

POST-CONFLICT PEACE OPERATIONS AND GOVERNANCE IN AFGHANISTAN

A Strategy for Peace and Political Intervention

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EXECUTIVE SUMMARY

Over the last two decades, post-conflict military and civilian interventions have occurred with increasing frequency and scope. By illustration, the first UN peacekeeping mission in 1948, the United Nations Truce Supervision Organization (UNTSO), was mandated to supervise the truce of the 1948 Arab-Israeli war, and initially deployed 93 military observers. By contrast, the current international interventions in Kosovo (UNMIK) and East Timor (UNTEAT) are de facto governments, employing thousands of international and local staff with police and military services included in the portfolio.

In the case of Afghanistan, the potential size and complexity of the intervention endow it with a unique set of challenges and a substantial price tag. The issue of scale alone translates into unprecedented demands on the UN delivery system as well as on the humanitarian, reconstruction, and institution building systems of other international and nongovernmental organizations (NGOs).

Experience shows that more complex peace and political interventions have been difficult to initiate and administer, resulting in governance gaps and public service delivery problems. These difficulties are the result of policy disconnects which, on the one hand, expect quick and effective responses to such crises; and on the other, lack the integrated planning and institutional readiness to respond effectively.

When the scale of the operations in Afghanistan is measured against the potential resources, the imperative emerges for advanced and integrated planning in order to keep pace with the stipulated chronology of the Bonn Agreement; to overcome the level of devastation caused by the 23-year history of recent wars; and to prevent the country from sliding back into bloodshed.

The establishment of the Interim and Transitional Authorities is occurring in conditions that are difficult by any comparison. It is an environment of unprecedented human displacement, drought and agricultural devastation, and post-conflict infrastructure destruction.

In developing an approach for the international community to meet this challenge, the methodology presented here organizes the Bonn Agreements' objectives and parameters and then describes the issues and tasks associated with implementing the accords over a multi-year horizon. The result is a scenario created for the international intervention in post-conflict security and governance of Afghanistan.

The methodology identifies six sectors in order to map out the associated issues and activities with each: 1) Peacekeeping and National Security; 2) Policing and Community Security; 3) Judiciary and Rule of Law; 4) Constitution, Elections and Political Process; 5) Representation and Governance; and 6) Human Rights and Civil Society.

There are four documents that underpin the international intervention and will shape the transitional governance as a result of their requirements: 1) UN Security Council Resolution 1378; 2) Agreement on Provisional Arrangements for Afghanistan (Bonn); 3) UN Security Council Resolution 1383; and 4) 1964 Constitution of Afghanistan and other applicable laws. Overseeing the implementation of the UN responsibilities in these documents in Lakhdar Brahimi, Special Representative of the Secretary General (SRSG). His blueprint for post-conflict Afghanistan must also be factored into any governance scenarios.

Of these four documents, the Bonn Agreement mandates the establishment of particular Interim and Transitional structures of governance to serve until permanent structures are established, and the 1964 Constitution provides guidance on how the features of the new structures can be crafted. In addition to the general considerations, this legal framework will influence the Interim and Transitional structures in specific ways and will present some operations issues in the management of the transition.

The influences that can be cited here include the inviolability of territorial integrity and Afghan sovereignty, the influence of transitional institutions on the current configurations, and an emphasis on process in determining the best course for Afghan institution building. The Interim and Transitional Authorities must resolve such issues as the balance of centralization versus decentralization in Afghan government

authority, the accommodation of the sequencing of the constitution, census, and elections; and the incorporation of the agendas of other international organizations into the governance mix. Examples of such other organizations include the European Commission, the International Organization for Migration, and the World Bank.

The peace and political intervention in Afghanistan must possess an overarching strategic objective. That objective is threefold: 1) to bring peace, stability, and good governance to Afghanistan; 2) to stop Afghanistan from being a harbor for terrorists, narco-criminals, and regional instability; and 3) to accomplish spillover effects in the region that similarly reduces transborder terrorist and criminal activity.

In achieving this objective, the political processes established must not be regarded as “zero-sum” games and must have foundations in traditional institutions and processes. The new institutions of governance are being established in a society with little direct election experience and must be crafted accordingly. The intervention must fulfill the requirements of all the enabling documents while maintaining transparency in its public-decision making.

The intervention must recognize the influences that Pakistan has recently exerted over Afghan politics. The fact that Pakistan remains committed to elections by October 2002 will result in political activities occurring simultaneously on both sides of the border. On a technical level, the two processes are entwined through the challenge of voter identity and eligibility, that is, how to register and identify voters in each country.

The overall transitional process can be divided into five phases: 1) Pre-Interim Activities; 2) Interim Authority; 3) Appointed Transitional Authority; 4) Elected Transitional Authority; and 5) Elected Government.

The governance activity begins on December 22, with the establishment of the Interim Authority (Interim Phase). This phase can be projected to be around one year in length, lasting through the end of 2002. The objectives of the Phase are to establish peace and security; initiate humanitarian and reconstruction efforts;

establish an Interim Authority and associated organs; and to prepare the transitional institutions of governance. During this Phase, substantial decisions must be made on the constitution, judicial structures, systems of representation, and other governance questions.

Under the Bonn Agreement, a Transitional government is then appointed through the guidance of an Emergency Loya Jirga. This Phase is projected to occur for around 18 months, until the first round of elections held in June 2004.

Following these elections, this scenario postulates an Elected Transitional Phase (as contrasted with an Appointed one) where transitional institutions can be engaged for a two year term before a second round of elections in held in 2006 for permanent government institutions.

This paper describes scenarios for implementing the Bonn accords and establishing post-conflict governance in Afghanistan. The scenario concludes with permanent representative institutions being elected in mid-2006. The paper is intended to demonstrate the benefits of employing a broadly scoped and institutionally integrated planning technique for the intervention. Although this paper cannot cover all of the details associated with the Afghanistan case, it provides a framework for evaluation of the post-Bonn next steps and insights into the issues that will shape the process.

The paper recognizes the scale of difficulty facing the international community in Afghanistan. Viewed from this perspective, the case becomes apparent that consensual and integrated responses must be pursued or risk ineffectiveness with potentially disastrous results.

