

## **Conflict Resolution in Afghanistan: A Legal-Anthropological Approach to the Applicability of Peshawar Accords and Bonn Agreement**

**Muhammad Waqas**  
Area Study Centre,  
University of Peshawar

**Mian Muhammad Saleem**  
Associate Professor,  
Department of Law, AWKUM

**Zahoor Rahman**  
Institute of Peace & Conflict Studies,  
University of Peshawar  
Email: advwaqas89@yahoo.com

### **Abstract:**

*After prolonged period of peace and stability, the war-torn Afghanistan fall victim to interstate conflicts that began in 1978. The two phases of conflict in Afghanistan, the first emerged after Soviet Invasion in 1979 and the second after US Invasion in 2001, were dealt separately. Different approaches were adopted and effective measures were taken to transform the conflicts. Peshawar Accord 1992 and Bonn Agreement 2001 were the charters for transformation of Soviet and US transpired conflicts respectively. Although both the conflicts were ultimately transformed into ethnic struggles but their transformation approaches differ widely. Peshawar Accord was advocating a more comprehensive and modern approach based on principles of good governance with primary focus on the Rule of Law. The US approach towards conflict transformation in Afghanistan was through democratic development and political participation. The rule of law was dealt as a by-product of democratization process. The policy of power sharing by different ethnic factions in Afghanistan was adopted to ensure political development. Although the democratization process has been developed and successful power transfer has been witnessed in the previous years, the overall situation of the country has been worsened even further and the overall US policy of power sharing has thus failed to secure stability in Afghanistan.*

**Keyword:** Bonn Agreement; Peshawar Accord; Conflict Resolution; Rule of Law; Political Participation.

### **I. Introduction**

The war torn Afghanistan has witnessed a prolonged period of peace and stability from 1933 to 1973, before it fell victim to various intrastate and interstate conflicts. The military coupe, two coups, the first that bring Sardar Daud Khan in Power in 1973 and the second in April 1978 against the regime of King Daud Khan in which he was killed, are the most devastative events in the Political history of Afghanistan.

The conflict in Afghanistan began in April 1978 with the military coup by Soviet-backed People's Democratic Party of Afghanistan (PDPA) against the regime of King Daud Khan in which he, along with most his family members, was killed. The event is widely known by the name of Saur Revolution. Ironically, the same PDPA helped Mohammad Daud Khan to overthrow the government of his cousin King Zahir Shah in a peaceful coup in 1973 (Afghanistan, 2017).

The PDPA was a communist political party established in 1965. The seeds of the communist party were watered by Mir Akbar Khaiber whose murder in 1978 triggered mass protests in the streets of Kabul. The protest was interpreted as a demonstration of force by the PDPA since its unification in 1977. Earlier in 1967, the PDPA had split into two factions i.e., Parcham headed by Babrak Karmal and Khalq headed by Nur Muhammad Tarakai respectively. Both the factions had their military wings which had literally helped in materializing the coup in 1978. After coming into power, the PDPA government made official alliance with the Soviet Union and introduced a series of comprehensive reforms (Westad, 1994). The reforms challenged the traditional authority of the landed aristocrats and religious nobility which triggered the emergence of armed resistance against the regime which ultimately resulted in the collapse of the regime.

The Soviet invasion of Afghanistan began in 1979 to replace the PDPA government in Afghanistan headed by Hafizullah Amin, with the Soviet-backed Babrak Kamal, on alleged peace deal with Hisbe-e-Islami (Butt & Siddiqi, 2016) (Timeline: Soviet war in Afghanistan, 2009). Ironically, Amin was previously backed by the Soviets in the killing of Nur Muhammad Tarakai the former head of PDPA government.

The Soviet invasion of Afghanistan molded the interests of its arch rivals in the west towards the region. Resultantly, Afghanistan becomes a battlefield for the cold war and a hot tub for interstate conflict that involved several states.

A decade long war between Afghan Mujahedin (resistance forces) and Soviet ended in 1989 followed by the Soviet withdrawal of the troops from Afghanistan. The PDPA remained in power till the fall of Kabul in 1992. In 1992, the Mujahedin groups agreed on Peshawar Accords as a conflict resolution tool which was opposed by Gulbadin Hikmatyar (Saikal, 2006). The other parties to the agreement formed the transition government and established Islamic State of Afghanistan under the leadership of Burhanuddin Rabbani, a Tajik leader, which remained intact till the rise of Taliban in 1996 (Rais, 1999). Taliban came into power in September 1996 and established Islamic Emirate of Afghanistan. Ahmad Shah Masoud, the Defense minister of transition government under Peshawar Accord, established an alliance of militia leaders in the name of United Islamic Front informally known as Northern Alliance. The alliance was a military and political resistance force against Taliban.

In December 2001, a diverse group of warriors and ambassadors chartered an agreement for political discourse of Afghanistan after its invasion by United States and NATO forces under Operation Enduring Freedom. The agreement known as the Bonn Agreement supported the Northern Alliance militarily and politically against Taliban and

established a transition authority under the leadership of Hamid Karzai. However, the agreement didn't prove to become an effective tool for stability and peace in Afghanistan.

