita et al. 2003). Leaders from the “old” regime play important roles in creating new political institutions that serve their interests (Albertus and Menaldo 2018). However, this literature does not focus on the persistence of administrative institutions, which is the lifeline that links individuals to their governments and an important source of legitimacy.

This path dependence results from the incentives of donors and recipient governments. During spurts of reconstruction, donors focus on democratic institutions that generate public participation and lift spirits of citizens and global patrons. Well-intentioned state-builders slap gleaming democratic institutions on the carcass of rotting public sectors. Newly minted, internationally vetted domestic leaders crave power of a centralized government (Englebert and Tull 2008). Having witnessed civil conflict, they fear that without strong centralized authority they will be subject to endless rebellion. Donors at first try to work with the new government, but quickly realize what citizens have long known—that they are cumbersome and inefficient. When donor funds flood in, they once again collapse quickly under their own weight. Donors and citizens exit cooperation with the government and begin to (re-)create parallel structures to produce public services.

The reason why these priorities present a challenge to political order is because democratic elections—especially at the national level—do not necessarily translate into services at the local level that improve government legitimacy. The prioritization of democracy also misses the important link between the bureaucracy and markets. Hayek (1948) recognized long ago that centralized planning was inconsistent with liberal democracy and markets. The legacy of planning undermines democracy, especially at the local level. It also undermines markets, which

is a challenge for state-building because economic growth may provide a more important buffer against a return to conflict than elections (Collier, Hoeffler, and Soderbom 2008). Donors use of planning regimes to interface with host governments serves to reinforce government centralization.

Methodologically, this paper uses insights from the new comparative political economy, which is that to understand outcomes it is critical to understand institutions in historical perspective (Boettke et al. 2005; Boettke, Coyne, and Leeson 2013). It is also motivated by deep understanding of local processes that can only come through field observations. In the absence of effective states, self-governance is often an effective enterprise (Leeson 2007; J. Murtazashvili 2016).

It is also defined by attention to domestic bureaucratic institutions. This may seem counterintuitive because the concept of a “failed” state presumes the absence of administrative organization and weak formal rules. To the extent there is a focus on formal institutions, it is usually a debate over which electoral system can promise peace. Yet such states are less “failed” states than “flawed” ones, especially in the persistence of centralized bureaucracies. Even though studies of liberal state building have taken a “local” turn, illustrating that the fate of efforts to build states and sustainable peace are determined in how local conflicts are resolved (e.g., Autesserre 2014). This work focuses primarily on the interaction of internationals with local communities, leaving domestic institutions and local governments out of the conversation.

Most literature on post-conflict reconstruction fails to see these dynamics because it focuses attention on cases where international interventions have been the most substantial rather than looking at where conflict has been most prolonged. This mode of studying conflict-affected

states places the attention on international actors, causing immense neglect of domestic dynamics.

The focus on the public administration contrasts with several complementary explanations for the failure of state-building efforts. One such explanation is utopianism, which suggests that international efforts fails because it promises more than the international community can deliver (Barnett 2006; Paris 2004). A second explanation pins the blame on the international donor community for perpetuating the rentier state, such as by creating parallel structures whereby donors work with communities to deliver goods and services that the state should be providing (Rubin 2009; Suhrke 2011). Other explanations include lack of fit of democracy with underlying social norms (Coyne 2007) and the transplant effect, whereby the lack of administrative capacity leads to inability to establish more efficient economic institutions (Berkowitz, Pistor, and Richard 2003).

Each of these logics offer complementary insights, alongside important limitations. International efforts are less utopian than conservative in that they often leave preexisting institutions in place. Dependence on aid is a challenge, although the more fundamental constraint on political order and economic development is not aid, but institutional legacies. Finally, while the fit of democracy and new economic institutions with the new context are each relevant to their success, explanations based on the logic of the transplant effect do not provide sufficient insight into the importance of administrative reform or the need to establish polycentric institutions to improve resilience in conflict-affected states.

My explanation also unpacks the ways in which foreign aid undermines state building. Recent research has shown that foreign assistance is less transformational than stabilizing (Morrison 2014). Specifically, it serves to “amplify” pre-existing political arrangements such as

democracy or autocracy (Dutta, Leeson, and Williamson 2013). This paper suggests that foreign aid can also amplify centralized administrative states, thereby undermining prospects for successful reconstruction, reinforcing existing disconnects between governments and societies that have become polycentric during periods of conflict.

I use evidence from Afghanistan to illustrate how bureaucratic legacies undermine state building and show that elements of the public sector that embarked on institutional overhaul or decentralization, which usually involved limiting the scope of the state, were more successful than those that sought to reinforce previous centralized legacies.

Scholars and policymakers disagree on many things but are united in their understanding that an anti-state insurgency persists in Afghanistan due to “bad governance,” which usually refers to corruption, mismanagement, or the inability of the government or the state to deliver on promises of service delivery. My argument is that bureaucratic legacies are the continued cause of anti-government sentiment and weak government legitimacy. For most Afghans, especially those in rural areas more likely to confront insurgency, the government that the people experienced was the same as it has been for the past forty years: a centralized framework in which local government officials and cadres are appointed by Kabul, with very little opportunities for people to participate in political decisions about their collective futures. It is unsurprising that people reject the Afghan state-building project when it simply reinforces previous maladies. The Afghan experience also suggests the importance of moving beyond elections and addressing the pernicious legacies of bureaucracies even in allegedly “failed” states.