In Afghanistan, the international community will be challenged to provide a level of intervention that is unprecedented in scale and scope. In order to meet this challenge, new tools and perspectives must be developed. This paper can be viewed as a seminal effort at developing such an overarching framework that will be required for Afghanistan to recover and achieve economic and political stability.

I. INTRODUCTION AND RATIONALE

A. Afghanistan and the Trend Toward Complex Missions

Over the last two decades, post-conflict military and civilian interventions have occurred with increasing frequency and scope. Post-World War II United Nations' (UN) peacekeeping interventions began in 1948. The first mission was the United Nations Truce Supervision Organization (UNTSO), mandated to supervise the truce of the 1948 Arab-Israeli war. There was an initial deployment of 93 military observers.

By contrast, the UN's and North Atlantic Treaty Organization's (NATO) current intervention in Kosovo (UNMIK) and the UN intervention in East Timor (UNTEAT) are de facto governments with police and military services included in the portfolio. These interventions engage thousands of international and local staff in public administration and there are thousands more

THE AFGHAN CHALLENGE

In the case of Afghanistan, the potential size and complexity of the intervention endow it with a unique set of challenges and a substantial price tag. This issue of scale alone translates into unprecedented demands on the UN delivery systems as well as on the humanitarian reconstruction, and institution-building delivery systems of other international nongovernmental organizations.

nongovernmental human resources devoted to humanitarian, civil society, political, and rule of law programs under the umbrella of international governance. From 1948 to 1996, the UN mounted 41 peacekeeping missions. Fifteen were established in the 40-year span of 1948 to 1988; the other 26 were established in the following 8 years.¹

To illustrate this point from a staffing and financial perspective, in January 1988, some 11,121 military, police, and civilian personnel were deployed on UN peacekeeping missions at an annual cost of \$230.2 million (US). In December 1994, some 77,783 personnel were deployed, the highest number to date, at an annual cost of \$3.6 billion (US).²

In the case of Afghanistan, the potential size and complexity of the intervention endow it with a unique set of challenges and a substantial price tag. This issue of scale alone translates into unprecedented demands on the UN delivery system as well as on the humanitarian, reconstruction, and institution-building delivery systems of other international and nongovernmental organizations.

Experience has shown that the more complex peace and political interventions have been difficult to initiate and administer, resulting in governance gaps and public service delivery problems. These gaps can have horrendous consequences, as illustrated by the UN peacekeeping experience in Rwanda (UNAMIR) and the 1994 genocide. UNAMIR's Chief Military Observer, Brigadier-General Romeo Dallaire (Canada) writes,

...a central moral question still remains unanswered: did the ineffectiveness of the U.N. mission in grasping the situation and poor handling of the political, humanitarian, and military response in extremis abet the genocide? I believe that it did.³

Dallaire continues,

This gap between the intensely complex and desperately critical situation and the inadequacy of the resources provided to deal with it raises a profound question on moral pragmatism: If the intervention comes to a point where it has little to no chance of being effective, should it have been withdrawn (or some might say undertaken) in the first place.⁴

These gaps have consequences that are felt on both sides of the intervention. Because of the premiums paid for speed, international crisis operations are relatively more costly than those that ramp up methodically. From the perspective of the populations served, as cynicism grows over the faulty international administration, local confidence can fade and play out in acts of discontent and protest. In 2000, UNMIK was the object of street demonstrations protesting its inability to deter crime, locate missing persons, and aid the return of the internally displaced.

These difficulties are the result of policy disconnects that, on the one hand, expect

quick and effective responses to such crises, and on the other, lack the integrated planning and institutional readiness to respond effectively. Elevated expectations from the international community, media organizations, and the populations served call for instant, effective, and accountable actions to occur where the clear lessons of history are such that interventions frequently become protracted undertakings.

When scale of the operations in Afghanistan is measured against potential resources, the imperative emerges for advanced and integrated planning in order to keep pace with the stipulated chronology of the Bonn Agreement; to overcome the level of devastation caused by the 23-year history of recent wars; and to prevent the country from sliding back into bloodshed.

The establishment of Interim and Transitional Authorities is occurring in conditions that are difficult by any comparison. It is an environment where seven million of 25 million people are at risk of famine and five million people are displaced or refugees, and where as many as two-thirds of this population may be illiterate. A multi-year drought has devastated agricultural production; and, Afghanistan remains one of the most heavily land-mined countries in the world.

Although a total figure for reconstruction, security, and governance has not yet been assessed, the indicators point to at least \$6.5 billion (US). The cost of removing landmines alone could be as much as \$500 million (US).⁵ As cross-references, in West Bank/Gaza, (population less than 2 million) a total of \$3 billion of reconstruction assistance was proposed; in Lebanon (population 4 million) reconstruction assistance was in the range of \$400 million per year for ten years. In Bosnia and Herzegovina (population 5 million) total pledges (for humanitarian relief and reconstruction) were \$5.4 billion during 1995-99.⁶

From a refugee standpoint, comparisons can also be made with the five million-population figure in Afghanistan (20% of the estimated population) for another perspective on the problem. The conflict in Bosnia and Herzegovina produced 1.2 million refugees or 27% of the population, the conflict in Mozambique produced 1.6 million refugees or 10% of the population and the Eritrean conflict produced 900,000 refugees or 28% of the population. These statistics reflect the highest conflict-

related human displacements in the 1990s. The Afghanistan situation exceeds these three cases combined in numbers of peoples and equals them in relative impact and societal trauma.⁷

B. Methodology for Post-Conflict Scenarios

This methodology organizes the Bonn agreements' objectives and parameters; and then describes the issues and tasks associated with implementing the accords over a multi-year horizon. The result is a scenario created for the international intervention in post-conflict security and governance of Afghanistan. The methodology is based upon four steps: 1) identify the legal parameters and authority for the intervention; 2) assess the implications in the process and institutions resulting from these parameters; 3) determine the strategic objectives for the intervention; and 4) overlay the intervention requirements (tasks) with the chronology (timeline).

This methodology is applied to six sectors in order to map out the issues and activities associated with the intervention in each one - Peacekeeping and National Security; Policing and Community Security; Judiciary and Rule of Law; Constitution, Elections, and Political Process; Representation and Governance; and Human Rights and Civil Society.