## II. Literature Review

The ethnically diverse country of Afghanistan is comprised mainly of the Pashtuns (50%), Tajiks (26%), Uzbeks (8%), Hazaras (7%) and Aimaqs(6%) and other minor ethnic groups (Ahady, 1995). The state of Afghanistan was established by Pashtuns in 1747 and was always dominated by Pashtun majority. However, the ethnic factor in the country's politics was never that much important as it had become after the Sour Revolution, 1978 (Mazhar *et al*, 2012). The conflict in Afghanistan with the passage of time and in the greater interest of major powers, firstly the Soviet Union and then the United States, has been transformed into an ethnic conflict. A sort of political rivalry based on ideological principles existed in Afghanistan. The transformation of monarchy into constitutional monarchy by Amir Amanullah in 1921 and then the abolishment and transformation of King Zahir Shah's monarchy to republic by Mohammad Daud Khan and then its transformation into PDPA's Democratic republic of Afghanistan were all backed by several political and social movements but neither of such movements was the result of any ethnic struggle.

The ethnic struggles started after the Soviet Invasion of Afghanistan (Rais, 1999). The basic factor that have empowered and enhanced the ethnic struggle in Afghanistan was the Soviet policy of handling Afghanistan. The main resistance to the Soviet forces came from the ethnically Pashtun areas of the country so they adopted the policy of 'divide and rule' by targeting and destroying Pashtun dominated (Haroon, 2008).

The other ethnic groups were provided political autonomies. The Soviets didn't conducted any ground or aerial operations in their areas. Instead they provided incentives to other ethnic groups and initiated developmental projects in their areas (Ahady, 1995)

The American also continued the Soviet policy of ethnic struggle in Afghanistan. Even the magna carta of political discourse for Afghanistan drafted by US (Bonn, 2001) further enhanced the ethnic struggle by supporting the northern alliance for military advantage against the Taliban government and Al-Qaeda (Linschoten& Kuehn, 2012). Ironically, earlier the United States supported Pashtuns in order to defeat the Soviet Union (Stabile & Kumar, 2005)

The several decades' long ethnic conflict in Afghanistan has greatly changed the traditional hierarchy of power in Afghanistan. Today, the ethnically Pashtun majority is relatively less powerful than the other ethnic groups. The traditional rivalry between the two prominent tribes of Pashtuns i.e., Durrani and Ghilzais, which was once forgotten during the Taliban resistance in the 90's, even furthers their weakness. The other groups being empowered primarily by Soviet and then by US, has resulted in the emergence of two different kinds of struggles; One by ethnic minorities like Tajiks, Uzbeks and Hazaras for their political autonomy and redrawing of boundaries, the other by the Pashtuns majority to regain their historical dominance in Afghanistan. Although the struggle to regain the Pashtuns dominance is central to both Durrani and Ghilzais, the later has coupled its struggle with an ideological narrative of Islam. The ideological impulse in Ghilzais struggle supports the idea of united Afghanistan. This manifestation

of the Ghilzais has been evident from their support for the Taliban resistance against the US backed coalition government in Afghanistan as opposed to the Durrani struggle for power-sharing which too is evident from their participation in the coalition government (Johnsons, 2007).

**Table 1: Population of the main ethnic groups in 1979**

Pashtun	7,000,000	Concentrated in South and Southeast, but settled in most regions
Tajiks	3,500,000	North, Northeast and Kabul region
Hazaras	1,500,000	Centre (Hazarajat) and Kabul
Uzbeks	1,300,000	North
Aimaq	800,000	West
Farsiwan, Heratis	600,000	West and South
Turkmen	300,000	North
Brahui	100,000	Southwest
Baloch	100,000	West and Northwest
Nuristanis	100,000	East

Source: Hyman, A. (2016). *Afghanistan under Soviet domination, 1964–91*. Springer. P.11

**Table 2**

Ethnic Group	% Population
<b>Pashtun</b>	42
<b>Tajik</b>	27
<b>Hazara</b>	9
<b>Uzbek</b>	9
<b>Aimak</b>	4
<b>Turkmen</b>	3
<b>Balochi</b>	2
<b>Others</b>	4

Population of the main ethnic groups in Afghanistan according to Wahab, S., & Youngerman, B. (2007). *A brief history of Afghanistan*. Infobase Publishing. P. 14

### III. Research Methodology and Variables

The initial idea of this research work is heuristic followed by a review of authoritative and professional literature. The verifiable objective findings determined empirically are then analyzed logically towards the conclusion. The scientific framework of this study is Modern System theory, which focuses on the relationship of different elements and attributes working systematically to form a whole, wherein a change in one element or attribute affects the whole system.

After the WW-II the number of traditional wars between states has decreased. A new concept of conflict has emerged that challenges the traditional role of United Nations in finding an amicable solution for the conflicts between nation states and reduce tensions and hostilities through the methods conflict management and conflict resolution. As a result of Cold War between Western bloc and Eastern bloc, the centre of gravity of conflict has diffused from the interstate environment to an intrastate scenario. The traditional methods are no more applicable.