The Political Economy of State-Building

Efforts to rebuild conflict-affected states have political, economic, and social dimensions. Each is necessary for successful reform. The focus of this paper is on the political dimension, which can be further separated into democracy promotion and bureaucratic/administrative reform.

Elections, as noted above, are an immediate priority of state-building efforts. Elections serve as a focal point for external actors and scholars because they can be arranged quickly at the national level with little local knowledge (Autesserre 2010, 108–9). Successful elections give donors, and the publics that fund them, a sense of satisfaction.

Public administration reform, in contrast, is messy. There is no science of comparative public administration (Fukuyama 2004). Most theories and approaches to public administration focuses on advanced industrial contexts, which make them difficult to apply to contexts where there is no rule of law or other important elements to manage and measure outcomes in the public sector . The public administration literature too often misses analysis of important forces by approaching issues as technical rather than political (Roberts 2013). Although there are some exceptions (e.g., Savage 2013), there is very little research on domestic bureaucracies in conflict-affected polities.

To the extent that state building considers the bureaucracy, it presumes that the way to “fix failed states” is through building state capacity (Ghani and Lockhart 2008), without a corollary focus on how power can be checked in the public sector. Reform of public administration then becomes a technical question rather than a political one, as the important political questions are assumed away with elections. Donors and local “partners” deal with the issue of the bureaucracy through carefully managed processes such as public administration reform that seek to vet new members of the civil service. Public administration is treated as an issue of gradual technical reform rather than an inherently political issue that shapes how citizens

experience the state. By reinforcing old ways, the international community locks into place bureaucratic systems that were at best designed to control, and at worst, were designed for plunder.

The persistence of centralization is problematic for several reasons. One is that centralization is an explanation as to why civil conflict emerges in the first place. Highly centralized polities have long been recognized as more unstable, mainly because the stakes of politics are higher (Bates 2001; Collier and Hoeffler 2004; Fearon and Laitin 2003). The scramble to build quick state capacity reinforces inefficient power structures. Resource rents end up supporting security apparatuses that might deter potential rivals for power (Reno 1999). Without a full-scale overhaul of the way government is executed and experienced by people—through reform of subnational governance and administrative systems—individuals in communities outside the nation’s capital experience governance in the same way they did before the conflict.

These path dependencies of old bureaucratic and administrative systems in conflict-affected states clarify why the term “failed state” is a misnomer. External forces may believe that they are building something from scratch when are simply recreating archaic, dysfunctional systems that may have played a key role in sparking initial conflict. A United Nations assessment of public administration assistance in conflict-affected environments noted, “recruitment for government positions is poorly controlled, and the civil service quickly grows too large to be effective” (United Nations 2010, 77). Former military regimes seeking to recover from conflict in sub-Saharan Africa frequently have bloated and centralized civil services, as the public sector is used to reward allies (Markakis and Waller 2013). For example, post-conflict Uganda’s civil service was hardly vacant but was “overstaffed—bloated by redundant positions with

overlapping functions” (United Nations 2010, xii). These are not *tabula rasas* but are flawed states in need of serious administrative reform.

There are several features of a centralized administrative regime. First, such systems have strong presidents with weak parliaments. Second, local government officials (governors, sub-governors) tend to be appointed by the central government rather than elected by local constituents. Third, these systems also give government bureaucrats in the capital a heavy hand determining local policy, as well as substantial control over tax revenue collection and decisions about expenditures.

All of this sounds like it would be a recipe for a disaster in states seeking to recover after war. Yet countries like the US, with a tradition of decentralized, polycentric institutions, stand by as the international community reinforces institutions that have more in common with France. There is a rich debate over the merits over decentralization in developing countries (Faguet 2014; Prud’homme 1995; Rodden 2004; Wibbels 2006). Although some studies consider this issue in conflict-affected states (e.g., Bakke and Wibbels 2006), there is surprising little questioning of centralization in post-conflict reconstruction.

There are, however, many costs of centralization. These include limiting opportunities for individuals to participate in governance, less oversight over government officials, and crowding out self-governance. A cumulative result is that citizens continue to remain subjects of the state rather than full-blown participants in its reconstruction.

Centralization can also contribute to the perpetuation of dependence on foreign aid. After a few years, outside actors realize the old structures are inefficient and unable to produce outcomes. The result is that state-builders invest in the construction of parallel governance structures that deal with issues to which the government is supposed to tend. The creation of

parallel structures further undermines the legitimacy of the state, as citizens turn to donor-created entities for the delivery of vital services. When donor assistance dries up, so too do these parallel structures leaving citizens with a hapless bureaucracy that does not represent citizen preferences or able to deliver on its obligations. Thus, perpetuation of the rentier state can also be attributed in large measure to the prioritization of democracy over meaningful administrative reform during the golden hour of liberal state-building.

Any constitutional equilibrium must be self-enforcing (Leeson and Suarez 2017).

Although much of the literature focuses on “good” outcomes, it is also important to recognize that a perverse, centralized equilibrium also is a self-enforcing outcome. To see why it comes about in fragile states, it is necessary to think of the incentives and interests of local leaders and the international community.