Such an exercise can provide the international community with five immediate benefits: 1) international resources can be more effectively managed; 2) common transition expectations can be introduced into both the Afghan and international communities; 3) the progress of the transition can be benchmarked and measured; 4) the transparency of the process can be enhanced; and 5) this approach can serve as a governance template for international interventions in other state-sponsored terror scenarios.

This methodology relies heavily on consultative processes and institution building to remake the political fabric of Afghanistan. As the Bonn meeting illustrates, the political leadership of the new Afghanistan is a known quantity. The political future

of Afghanistan is not a question of “who will govern” but “how to govern.” Such an approach emphasizes process and institution building, that is, the structures through which these leaders will operate.

While the necessities of peace making, reconstruction, and institution building in Afghanistan are readily apparent, there remains a gap in the “how to” of addressing these challenges from a governance assistance perspective. This paper describes the strategy, tasks, and timelines associated with the “how to” of an integrated peace and political intervention in Afghanistan.

II. LEGAL AUTHORITY AND PARAMETERS OF INTERVENTION

QUESTION OF GOVERNANCE IN AFGHANISTAN

The political future of Afghanistan is not a question of “who will govern” but “how to govern.” Such an approach emphasizes process and institution building, that is, the structures through which these leaders will operate.

There are four documents that underpin the international intervention and will shape the transitional governance as a result of their requirements: 1) UN Security Council Resolution 1378; 2) Agreement on Provisional Arrangements for Afghanistan (Bonn); 3) UN Security Council Resolution 1383; and 4) 1964 Constitution of Afghanistan and other applicable laws. Overseeing the

implementation of the UN responsibilities in these documents is Lakhdar Brahimi, Special Representative of the Secretary General (SRSG). His blueprint for post-conflict Afghanistan must also be factored into any governance scenarios.

A. Security Council Resolution 1378

The November 14 Resolution “expresses support” for the Afghan people to create a new government and “affirms that the United Nations should play a central role in supporting efforts of the Afghan people to establish urgently a new and transitional administration leading to the formation of a new government....”⁸

The Resolution stipulates qualitative objectives for the interim and Transitional Authorities. These objectives include being broadly based, multi-ethnic, fully representative, and committed to peace and human rights regardless of gender, ethnicity, or religion.

In this Resolution, as in the Bonn Agreement, despite international intervention, the sovereignty and territorial integrity of Afghanistan remain undisputed.

B. The Bonn Agreement

The December 5 Bonn Agreement concluded nine days of UN-sponsored talks in Germany among four Afghan groups and individuals. The framework for Interim and Transitional Authorities was signed in Bonn and members of the Interim Authority were selected. There were 25 Afghan signatories to the document. SRSG Brahimi witnessed it on behalf of the UN. The Agreement maintains the principles of Islam, democracy, pluralism, and social justice as its philosophical foundation. However, neither the Taliban nor the Cyprus Loya Jirga was present although the Cyprus group endorsed the agreement. The Bonn accords were successful in establishing a unity government, but one without an opposition.

The Interim Authority is scheduled to convene on December 22. The Interim Authority can be described as a tripartite structure with a Chairman and five Vice Chairs as an Administrative authority, a Supreme Court and system of other courts, and a Special Commission on the Organization of an Emergency Loya Jirga, a Human Rights Commission, a Civil Service Commission, and a Central Bank. As the SRSG reported, the ethnic distribution formula for the 29 Interim Departments was agreed at 11 to the Pashtuns, eight to the Tajiks, five to the Hazaras, and three to the Uzbeks, with the remaining two departments to other groups. Of course, these departments have politically weighted values and authorities; relative power cannot be determined from the formula alone.

The Emergency Loya Jirga will decide on a Transitional Authority. When the Transitional Authority is established, the Interim Authority ceases to exist. Within two months of its establishment, the Transitional Authority shall convene a Constitutional Loya Jirga that will establish a Constitutional Commission. No later than two years

after the convening of the Emergency Loya Jirga, elections for representative assemblies should be held.

The Bonn Agreement has four Annexes: Annex I- International Security Force; Annex II Role of UN; Annex III - Requests to UN; and Annex IV - Composition of the Interim Administration.

Annex I is a request from the conference participants to the international community to assist Afghanistan in the training of new security and armed forces. Annex II reinforces the central role of the UN and the SRSG in mentoring and managing the political process established by the accords. Annex III is a request to the UN to provide the following services: 1) registration of voters (other electoral responsibilities unstated); 2) census of the population; 3) demobilization and re-integration of mujahadin; 4) funds to assist martyrs' families and other victims of the war; and 5) assistance to combat narco-trafficking. The UN is also requested to assist in the development of a new constitution and to intervene in human rights matters. In addition, Annex IV is a list of the 29 departments that will compose the Interim Authority.

C. Security Council Resolution 1383

The December 6 Resolution endorses the provisions of the Bonn Agreement and reaffirms the UN position in supporting the political transition in Afghanistan.

D. 1964 Constitution⁹

The Bonn Agreement cites the 1964 Constitution and other existing statutes as applicable law insofar as the provisions do not contravene those of the Agreement or the UN Resolutions.

This constitution establishes Islam as the state religion, but expresses tolerance for other faiths (Article 2); ensures freedom of thought and expression (Article 31); permits the establishment and functioning of political parties (Article 32); and mandates education for every Afghan child (Article 34). This Constitution defines Afghanistan as a constitutional monarchy (Article 1).

It establishes a hierarchy of councils that comprise the representative functions of governance (Title Four). The parliament (Shura) is bicameral and composed of a Council of Elders (Meshrano Jirga) and a House of the People (Wolesi Jirga). The King appoints the Elders or they are selected through an indirect voting process involving local officials. Voting described as free, universal, secret, and directly elects the Wolesi members. Election constituencies and the first past the post system are described.

The Constitution also frames the composition and responsibilities for the Loya Jirga, consisting of members of the Shura and provincial councils convening in times of national crisis to make certain societal decisions.

The government is structured with a Prime Minister with other ministers (Title Six). The principle of administration is that of centralization (Article 108). However, the constitution establishes provincial councils constituted under free, universal, and secret elections. Systems of governance are established at the municipal and village levels (Articles 108, 109, and 111).

The Constitution establishes a Supreme Court and system of lower courts (Title Seven). The Courts are to follow the tenets of Hanafi jurisprudence and the Shariat of Islam within the principles set forth in the Constitution (Article 102).¹⁰

E. Brahimi Blueprint

With these processes and institutions forming the political platform, the UN role will be administered through the office of the SRSG, Lakhdar Brahimi. In a UN press statement accompanying the release of the text of SCR 1378, Brahimi's mandate is described as follows,

*Mr. Brahimi is entrusted with the overall authority for the humanitarian, human rights, and political endeavors of the United Nations in Afghanistan. He will also initiate preparations for the transition to the post-conflict, peace-building phase, through the development of plans for the construction and rehabilitation of that country.*¹¹

The first steps of the Brahimi blueprint were implemented in the Bonn Agreement and were consistent with his previous public statements on his objectives for the talks (multi-national security force, UN sponsored talks for an interim government, two year transition, approved by a Loya Jirga, chairmanship by the former King).

III. INFLUENCES AND ISSUES FOR THE TRANSITION

The previously mentioned documents represent the legal foundation for the international intervention. As such, they define the parameters of the intervention and the applicable law. That being stated, these documents leave open to interpretation what services will be provided by the UN in its “central” role, and with what level of resources the UN will respond to requests for assistance in areas such as security, governance, human rights, enumeration, and elections. At this writing, there is no Security Council Resolution on a security force.

In addition to these general considerations, this legal framework will influence the Interim and Transitional structures in specific ways and will present some operational issues in the management of the transition.

A. Influence of Territorial Integrity

Both SCR Resolutions 1378 and 1383 reaffirm the “sovereignty, independence, territorial integrity and national unity of Afghanistan.” However, the government structures are recognized by the international community as transitional in nature. Compliance with the implementation of the Bonn Agreement will be the determinant in this continuing recognition and the assistance that accompanies it.

B. Influence of Traditional Institutions

In the Bonn Agreement, the traditional mechanism of the Loya Jirga is employed as a consensus building and decision making instrument. The Agreement also establishes a pluralistic and inclusive set of government departments, Supreme Court, Loya Jirga, and other commissions; maintains Islam in a central position; preserves a role

for the monarchy; and defines government authority under a constitution—all consistent with mid-to-late 20th century Afghan institutional tradition.

To emphasize the traditional influences, the 1964 Constitution is also employed as a guiding document. The use of the Constitution reinforces many of the Bonn Agreement provisions while introducing the necessary legislative or representational component to the mix. The Constitution describes a bicameral system of representation on the central level and provincial and local assemblies directly elected. No system of representation is described in the Bonn Agreement.

C. Influence of Process over Product

The Bonn talks, the Loya Jirga, and the establishment of other consultative commissions provide an emphasis on process and deliberative discussion. It is key in the development of a post-conflict template that the Bonn talks not be viewed as a singular event, but rather the initiation of a continuing political process that requires international mentoring and management through its Interim and Transitional periods.

D. Issue of Centralization Versus Decentralization

However, there are issues that must be resolved in order to establish a Transitional Authority.

The 1964 Constitution states, “The administration of Afghanistan is based upon the principle of centralization.” (Article 108). Such a governing principle appears to be in conflict with the level of decentralization that will be required to manage as a single nation the disparate ethnic and tribal interests. A highly centralized form of government can find it difficult to effectively administer a top-down approach to all public issues and services. On the other hand, extensive local autonomy can fragment the Afghan nation and push conflict into an intra-community or intra-ethnic sphere. The level of “federalism” adopted by the Interim and Transitional Authorities will influence the formation of provincial and local authorities and guide the definition of their respective portfolios as permanent institutions.

E. Issue of Sequencing Constitution, Census, and Elections

A second difficulty is in the sequencing of the constitution, elections, and the census. The preferred sequencing is to create the constitution, a document that defines citizenship and the authority of government; with this document as the legal basis, the government conducts a census; the data from the census is used to establish constituencies (if applicable); and voter registration is conducted in order to define an electorate for the next balloting.

However, under the Bonn Agreement, the sequencing will unfold in the following manner:

22 December 2001	Interim Authority is established.
22 June 2002	Emergency Loya Jirga is convened (within six months of Interim Authority).
1 January 2003	Transitional Authority is established (projection).
1 March 2003	Constitutional Commission is established (two months after Transitional Authority).
1 June 2004	Constitutional Loya Jirga adopts Constitution (18 months after Transitional).
22 June 2004	Elections for permanent government institutions (two years after Emergency Loya Jirga).

Concurrent with the development of a Constitution, the census and voter registration would be conducted without the benefit of a constitutional definition of citizenship, voter eligibility, or the definitions of authority and offices on the ballot. These obstacles can result in either a postponement of the 2004 elections; or two cycles of elections—elections for transitional bodies in 2004, followed by elections for permanent bodies in 2006.

F. Issue of Integrating Other Agendas

The Bonn Agreement does not define roles for other international and nongovernmental organizations that will support the reconstruction and political transition. It is strategically useful to create a defined and active community of interest among international donors around particular interventions. The response agendas for these organizations can

be influenced by and integrated with that of the UN to reduce redundancies and eliminate gaps.

“**These obstacles can result in either a postponement of the 2004 elections; or two cycles of elections - elections for transitional bodies in 2004; followed by elections for permanent bodies in 2006.**”

Three examples of other international organizations activities are shown below.

European Commission (EC)

Poul Nielson, European

Commissioner for Development and Humanitarian Aid made a December 3-7 assessment mission to Afghanistan and Pakistan.

The EC has already funded programs in emergency humanitarian assistance and is allocating further funding for demining and disposal of unexploded ordnance. The EC is directing its relief efforts through the Humanitarian Aid Office (ECHO).¹²

International Organization for Migration (IOM)

IOM has established offices in Afghanistan and Pakistan and is assisting with the humanitarian work of feeding, clothing, and housing refugees and the internally displaced. IOM has organized convoys and airlifts of emergency assistance for thousands of displaced individuals bringing blankets, shoes, winterized tents, and other supplies. The organization is also actively assisting in the return of refugees where conditions may now permit.

World Bank

From November 27 through 29, 2001, the World Bank organized a conference in partnership with the United Nations Development Programme (UNDP) and the Asia Development Bank (ADB). At the conclusion of the conference the delegates foresaw a “rich basis for a multi-sectoral needs assessment for the war-shattered country.”¹³

The World Bank has developed a strategic framework through which it will provide support using the instruments of the trust fund and local reconstruction agency. The areas of primary focus are agricultural recovery and food security; human capacity and employment; and health and education.