First, new local leaders who steward the post-conflict moment have incentives to preserve old structures, especially those that allow them to centralize authority. After all, the purpose of Weberian state building is to coalesce a monopoly on violence. To their mind, centralization will speed the process of state consolidation. New leaders want to centralize on their own terms—especially if it helps weaken the position of rivals. Second, new leaders also seek to maintain control over international assistance that floods into their country.

Centralization allows leaders to ensure a control over the spoils of reconstruction. They point to a lack of local capacity as another reason to maintain centralized control.

International actors also prefer centralization to reform for three reasons. First, they fear that changes in administrative structures will undermine the already weak position of their local partners. Of course, despite lofty rhetoric, internationals prefer command over locals than to truly partner with them, which is more easily accomplished through rigid hierarchies that can channel

aid to the government or international NGOs, with little obstruction. The result is an equilibrium with government officials and donors supporting bureaucratic stasis. Second, international actors have short time horizons (Coyne 2007, 2008). Rather than spend precious time—and faith of the public back home—to build new institutional structures and steward an era of radical reconstruction, donors want to work with the bureaucratic structures already in place. By doing so, they believe they can facilitate quick stabilization and withdrawal. Finally, donor assistance models also reinforce centralization, as donors interact with recipient governments through central planning models. To reap the benefits of donor largesse, recipients must mimic the planning cycles and organization of donor agencies and their desire for control.

State-builders quickly realize that they need to create opportunities for participation. Instead of championing meaningful government reform, they seek to satisfy participatory demands through donor-generated activities such as community-driven development programs. In these programs NGOs solicit citizen input into local development projects (Mansuri and Rao 2013). But to most citizens, this donor-supported participation seems like a sloppy paint job. The participation of “locals” in development planning scenarios serves as window dressing sold to the public as a historic social transformation. Individuals lose confidence in the new state as they have no meaningful voice in policymaking process.

Afghanistan: Bureaucracy Unchained

Afghanistan has been the site of the world’s largest state-building project. Before delving into the case, it is useful to consider a highly influential policy report on the state of the Afghan public administration published as post-conflict reconstruction began. It noted that the “simplistic assertions that the state collapsed in Afghanistan as a result of several decades of

conflict, or that the public sector is an institutional blank slate, are not borne out...the administrative structures of the state have proven to be surprisingly resilient” (Evans et al. 2004, 1). The report then goes on to recommend that to secure future progress, donors need to quickly reinforce the existing structures that are in place rather than seeking “heroic” transformation because these institutions are part of “distinctive heritage of the Afghan state.”

Such thinking is illustrative of the flawed approach to state-building in Afghanistan. The distinctive heritage of the Afghan state is that the government has aspired to centralization at the expense of local autonomy throughout its history, often violently so. It is also clear that the bureaucratic structures have less to do with any Afghan legacy than the Soviet system set up beginning with the implementation of the first five-year plans that began in 1955 (Robinson and Dixon 2013). More generally, this report illustrates how bureaucracy in Afghanistan was unchained.

The Afghan State in Historical Perspective

A nearly-constant drive for greater political centralization is perhaps the fundamental political theme in Afghan history. From its inception with the founding of the Durrani Empire in 1747, the Afghan state was more like a loose confederation of tribes than a centralized states, with local tribal and local leaders as well as blood relatives of the monarch exerting substantial autonomy (Newell 1972). It was more akin to indirect rule, which is a system in which monarchs and other political leaders exert authority through a network of autonomous princes while maintaining a role for tribal and customary authority (Hechter 2000).

Abdur Rahman took it upon himself to stamp out these “middlemen”—tribal and customary leaders, as well as religious authorities—who he viewed as a source of political disorder. Abdur Rahman believed centralization of state capacity was an antidote to foreign

meddling most clearly exemplified by two failed British invasions, one in 1839 and another in 1879 (Kakar 1971, 1979). His tactic was to wage dozens of wars of internal colonization against tribal and customary leaders during a brutal reign from 1880 to 1901.

The Afghan state was more centralized than it had ever been after the reign of Abdur Rahman, as measured in terms of centralized taxation and absence of political constraints on rulers. Subsequent regimes continued with these plans for centralization, although the tactics were less brutal. Amanullah (r. 1919-1929) attempted to increase the role of the state in Afghan society and economy through a series of centralized directives. Amanullah admired the strong leadership of Ataturk in Turkey who used his centralized executive authority to promote an expansive agenda of social change. However, most of his reforms were met with opposition, and Amanullah was ousted in a peasant-led rebellion that briefly unseated the Afghan monarchy.

After a couple years of instability, Afghanistan experienced a long peace under the rule of the Musahiban, the name of a Durrani Pashtun sub-tribe from which its leaders descended. These leaders included Zahir Shah, who ruled from 1933 until he was overthrown in a bloodless palace coup by his uncle, Daud, in 1973. Daud ruled from 1973 until 1978, when he was ousted by a Soviet-supported faction of the Afghan communist party. He also served as prime minister under his nephew from 1953-63.

In general, the Musahiban pursued an economic development strategy that relied heavily on foreign subsidies from both the US and the Soviet Union, leading to continuation of rentier state dynamics begun in the 19th century when monarchs began accepting British aid in turn for quiescence. They also relied on centralized economic planning. Despite a constitutional reform in 1964 that created a brief flirtation with democracy under a constitutional monarchy, the

monarchy remained committed to principles of centralism with most important governance decisions emanating from Kabul.