Although economic development, reconstruction, and the Bonn calendar have their own chronologies, “Short Term, Transitional Projects and “Medium Term, Development Projects” that might loosely correspond with the Interim and Transitional Phases of the Bonn accords will phase the World Bank program.¹⁴

This integration extends to the potential involvement of UN agencies such as UN Human Rights Commissioner, UN High Commissioner for Refugees, and UNESCO; and for bilateral development agencies, and nongovernmental organizations. The enabling documents describe a role for the UN Secretariat and the SRSG but not for other organizations. Even so, SCR 1378 calls on Member States to provide “support for such an administration and government, including through the implementation of quick-impact projects.”¹⁵

Until the Bonn Agreement was concluded, IOs and NGOs operating in Afghanistan were focused on providing humanitarian relief. This scene will now be congested with organizations providing reconstruction support as well as assistance to the governance sectors such as rule of law, elections, civil society, and human rights.

IV. STRATEGIC UNDERPINNINGS OF THE INTERVENTION

A. Strategic Objectives

The overarching strategic objective for an international military and civilian intervention in Afghanistan is threefold: 1) to bring peace, stability, and good governance to Afghanistan; 2) to stop Afghanistan from being a harbor for terrorists, narco-criminals, and regional instability; and 3) to accomplish spillover effects in the region that similarly reduce transborder terrorist and criminal activity.

B. Supporting Objectives

There are ten additional strategic underpinnings or assumptions to this intervention approach.

1. The transition process must be designed to reduce friction and prevent conflict among the involved participants. Political processes must be designed so that “zero-sum” games are avoided, inclusiveness is maintained, and sustainability is achieved.
2. The international community must provide a peacekeeping force to maintain security in the country during the transitional phase.
3. The intervention must recognize the substantial impact that traditional mechanisms of consensus building, decision-making, and governance will have on the transitional and permanent institutions. As such, the transition will be conducted in a consultative fashion, with many of the features of the transition being “demand driven” by the Afghan interlocutors. The intervention will emphasize the creation of processes and institutions to implement the Bonn accords.
4. The intervention must recognize that elections are mandated in a society with little electoral experience, no universal form of self-identification, and outdated census data from the 1960s. Although direct balloting is described in past constitutions, in the last election in 1992, a body of 1,335 delegates indirectly elected

President Burhanuddin Rabbani. Electoral processes must be designed in a “voter friendly” fashion but also possess substantial anti-fraud controls.

5. The intervention must fulfill the terms of SCR 1378 and establish a broadly based, multi-ethnic and truly representative government for Afghanistan.

6. The UN must have the political lead in guiding the political development of the transition; however, other players can be anticipated to be on the scene that will have agendas for programming independent that of the UN. The UN should assure neutrality in the perceived distribution of services, seek out “quick wins” in the early stages of the transition, form partnerships with the private sector, and avoid the creation of bloated, centralized bureaucracies.¹⁶

7. The UN must respond to the requests made in the Bonn Agreement or find other organizations to fulfill the requests.

8. The intervention strategy must cover six sectors in the transitional process:
a) Peacekeeping and National Security; b) Policing and Community Security;
c) Judiciary and Rule of Law; d) Constitution, Elections, and Political Process;
e) Representation and Governance; and f) Human Rights and Civil Society.

9. The intervention planning must be performed in an integrated fashion that recognizes the actions of the Interim Authority, UN, and other international and nongovernmental organizations that will have a role in the reconstruction and transition. The intervention should recognize the role that local NGOs will play in the transition and identify subgrant programs that can be initiated to support these local activities.

10. The decisions taken in the transition process by the Interim Authority, Transitional Authority, or the UN, must be done in a transparent and accountable manner. Steps should be taken to prevent reconstruction and transitional funds from becoming the sources of corruption.

V. THE PAKISTAN FACTOR

The intervention must recognize the influences of Pakistani government policies and political activities during the Interim Administration. Coinciding with the 2002 term of the Afghan Interim Authority, the Pakistan government will be organizing its first set of post-1999 coup elections by October 2002.

The Pakistani and Afghan political processes are entwined through the challenge of identity and eligibility - how to register and identify voters in each country. In recent elections, observers have cited poor voter identification and registration systems in Pakistan. The problems for both countries are complicated by a lack of identity documents, refugees and displaced persons, and gender discrimination.

Other potential Pakistani influences in the Afghan processes include covert activities of the Pakistani intelligence service (ISI); funding of political candidates or parties coming from Pakistani sources; and Pakistani government policies regarding political participation by Afghan refugees in the Afghan political process.

VI. IMPLEMENTATION CALENDAR

The implementation of this transition can be divided into five phases: 1) Pre-Interim Activities; 2) Interim Authority; 3) Appointed Transitional Authority; 4) Elected Transitional Authority; and 5) Elected Government.

This calendar shows three kinds of "date" descriptions: 1) historical dates of agreements or passage of resolutions; 2) dates projected from the terms of the Bonn Agreement; and 3) projections of dates on anticipated activities.

The implementation calendar is shown as Appendix I.

VII. INTEGRATED STRATEGY FOR INTERVENTION

A. Transparency of Intervention

The transition process is occurring without an independent and systematic effort at monitoring progress and compliance to the provisions of the Bonn Agreement. The international community should create the Afghanistan Transition Monitoring Mission to track the progress of the transition. The mission can provide regular reporting on the broad implementation scenarios, and also focus reporting on key processes such as the conduct of the census.

The monitoring mission can be a collaboration of such groups as the Organization of Islamic Conference (OIC) and the European Union (EU).

This mission would operate independently of the UN and report on the transition to the UN and the public.



The transition process is occurring without an independent and systematic effort at monitoring progress and compliance to the provisions of the Bonn Agreement.

B. Interim Intervention Scenario

Interim Phase (December 22, 2001 - December 31, 2002)

The strategic objective of the Interim Phase is fourfold: 1) to establish peace and security; 2) to initiate humanitarian and reconstruction efforts; 3) to establish an Interim Authority and associated organs; 4) to prepare transitional institutions of governance.