Centralization continued with the growing influence of the Soviet Union in Afghanistan after World War II. Although many scholars describe the contestation between the Soviet Union and the United States for influence in Afghanistan in the post-war period, the Soviet Union played a far more important role in shaping the Afghan state. Beginning with Daud's reign in the 1950s, the Afghan government adopted many features Soviet features. This was especially true under the rule of Daud, who famously fell out with the Americans and grew to mistrust them after his unconditional requests for weapons systems to facilitate the creation of a modern army were rejected by Washington and perceived American support of newly-independent Pakistan (Knabe 1988). This rejection spurred Daud to turn to Moscow for military and technical assistance. Labelled the "Red Prince," Daud also imported bureaucratic centralization and five-year plans along with Soviet loans. This turn towards Moscow was approved by a *Loya Jirga* in 1955. While the U.S. continued to invest in infrastructure projects in Afghanistan, it never equaled the kind of political influence the Soviet Union developed on the design of formal political institutions. The organization of the central government, the system of public financial management, and the bureaucracy, were very similar in design to their Soviet counterparts. Such influence continued to grow over time and escalated in 1978 with the Saur Revolution that brought Afghan communists to power for the first time, marking the end of the Afghan monarchy.

The Saur Revolution of April 1978 brought a divisive period in which the Khalq and Parcham factions of the People's Democratic Party of Afghanistan (PDPA) vied for control. In late 1979, the Soviets invaded in partly response to instability in response to local opposition to

Khalq policies (Edwards 2002). The Soviet leadership was wary that the Afghan government had moved too quickly in its efforts to achieve “communism” that its actions would continue to provoke unrest in the countryside (which it did, as the mujahideen emerged in direct response to communist policies). They were also increasingly wary of the infighting among the PDPA factions that fueled instability. Once the Soviets invaded, the centralized Soviet imprint in Afghan bureaucracy and government became heavier. Although the Soviets did move to reverse some of the more drastic reforms initially imposed by the Khalqis, it continued to support centralized state control.

The PDPA government fell in 1992. Although there have been few studies of governance during the period of civil war (1992-96), formal institutions had very little influence on governance. Surprisingly, the Taliban government (r. 1996-2001) did operate on rules of the old regime, but once it came to power it began to reform governance. The logic of Taliban governance was also one of centralization of state power. Instead of relying on old networks of bureaucrats, however, the Taliban relied on a network of its own local mullahs to administer authority. But the character of public administration was characterized by centralized governance that they were never fully able to administer. However, their state did little to establish local autonomy.

State-Building after 2001: New Wine, Old Bottles

After the fall of the Taliban regime in 2001, U.S. and NATO partners along with several factions of the Afghan resistance and the monarchy, gathered to sign the Bonn Accords, which established the 1964 constitution as the interim source of law for the country. The agreement did not reinstate the monarchy. Rather, it appointed an interim president, Hamid Karzai.

The first move of the “new” Afghan state was thus a formal reinstatement of a previous system of government. While this move was pragmatic, it symbolized a return to the past. In fact, the overthrow of the 1964 constitution was not met with relief by many Afghans because they believed it to be inherently unstable, preferring authoritarian rule by Daud (Rubin 2004, 8). The constitution of 2004 would copy many elements directly from the 1964 constitution.

The analysis that follows considers several areas of governance reform. After considering democracy, which includes several rounds of elections, the discussion considers the features of Afghan public administration—the national government, the degree of centralization of the government, judicial institutions, public finance, the security forces, and administration of land. The inescapable conclusion is that besides elections, institutional continuity and stasis characterize state-building, and that such stasis reinforces old, inefficient institutions. Interestingly, one exception is the Afghan National Army.

Democracy and Elections

A major departure from the past in Afghanistan has been the introduction of mass democracy into the political system. The elections in Afghanistan for the President, National Assembly, and provincial councils did not yield a government that is accountable to citizens in a meaningful way (Coburn and Larson 2014). Despite these changes, overall improvement in representation is limited. Rather, democracy appears to have provided a veneer of representation.

The elections that have been held have all been shrouded in allegations of corruption and massive malfeasance. In fact, each succeeding round of elections was met with seemingly higher levels of corruption. As a result, any symbolic role elections may have played in unifying the country or generating enthusiasm for the government appear to have been seriously undermined. Presidential elections in 2014 were so dysfunctional it was impossible to determine an outright

winner. The result was the creation in an extra-constitutional National Unity Government, a deal brokered by U.S. Secretary of State John Kerry.

The Executive

The 2004 Afghan constitution established a presidential system with a bicameral parliament. Although there is separation of powers between a president, the legislative branch and the judiciary, the executive branch has remained by far the strongest branch of power. Not only does it have the authority to appoint members of the judiciary, but it is also responsible for appointing one-third of the upper house of the National Assembly. The strength of the executive mimics that in the 1964 Constitution in this weak separation of powers and maintenance of a powerful executive. Thus, the current powers of the president are akin the historical role of the executive under the monarchy with the exception that the executive is to be elected.

During the hotly contested 2014 presidential elections between Abdullah Abdullah and Ashraf Ghani, where allegations of corruption delegitimized the electoral process, increasing voices in society began rejecting the strong presidential system. The United States brokered a deal between the two candidates that would create a new “chief executive officer” (CEO) who would sit alongside the president. Cabinet positions would be jointly appointed between the two leaders. While the creation of the new CEO position facilitated a power-sharing agreement, it is unclear the degree to which such an extra-constitutional system will endure. This is because the creation of a new powerful position atop a strongly centralized presidential system is full of institutional contradictions.

Ironically, those involved in drafting the constitution considered creating a parliamentary system that would feature both a president and a prime minister. The drafting commission shifted the draft constitution from a power-sharing system to a strong presidential system, creating a

powerful executive who had complete authority to appoint the cabinet, subject to the approval of the National Assembly. The rationale for creating a strong presidential system is that under conditions of state weakness, creating a parliamentary system characterized by factions would yield a “fragmented body dominated by warlords, local factions, and even drug traffickers.” (Rubin 2004, 12). Both Afghan and foreign policymakers involved in the state building process feared that a weak executive would yield an inability to generate state capacity, as infighting would dominate politics. A strong executive could help rapidly steward preferred policies. According to a 2003 diplomatic cable the US Ambassador weighed in on the constitution that was being drafted stating, “Afghanistan needed a strong President given all the vectors of power [and that a more decentralized system] would only lead to endless crises of power” (Wikileaks 2003). Thus, a strong presidential system without substantial checks and balances was ratified.

The executive authority upon which the power of the president is based is not executive authority that was designed for a strong system of democratic checks and balances. Instead, it is executive authority that has monarchical origins. It should be no surprise that since 2001, the National Assembly has not played a sustained role challenging executive authority.

Subnational Governance

The 2004 constitution created a centralized political system that was identical in form and function to previous regimes. All subnational government officials—including provincial and district governors—are appointed by the central government in Kabul with no citizen input. The design of subnational government bears a very heavy Soviet imprint. The appointment system and organization of the bureaucracy at the subnational level in Afghanistan is virtually identical to the Soviet model upon which it was based.

The notion that there is even formal local government in Afghanistan is a misnomer as subnational officials are appointed by and beholden to Kabul, including both provincial and district governors.¹ Although the appointment process is technically controlled by the Independent Directorate for Local Government in Kabul (an executive agency under the President), the appointment process is highly political and has emerged as a system of patronage for the central government. Individuals at the local level have no say who runs their local government. There is no representation at the local level. In 2016, just 43 percent of Afghans said that they influence over local government officials (Asia Foundation 2017, 111).

This policy bears strong resemblance to past governments. Not only are provincial and district governors appointed from Kabul, the ability to assign local government bureaucrats—representatives of the various national ministries—is also a right reserved for the line ministries in Kabul. This does not mean, however, that some powerful figures at the local level can emerge as both provincial and district governors. Some effective provincial governors have emerged. Many of these effective governors are powerful “warlords” who are affiliated with *mujahedin* parties. Many “warlord” governors have emerged as effective because they are not dependent upon Kabul for resources or legitimacy (Mukhopadhyay 2014). Instead, they govern by shirking almost completely from formal laws and rules that serve to constrain them.

The 2004 constitution called for the creation of elected provincial, district, and village councils. There have been three rounds of provincial council elections (2005, 2009, 2014), but these elections have not yielded local councils that play an important role in checking the authority of provincial governors. Provincial councils remain extraordinarily weak as governing

¹ Some scholars do not refer to provincial and district administrators rather than use the title “governor” as the term governor is associated with authority to govern. These sub-national officials have no independent right to govern but are simply to carry out the orders of the government in Kabul.

and oversight bodies as they have no formal authority to draft local legislation. They are supposed to oversee the work of provincial governors, but such oversight responsibilities is not clearly defined. As governors are appointed by Kabul, governors have no incentive to respond to the wishes of provincial councils. Elections for district and village councils have not been held.

The reforms in the 1960s re-introduced mayoral elections in Afghanistan's large municipalities.² During their rule, the Soviets eliminated these elected positions and appointed mayors throughout the country. The 2004 constitution establishes elected mayors, but like the district and village council elections, these elections have not been held. Mayors continue to be appointed by the central government in Kabul.

The centralized system of local governance has resulted in a system of subnational administration that is incapable of reflecting constituent needs. Most provincial and district governors are not from the areas they serve. Instead, they are rotated from one district or province to the next. As a result, customary systems of governance that are able to resolve disputes and provide small scale public goods remain quite important in rural parts of the country and effective district officials employ customary rule rather than state law (J. Murtazashvili 2016). As local government officials are not formally accountable to citizens at the local level, this system has bred enormous vast corruption, yielding further disillusionment of citizens with their government.

Judicial Institutions

The ability to deliver "rule of law" is one of the most basic functions of a state, yet one of the most difficult to achieve. In Afghanistan, establishment of a coherent justice system in many

² There were mayoral elections held briefly in the 1940s, but these were eliminated as Daud sought to centralize authority during his reign as prime minister in the 1950s.

ways remains just as remote as it did in 2001, largely the result of the perceived illegitimacy of the formal state-backed justice system. The judicial system remains highly centralized, with authority to select and oversee judges and the court system firmly entrenched in Kabul.