Peacekeeping and National Security

The international peacekeeping force will be faced with three responsibilities during the Interim Phase: 1) to support enforcement of the ceasefire; 2) to assist in

establishment of a national Afghan armed force; and 3) to present a long term asset presence.

Although there is no Chapter VI or VII Security Council Resolution or mandate concerning a peacekeeping force at this writing, current discussions indicate that the force is to be an “alliance of the willing” with British military in the lead role for the first six months. The forces will wear no “blue helmets.” The British force of 2,000 to 3,000 troops will be complemented by an unspecified number in the thousands of troops from Germany, France, Canada, Italy, Turkey, Bangladesh, Indonesia, and Jordan. Britain is hopeful to turn over the leadership of the force to Turkey at the close of the six-month initial deployment.

The force is expected to begin activities in Kabul and then be extended to other regions and municipalities.¹⁷ In the initial phase, the Bonn Agreement emphasizes the security presence in Kabul over that of other areas. The Northern Alliance is expected to ensure the safety, security, and freedom of movement of UN and associated personnel from humanitarian agencies.

During the Interim Phase, the enforcement of the ceasefire will be the highest security objective. Without a secure environment, the Interim Authority cannot operate and the institutions of governance cannot be developed. Enforcement of the ceasefire will include border patrols, demobilization of mujahadin, intelligence, psychological operations, security checkpoints, weapons cache raids, support to civilian police in criminal investigations and other civil-military activities.

However, the international peacekeeping force will also be requested to work with the Interim Authority to establish some form of standing military force as a peace building activity. The point of contact on the Authority’s side should be the Department of Defense. However, a task force to discuss the issue should be established that would include representatives of the Department of Foreign Affairs, Planning, Martyrs and Disabled, and Border Affairs.

Peace support will be provided through ongoing humanitarian and reconstruction assistance. Such peace support activities include refugee and displaced return route security, food transport and protection, demining, protection of ethnically significant sites, communications, medical evacuation and public health, roads and bridges.

Policing and Community Security

The Bonn Agreement and the Security Council Resolutions are silent on the deployment of international civilian police to Afghanistan. However, the interpretation can be made from Annex I that, a civilian police component can be considered as part of the “United Nations mandated force.”¹⁸

This intervention strategy relies upon a civilian police component to provide community security and deter criminal activity on the local level. Community police can also play a role of human rights monitoring, an area of UN responsibility. Community policing can be factored into the overall security plan that will be developed by the Interim Authority. The point of contact for this initiative should be the Department of Interior. However, the Interim Authority should also establish a task force to deal with the policing issue and include the Department of Justice, Rural Development, Urban Development, Return of Refugees and Women’s Affairs.

Judiciary and Rule of Law

The Bonn Agreement establishes a Supreme Court and provides the Interim Authority with the flexibility to establish other courts as necessary. Applicable law is the 1964 Constitution and other laws that do not contravene the Bonn Agreement or UN Resolutions. The Interim Authority can issue decrees for peace, order, and good government for Afghanistan that form the regulatory foundation of State governance.

However, in order to establish permanent institutions of jurisprudence, the Interim Authority is authorized to establish a Judicial Commission “to rebuild the domestic justice system in accordance with Islamic principles, international standards, the rule of law and Afghan legal traditions.”¹⁹

In such a role, the Commission's scope of work can be defined by four responsibilities: 1) to establish a legal framework of national laws, local laws, judicial precedents (penal, criminal, and civil); 2) to design the system of institutions that will be developed to enforce and adjudicate these laws; 3) to establish processes for training, professional development, and accreditation of officers of the court; and 4) to assure that the public has access to justice.

Given a task of this magnitude, international consultative support to the Commission will be required. Moreover, the Commission can consider the establishment of three ad hoc bodies to support its mission: 1) an inter-departmental task force; 2) a community outreach group to assure a working partnership between the government and citizens on justice issues; and 3) a commercial outreach group to assure that the legal system is not an obstacle to economic growth.

A determination on whether a war crime tribunal is to be constituted can be assigned to this sector's task list. Such a tribunal would be created under UN auspices and adjudicate cases emanating from the civil wars of the 1990s.

Constitution, Elections, and Political Process

Although the appointment of a Constitutional Commission falls within the mandate of the Transitional Authority, the Interim Authority, in cooperation with the UN can develop a working draft so that the Commission can begin its deliberations with a document to consider. As a model, the 1964 Constitution has 128 Articles and 11 Titles. Within these provisions, the Constitution covers the powers of the monarch, basic rights of the people, parliamentary authority and composition, the powers of the Loya Jirga, government and judicial structure, local administration, and provisions for states of emergency and transitions. In the 20th century, Afghanistan constitutions have been adopted in 1923, 1963-64, 1976, 1987, and 1990.

Under Elections and Political Process, the major activities in the Interim and Transitional Phases are the census, registration, and elections.

The Interim Authority should prepare a package of key electoral regulations for Loya Jirga approval early in its tenure. The scope of the regulatory package that the Interim Authority should consider includes political party laws, nongovernmental organization laws, campaign codes and practices, media laws, systems of representation, and the levels of representation. Voter identification and eligibility guidelines are “constitutional” considerations for the Emergency Loya Jirga. Moreover, the enfranchisement of refugees and those displaced or disabled by the conflict must be factored into the regulatory package.

Based on this package of regulations, preparations for the census, registration, and elections must begin during the Interim Phase and will continue through the Transitional Phases. The design for the electoral systems should be completed during the Interim Phase.

Although an electoral role for the UN is not specifically mentioned in the Bonn Agreement, the linkage to registration and census requests means that the elections should be conducted under international supervision. The Interim Authority should establish an independent Provisional Election Commission (PEC) that contains both international and Afghan members; and a set of provincial or municipal election commissions for local administration. Each such local commission will have an international election officer assigned to them. Associated with the PEC should be an administrative commission, an Election Complaints Commission, which can adjudicate electoral complaints before they become issues for other courts to consider. The Interim Authority should establish an All Party Council, a consultative body that seeks the insights of political parties in electoral matters. It is important that the electoral institutions maintain independence from the Interim and Transitional Authorities. Such a model for the electoral infrastructure has been effectively employed in such interventions as Kosovo and Bosnia and Herzegovina.