According to a nationally-representative survey, Afghans reported paying more bribes to the judiciary than to any other public institution and that informal dispute resolution mechanisms are far more popular and trusted than government courts (Asia Foundation 2017).

During the second half of the nineteenth century, Afghan monarchs relied upon the court system as a means to extend the reach of the state into communities throughout the country (Tarzi 2003). Thus, the courts played an important role in extending the writ of the state, under highly centralized control by the monarchy. Because of this historical legacy, Afghanistan's centralized judiciary is controlled by the executive branch. This was also true for most regimes in the 20th century including the PDPA government that sought to use courts as a means to impose social and political agendas (Weinbaum 1980).

The current court system in Afghanistan is almost identical to the system laid out under previous regimes. In this system, The Supreme Court of Afghanistan oversees most local courts. Judges in provincial and district courts are appointed by the Supreme Court in Kabul. Although the National Assembly does play a role in affirming appointments to the Supreme Court, once justices are in place they have enormous control not just of interpreting the law but also of administering the entire justice system.

Beginning in the 1950s and accelerating during PDPA rule, government institutions reflected Soviet models. This was especially true of the judiciary. The PDPA abolished the Supreme Court and replaced it with a special Revolutionary Court. Soviet advisors helped set up a new internal security agency modeled on the KGB, infamously known as the *KhAD* (ICG 2010,

6). In practice, the KhAD “exercised full judicial power through summary arrests, detentions, and executions” (ICG 2010, 6). The Supreme Court was eventually reinstated towards the end of PDPA rule, but the legacy of the courts being tools of politics is one that has not been quickly forgotten by most of Afghan society, who continue to shun use of formal courts.

Not only is the court system highly centralized in Kabul, but so too is the public prosecutor’s system and the bodies responsible for drafting laws. In 1981, the PDPA created an Attorney General (*Loya Saranwal*) office that serves as a general public prosecutorial body, with prosecutors appointed by authorities in Kabul (ICG 2003, 9). The Attorney General’s office operates under a similar logic today as it did under the PDPA period. Similarly, the Ministry of Justice, rather than legislators draft most laws that go before the National Assembly.

Some heralded the 2004 constitution as a break with the past because judicial bodies were to have some oversight over constitutional and legal interpretation, but this authority has been hotly contested. The National Assembly has turned to the independent commission on the Supervision of Implementation of the Constitution, while President Karzai maintained that the Supreme Court should fulfill this role (the 2004 Constitution establishes both bodies but does not clearly specify their duties) (Worden and Sinha 2011). Although observers have lamented the absence of judicial review, the assertion of the National Assembly vis-à-vis the executive controlled Supreme Court represents a step by the legislative branch to assert some authority.

More than a decade after the fall of the Taliban government, efforts to bring the judicial system closer to the people has not occurred. The judiciary bureaucracy—including the Supreme Court, the Ministry of Justice, and the Attorney General—remain very similar to their previous incarnations. Although the Soviet-inspired secret police *KhAD* has been dismantled as a political institution and the state is no longer engaged in wholesale political torture and discrimination,

Kabul has firm control over judicial institutions. This does not mean, however, that the state is in control of the administration of justice. Rather than turn to the state, individuals increasingly rely on customary forms of dispute resolution rather than turning to courts. In fact, some government officials who citizens perceive to be legitimate, gain such legitimacy by allowing communities to maintain their own forms of dispute resolution. In fact, district government officials, operating independently of their legal basis, have said that their threat of sending local disputants to a corrupt district court provides enormous incentive for groups to resolve disputes by customary or other self-enforcing mechanism (J. Murtazashvili 2014).

The organization of the court system reflects centralized stasis based on previous models. The lack of checks and balances on the court system has resulted in extraordinary corruption in the system, yielding customary bodies as the most preferred sources of dispute resolution in the country. Such heavy centralization yields inefficiencies that drives people to exit the state and (re-)create informal forms of mediation.

Public Budgeting and Finance

The system of public finance in Afghanistan is extremely centralized and represents a continuation of the past. There is perhaps no area where Soviet influence has been more felt in Afghanistan than in the system of public finance—both in raising revenue, budgeting, and budget execution (Carnahan 2004). Although donors have tried to affect some reform of the system to increase efficiency, it is unlikely that any amount of reform or capacity building within the current system could yield policies that reflect citizen interests. The system of public finance remains one of the most centralized in the world.

The centralized system of government means that local units of government do not have the right to tax and spend funds that they raise.³ Most local revenue must be sent back to the central government in Kabul where it is then redistributed to local subunits based on the national budget plan. Although state-builders tried to make some changes to the budgeting system and incorporate some local input into the process, these reforms have been little more than window dressing as more than 50 line ministries and executive agencies make their budgets in Kabul for all provinces and districts of the country. In 2016, just 34 percent of citizens reported having confidence in government ministries are to deliver services to communities (Asia Foundation 2017).

The public finance system together with lack of local self-governance means there are few opportunities for citizen preferences to be translated into the budget. Budgets reflect the priorities of the central government in Kabul. Furthermore, the disconnect between the budgeting process and citizens results in an enormous implementation gap at the local level. Because local officials are not involved in the budget plans, they rarely have the staff or personnel required to execute the budget once it has been drafted. Budget execution of the development budget (which does not include salaries) has hovered around 40 percent over the past decade, a signal that the government cannot spend the meager funds it collects.