Registration and election issues can be handled through the electoral infrastructure described above, however, the census should be administered under a separate body, a Census Commission, also composed of international and national members

with associated commissions on the local level. The work of the Census Commission can be folded into a State Statistical Institute, developed as a permanent structure emerging from the transition.

The Interim Authority must make decisions about the scope of the census that it will conduct. Such decisions involve whether the exercise will be solely a population enumeration or whether houselisting operations will be initiated; what enumeration techniques will be employed; and how refugee populations will be enumerated. The Census Commission can involve the Departments of Interior, Planning, Labour & Social Affairs, Public Health, and Return of Refugees in census issues.

Representation and Governance

The Interim Authority is responsible for devising systems of representation, levels of governance, a Civil Service Commission, and the role of the central authority. The Authority must establish a budget for governance activities and determine a strategy on how this budget will be funded.

The process by which these points are considered is equally as important as the conclusions, and continuing consultation with interested Afghan parties is essential. Moreover, the Authority must establish the government mechanisms (through the Department of Reconstruction) in this Phase that will permit the transparent and accountable handling of reconstruction trust fund monies from international sources and effectively implement the reconstruction.

If the 1964 Constitution is used as a template, the national parliament can be a bicameral body with an upper house of appointed and indirectly elected leaders, and a lower house of directly elected representatives. The lower house can be constituted on the basis of a proportional representation - low threshold formula, so that smaller parties can maintain a voice and vote in governance. The lower house should have set aside seats for those not in the three or four largest minorities—Pashtun, Uzbek, Tajik, and Hazara. Such smaller groups include the Baloch, Almak, Turkmen, Brahul, Nurtstani, and others. A gender set-aside quota can be imposed with at least 30% of the seats reserved for women.

“The Interim Authority is responsible for devising systems of representation, levels of governance, and the role of the central authority. The process by which these points are considered is equally as important as the conclusions, and continuing consultation with interested Afghan parties.”

Under the 1964 constitution, levels of government existed at the national, provincial (30), municipal, and village level. The Interim Authority must decide on the number of governmental tiers in the Transitional Phase and the devolution scheme. The Authority will have the added challenge of removing local “warlords” from roles

of governance where they have assumed such a responsibility on their own, or been appointed by the Northern Alliance after a local military victory.

Although these issues should also be framed in the constitution, it is important that the Interim Authority make these decisions so that the Transitional elections can remain on schedule.

Human Rights and Civil Society

The UN can choose to exercise actions in the area of human rights. The Bonn Agreement permits its participation - “The United Nations shall have the right to investigate human rights violations and, where necessary, recommend corrective action.”²⁰ The Bonn Agreement also calls for the establishment of a Human Rights Commission. In fulfilling this responsibility, the UN should establish human rights monitoring capacity through its mission or through the services of the NGO community to assure that human rights are respected in the Interim and Transitional Phases.

Although it is anticipated that the UN mission will have human rights and civil society capacity, the balance of the human rights and civil society services will be delivered through the NGO community. These services include refugee repatriation, reconstruction, food distribution, child welfare, public education, and shelter.

C. Transitional Intervention Scenario

Appointed Transitional Phase - I	January 1, 2003 - June 22, 2004
Elected Transitional Phase - II	June 23, 2004 - June 22, 2006

The strategic objective of the Transitional Phases is fourfold: 1) to consolidate peace and security in Afghanistan; 2) to continue humanitarian and reconstruction efforts; 3) to establish a Transitional Authority; and 4) to prepare permanent institutions of governance.

Peacekeeping and National Security

During the Transitional Phases, the role of the international military peacekeepers should extend to all regions of the country. The British leadership of the force will have rotated to another country, perhaps Turkey. The troop level will be determined by the security threat, the need for military support of other humanitarian and political goals, and the Afghan invitation to remain. The core peacekeeping activities mandated in the Interim Intervention Scenario would remain as prospective tasks during the Transitional Phases. In addition, it is anticipated that military advisors would continue to mentor Afghan security forces on the composition of a standing military.

The peacekeepers will be requested to create a secure environment in which to conduct the transitional elections, scheduled for mid-2004. This election security support can mean securing political rallies, protecting candidates, providing escorts for sensitive electoral materials, and protection of electoral facilities. The peacekeepers may be called upon to provide non-security related services such as logistics, transport, and communications.

Policing and Community Security

The mandate of the international civilian police would also be gauged according to the level of violence and crime evident in the society and the capacity of Afghans to enforce community peace.

The civilian police would be requested to assist the Afghans in devising a security plan for the transitional elections. In this role, the police are expected to be in a lead role with respect to point security at electoral events and at polls on Election Day.

Judiciary and Rule of Law

The Judicial Commission will complete its report in this Phase and the development of a permanent judicial system will commence. The report should describe the establishment of a system of courts, headed by a Supreme Court and a system of the lower courts, such as provincial and local, that must be established to provide Afghanistan with the capacity to adjudicate crimes, hear citizen concerns, and assure accountable economic development.

The report must also take stock of the human resource needs in the legal profession and determine what training and professional development programming should be initiated. The report should also assess the state of statutory law and determine what program of revision and updating should be undertaken. Finally, the report must identify the means for access to justice by all Afghan citizens.

Constitution, Elections, and Political Process

The work of the Constitution Commission will be completed during this Phase. The Constitutional Loya Jirga is scheduled to be approved the constitution toward the end of the Phase. If the sequencing of the constitution and elections remains as described in the Bonn Agreement, then the first set of transitional elections will operate under decisions on eligibility and citizenship that are transitional and taken by the Emergency Loya Jirga.

These first elections would constitute a transitional national parliament and local assemblies that are established by the Interim Authority. A determination must be made as to whether the president is elected directly or indirectly. These elections would be supervised and certified by the UN, but jointly administered with Afghans occupying positions on election commissions and in administrative posts. The second election would constitute the permanent representative bodies.

Contesting in both of these election cycles will be the political parties that are created under the election regulations of the Interim Authority. All parties should undergo a new registration process under the Interim Authority. Thresholds should be low as an incentive to include smaller parties, but demonstrable membership or support should be evidenced. Coalitions, alliances, citizen's initiatives, and independent candidates should be permitted. Ethnic parties will exist in form but registration as a party representing an ethnicity will depend upon the formula for ethnic representation in the assemblies.