Although some small modifications have been made to the system of public financial management (such as the introduction of program budgeting and some moves towards more localized decision-making over implementation), such changes have been cosmetic. Such efforts

³ In principle, municipalities have the right to tax and spend revenue locally, but most of the legislation that would enable municipalities to perform these functions have yet to be implemented.

to build state capacity have not worked to create a system of public finance that has served to deliver public goods and services efficiently or in a manner consistent with local preferences.

In some areas, such as education, rural development and public health, the government has made some claims to success in service delivery. This is because government programs have not been paid for or implemented by the government, but instead by donor partners who then contract out implementation to international and domestic NGOs and contractors. In this parallel system, donor funds go to a specific ministry (such as health or rural development) to fund a “national priority program.” Donor funds are transferred to the specific ministry but then are quickly contracted out to third parties with donor oversight. While this system may have been more effective than relying upon the logic of the government, it has further undermined the state. As donor assistance decreased, the increases in “capacity” generated by such a parallel system quickly evaporated. In this aspect, rentier parallel structures emerge because the formal system of public financial management and policy execution is so weak that donors cannot rely on it to deliver the results citizens expect.

Donor efforts over the past decade have reinforced a system of public finance—that as we have seen from other Soviet examples—faces extraordinary challenges functioning with coherence. Resources have encouraged path dependency rather than reform in this area (Bizhan 2017). As a result, the government remains unable to deliver many basic public goods and services to its citizens. While some donors have encouraged the use of contractors and other third parties to deliver services on the behalf of the government, citizens rarely recognize these as government programs because they are delivered by foreign organizations. The inability of the state to generate and execute a budget—a basic requirement of government—is the result of past historical legacies. These legacies cost the government its legitimacy.

National Security Forces

A study of the Afghan National Security Forces presents an interesting test of this conceptual framework, as the Afghan National Army (ANA) and the Afghan National Police (ANP) embarked on two very different paths of institutional reform after the fall of the Taliban regime.

Both the ANA and the ANP evolved as very centralized security forces that by the beginning of the civil war had an extraordinary Soviet influence. Daud began centralizing the army during his first reign as prime minister in the 1950s. He asserted stronger centralized control over its organization after he reclaimed power in 1973. At first, he partnered with factions of the Afghan Communist Party. For instance, Hafizullah Amin, who became leader of Afghanistan under communist rule, began recruiting Khalq members into the army beginning in 1970s. During the 1980s the Soviets brought in advisors and imposed the Soviet political-bureaucratic model of management to strengthen the Army. The Army even began employing Soviet agit-prop models to win the hearts and minds of local population. By 1990, 70-80 percent of army officers were PDPA members (Giustozzi 2016, 44). Although many army officers relied on patrimonialism, the Army was designed to maximize political control of the PDPA. It remained so until the outbreak of the civil war in 1992.

The police had always been a much weaker organization than the army as its development had received far less attention from Kabul during the monarchy. This changed after the 1978 coup when the PDPA began to impose Soviet organizational models on the Ministry of Interior (MoI) who were responsible for managing the police. Although Germany had played a role training the police prior to the Saur Revolution, the police grew as an organization under Soviet tutelage.

In the first few years after 2001, donors were committed to a “light footprint” approach in Afghanistan and did not develop long-term strategies to develop the security forces. As the Taliban insurgency grew, the United States took increased responsibility for reforming what became the Afghan National Defense and Security Forces (ANDSF). Efforts to rebuild the army and the police focused on strategies to integrate and disarm militias, as initially the US had no plans for security force development. It was not until 2005 that the US assumed the lead role to develop the ANDSF.

Strategies to develop the ANA and ANP diverged. After developing a set of interim solutions, in 2002 the international community decided to rebuild the organizational structure and the recruitment of the ANA from scratch. This decision was based on several factors, including concern that the nascent army had come under the control of *mujahideen* factions, but also an acknowledgement that the Soviet model that was designed for political control and that featured forced conscription, remained as a sticky institutional structure. The decision to rebuild the ANA from scratch meant that it would have an entirely new structure and political management and the Soviets political model would be disbanded.

In contrast, there was initially little attention paid to the structure of the police. Police forces remained in MoI, which like other ministries, relied on central planning models. By 2009, it was clear that the Ministry lacked the “ability to perform basic management functions, particularly in personnel, procurement, and logistics; and an overall strategy for police operations and development...Institutional reforms, which began in earnest in 2005 were routinely resisted or thwarted by political interference, often from the highest levels of government” (Perito 2009, 12). The intense centralization of MoI impeded the development of the police, as it did not have the human resources or oversight capacity to carry out its mandate. Provincial strongmen ran

police systems more effectively than the MoI (Giustozzi and Isaqzadeh 2013). Unlike the ANA, the ANP sought to reintegrate demobilized combatants into the forces, which undermined development by allowing militia commanders to fill police ranks with patrons. By 2010, the ANP was so untenable that by 2010 the US began supporting the creation of village-based protection forces, such as the Afghan Local Police, which were based on customary models of self-defense as an alternative.