The process should be monitored by local and international organizations. Local organizations can include NGOs, civil society organizations, and media organizations. Political parties should be permitted to have party "agents" monitoring the polling. From an international perspective, a lead monitoring organization should be designated to observe the registration and elections. This organization cannot be the UN or any other IO operating in Afghanistan for conflict of interest reasons. However, a group such as the Association of Asian Election Authorities (AAEA) or other regionally based groups could participate the election-monitoring mission.

In this two-phased Transition period, the term of office for the first elections would remain at two years. A second transitional election would occur in 2006 for permanent institutions and four-year terms of office. Since the rules of eligibility for the 2004 process would be transitional (determined by the Loya Jirga), a registration "confirmation" process would be required for the 2006 elections to assure that the electorate is properly identified according to constitutional provisions. However, if the completion of the constitution can occur by mid-2003, then the Interim Authority would have one year to prepare transitional elections according to those provisions, and the need for a second phase of elections can be short-circuited.

Some form of census should be completed during the Transitional Phase. Since fundamental issues concerning the census must be addressed (i.e. enumeration methodology) before timelines and resources can be matched up, a date projection on the census is difficult to make. Moreover, if there is a decision to create a mixed

system of representation, with constituencies defined on the basis of resident population, then a delimitation exercise can be conducted and used in the second election.

Representation and Governance

The 2004 elections will constitute national and local assemblies for a two-year term. The Transitional Authority will be responsible to determine what modifications are required to convert these transitional assemblies into permanent institutions of governance for the 2006 elections.

Human Rights and Civil Society

The NGO community would be engaged in civic education and motivational programs for an understanding of the new systems of governance and how the electoral process will operate. These programs can focus on the traditionally marginalized groups such as refugees, minorities, women, youth, rural inhabitants and migrants, and people with disabilities.

Other human rights monitoring, humanitarian and reconstruction should be required to continue in the Transitional Phases.

VIII. CONCLUSION

This paper describes scenarios for implementing the Bonn accords and establishing post-conflict governance in Afghanistan. The scenario concludes with permanent representative institutions being elected in mid-2006. The paper is intended to demonstrate the benefits of employing a broadly scoped and institutionally integrated planning technique for the intervention. Although this paper could not cover all of the details associated with the Afghanistan

The paper is intended to demonstrate the benefits of employing a broadly scoped and institutionally integrated planning technique for the intervention.

case, it provides a framework for evaluation of the post-Bonn “next steps” and insights into the issues that will shape the process.

The paper recognizes the scale of difficulty facing the international community in Afghanistan. Viewed from this perspective, the case becomes apparent that consensual and integrated responses must be pursued or risk ineffectiveness with potentially disastrous results.

In Afghanistan, the international community will be challenged to provide a level of intervention that is unprecedented in scale and scope. In order to meet this challenge, new tools and perspectives on interventions must be developed. This paper can be viewed as a seminal effort at developing such an overarching framework that will be required for Afghanistan to recover and achieve economic and political stability.

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¹⁷ The Washington Post, December 11, 2001, page A18.

¹⁸ Bonn Agreement, Annex I.

¹⁹ Bonn Agreement, Section II.

²⁰ Bonn Agreement, Annex II.

APPENDIX

POLITICAL TRANSITION KEY EVENTS CALENDAR AND IFES PROJECTIONS

Activity	Date
Pre-Interim Phase	
Passage of Security Council Resolution 1378 (Historical).	14 November 2001
Bonn Agreement signed (Historical).	5 December 2001
Passage of Security Council Resolution 1383 (Historical).	6 December 2001
Interim Phase	
Interim Authority is established (Bonn).	22 December 2001
Arrival of British led peacekeeping force (IFES Projection).	22 December 2001
Judicial Commission is established. (IFES Projection).	1 February 2002
Emergency Loya Jirga is convened (Bonn).	22 June 2002
Britain turns over force leadership (IFES Projection).	1 July 2002
Interim Authority completes a national and community security plan (IFES Projection).	1 July 2002

Interim submits omnibus package of key electoral and census regulations (IFES Projection).	1 August 2002
Loya Jirga transitional decisions on key electoral and census regulations (IFES Projection).	1 December 2002
Loya Jirga approves Transitional Authority (IFES Projection).	31 December 2002
Appointed Transitional Phase	
Transitional Authority is established (IFES Projection).	1 January 2003
Constitutional Commission is established (Bonn).	1 March 2003
Constitutional Loya Jirga adopts a Constitution (Bonn).	1 June 2004
Elected Transitional Phase	
Elections for transitional institutions (Bonn).	22 June 2004
Transitional Authority Phase I is established (IFES Projection).	1 July 2004
Elected Government Phase	
Elections for permanent institutions (IFES Projection).	22 June 2006
Permanent Authorities are established (IFES Projection).	1 July 2006

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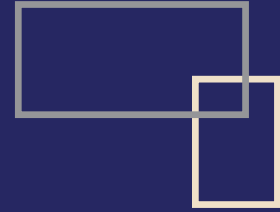
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Mr. Fischer has held three internationally appointed posts in post-conflict transitions. In 1996, he was appointed by the Organization for Security and Cooperation in Europe (OSCE) to serve as Director General of Elections for the first post-conflict elections in Bosnia and Herzegovina. In 1999, Mr. Fischer was appointed by the United Nations (UN) as Chief Electoral Officer for the Popular Consultation for East Timor. And, in 2000, Mr. Fischer received a joint appointment from the UN and OSCE to head the Joint Registration Taskforce in Kosovo and served as the OSCE's Director of Election Operations in Kosovo. In 2001, Mr. Fischer continued to support to Kosovo political process by serving as a Senior Advisor to the OSCE Mission to Kosovo.

Mr. Fischer has also directed IFES technical assistance projects in Haiti (1990-91) and Guyana (1991-92). Mr. Fischer has worked on election assistance, observation, or conference projects in over 40 countries. In the United States, Mr. Fischer represented the MicroVote Corporation (1989-1992) and in this capacity consulted with local and state administrators on electronic voting. In 1985, Mr. Fischer was also appointed to a four-year term as Commissioner on the Kansas City Election Board and from 1990 to 1993 he served as a Commissioner for the Missouri Campaign Finance Review Board.

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