The most serious obstacle facing the creation of both the army and the police related to plans for the size of these forces. When the ANA was initially established, planners imagined a force of 70,000 and a police force of 60,000. These relatively modest plans ballooned during the period of the US military surge when the projected size of the ANSF skyrocketed to 196,000 ANA and 162,000 ANP (SIGAR 2017). Analysts argued that it would be impossible to sustain such a large fighting force in a population that had such low levels of literacy without returning to a conscription-based model (Giustozzi 2009).

The outcomes in the ANP and the ANA could not be more striking. Although there are reports of corruption and ghost soldiers, the ANA has become “a symbol of nationhood and factional nonalignment” (Katzman and Thomas 2017, 33). A 2017 report on corruption in the security forces said that the decision to build the ANA from scratch as a national-multiethnic body protected it from capture from factional and criminal elements as had been the case with the ANP. A senior US official was quoted in the report saying that, “In the Ministry of Defense, the problem is contracts...In the MoI it is everything” (Clark 2017). In 2017, 44 percent of the population said the ANP was honest and fair. In contrast, 60 percent said the same of the ANA (Asia Foundation 2017, 63). Former Interior Minister stated that organizational reforms led to a

professionalization of the army that reduced its casualty rates and perception of corruption compared to the police, which remained largely unreformed (Jalali 2009).

Why Did Afghan State-Building Fail?

State building, by any conventional measure, has not worked. An important factor is that the quality of the bureaucracy has not noticeably improved. The old institutional systems that were established by the Soviets remained largely in place. One of the consequences is that there remains scarce space for citizen preferences to translate into public policy and for chosen policies to be implemented.

Another reason is that political institutions remain highly centralized. The executive branch is one of the most centralized in the world. There are few constraints on the central government. Polycentricity in practice is not matched by formal relations between communities and the state. There has been little progress in establishing accountability of the government to citizens.

In this sense, the Afghan state-building project was not ambitious enough. It tried to do many things quickly, but on the back of inefficient institutions. Part of the problem was that the international aid apparatus does not necessarily have incentives to take history and domestic institutions seriously. Implementing public policy is much more challenging than holding elections. Rather than witnessing a massive transformation in the way government does its work, citizens experienced institutional stasis, this is especially true for the eighty percent of the population that is in rural areas.

In contemporary Afghanistan self-governing societies remain an important alternative to a distant government. Citizens have simply exited the state and continued to function in their

self-organized “micro-societies” as a result of corruption (Saikal 2004). They continue to use customary systems of governance to address their pressing needs. The presence of such systems may provide comfort to communities, but it would be better to have a competent, credible bureaucracy to provide the sorts of public goods and services that communities cannot provide. Such provision is unlikely unless state-builders consider a local, and historical, turn in their approach to building states.

There is some precedent for a more decentralized approach to reform. The area of land reform is instructive. Customary governance of land relations is often quite effective (I. Murtazashvili and Murtazashvili 2016). There is little reason to believe formalization would improve on security because the state is administratively weak (I. Murtazashvili and Murtazashvili 2015). Legal titling involves a massive administrative problem: creating land registries, surveying land with cadastral surveys, and enforcing ownership (Arruñada 2012). The Afghan state falls short on all these dimensions (Batson 2013). Noted earlier, courts—which must be available to those with legal titles to resolve disputes—are among the most corrupt in the country.

Unlike other public sectors, the international community has recognized the limits of the state in this area. Most land reform projects that have been implemented are community based, eschewing a role for the state (Alden Wily 2013; Stanfield et al. 2013). They think outside the box. But this is necessary because with land relations, the law and the state are often the problem.

Conclusion

International attempts to build effective states have criticized for attempting to bring Denmark to Djibouti (Pritchett and Woolcock 2004). The idea is straightforward: transplanting a functional state is difficult. Yet in Afghanistan, the problem was different. The Soviet Union had brought Moscow to Kabul. State building should have begun by dismantling old legacies—adding to the state by subtracting, so to speak. These old centralizing legacies were far more sticky than most state-builders appreciated.

One implication is that the Afghan state-building project did not fail because of excessive ambition. It failed because it eschewed the challenging work of breaking from the legacies of centralized administrative institutions. Democratic elections provided something of a smokescreen that obfuscated the lack of real reform.

The challenges confronting Afghanistan are not so much with leaders or people. Indeed, this essay has not made much mention of Hamid Karzai, which may strike some as puzzling. However, as historical institutionalists have long understood, it is important to understand structures rather than individuals (Skocpol 1979; Tilly 1984, 1990). The problem lies in the design. Leaders have incentives to maintain power structures that centralize their control.

What would a better design look like? Formal rules should be much more decentralized. Political decentralization promises to ease the costs of implementing policies and to enhance the legitimacy of the state, as well as provides a foundation against an extractive state (Myerson 2013, 2014). Such constraints on the state are perhaps the overriding concern of a typical Afghan. Unfortunately, in Afghanistan terms like decentralization and federalism are politically loaded that connote ethno-nationalism and regionalism rather than efficiency.

Decentralization could also improve prospects for integration of informal governing orders—both violent and non-violent—into the political regime. The state building process was

an opportunity to encourage self-governance, rather than reinforce old systems. Political disorder will continue to threaten Afghanistan unless citizens have a meaningful voice in determining the scope and scale of government in society.

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