The intrastate conflict portrays the image of a failed state lacking in vertical legitimacy and horizontal legitimacy (Holsti 1991). In terms of vertical legitimacy, the authority of the state over the subjects is compromised. Lack of Horizontal legitimacy is referred to a condition where there is no coherence between political communities and ethnicity becomes the driving force behind power struggle. Such conflicts cannot be solved through traditional methods of conflict management and conflict resolution which seeks the containment of conflict or mutual agreement between conflicting parties respectively. A new and modern approach is required to find out and transform the conditions that supports and uphold the conflict. The restructuring and reshaping of the elements that work interdependently and systematically to form the conflict is crucial for peace building. Conflict transformation is thus an approach that underpins the rebuilding of the state structure for which good governance is the scarlet thread.

As defined by the Development Assistance Committee of the Organization for Economic Cooperation and Development (OECD/DAC), the good governance of a country consists of two core elements: The rule of law and democratization. The two elements are interdependent. The formal definition of the rule of law includes that “the absence of laws that are applicable to particular individual or classes only” (Stephenson, 2008). Rule of Law is the oneness and unity of law as opposed to legal pluralism. Multi-cultural and multi-ethnic countries easily fall the victim of legal pluralism. The process of democratization and political participation, which are related to the general process of socio-economic development (Fink, 2012), are affected to the level of disability by legal pluralism. (Waqas & Khattak, 2017). The relationship can be best described by the fact that the rule of law always remains a precondition for democracy.

#### **A. Analysis of Peshawar Accord and Bonn Agreement in wake of transformation of Conflict in Afghanistan**

The two phases of conflict in Afghanistan, the first emerged after Soviet Invasion in 1979 and the second after US Invasion in 2001, were dealt differently. Individual approaches were adopted and effective measures were taken to transform the conflicts. The Peshawar Accord 1992 and the Bonn Agreement 2001 were the charters for transformation of Soviet and US transpired conflicts respectively. Although these conflicts were ultimately transformed into ethnic struggles but the transformation approaches adopted for the conflict differ widely.

The Soviet-Afghan war was fought between two ideologies; the communist ideology and Islamist Ideology. There was no scope for ethnic struggle at all. Muslims from all over the world, irrespective of race or ethnicity, fought against Soviet Russia as Mujahidin. After Soviet withdrawal in 1989 and the fall of Soviet-backed PDPA regime in 1992, Afghanistan became an ungoverned territory. The prominent actor of Soviet-Afghan war and the potential mediator and peace-maker for afghan conflict, Pakistan, adopted an ideological approach for rebuilding of state structure in Afghanistan. A more comprehensive and modern approach based on principles of good governance was applied with emphasis on the rule of law first and democratization later. The effective rule of law demanded the unity of law. A uniform law in a multi-ethnic and multi-cultural society like Afghanistan can be promulgated only if it is based on principles of ideology common to all or majority stack holders. The ideology that has made them united against

the Soviet, the ideology of Islam, was thus adopted for effective rule of law and good governance in Afghanistan. The leaders of all the Mujahidin factions were gathered in Peshawar and agreed on Peshawar Accords which established an interim government for a transition period. The agreement established a transitional authority of 51 persons headed by Hazrat Sahib Sibghat Ullah as the Chairman. The authority was tasked for the transition of powers from PDPA's Najibollah government within a period of two months. The chairman of the authority represented the presidency of the interim government for the first two months after which the authority would serve as an Interim Islamic Council for a period of four Months and would arrange election for Majlis-e-Shura. Professor Rabbani was decided to be the President of interim government for four months. The Premiership was given to Gulbadin Hikmatyar and Defense Ministry to Ahmad Shah Masoud. However, the international players benefiting from the conflict played the ethnic card to sabotage the peace process. Resultantly, the accord had turned to become a power-sharing settlement between different ethnic groups with the Tajiks being on the driving seats. Hikmatyar being a Pashtun leader didn't sign the agreement and parted ways from the interim settlement. Hikmatyar was in support of a strong central government in Afghanistan and was against a coalition government for that he thought that it would not be able to maintain peace and stability in Afghanistan (Saikal, 2006). On the other hand Masoud was in favor of coalition government with power-sharing by the different ethnic groups in Afghanistan (Saikal, 2006). Ironically, the Peshawar Accords was signed and adopted by the group of people which was not supporting it ideologically as opposed to the one having ideological semblance with the theme of Peshawar Accords but didn't sign it. The result was the conflict between the de-facto head of Afghanistan transitional government Ahmad Shah Masoud and Gulbadin Hikmatyar hisbe-e-Islami.

Later on in 1994, the rise of a movement by Taliban-literally means religious students-and their emergences as politico-religious force threatened the government of Ahmad Shah Masoud. The Masoud government under fear of defeat offered to Taliban of power-sharing which they declined. Taliban were the religious scholar who authorised Jihad against the Soviets. These religious actually had participated in the war against Soviets and fought side by side with the Mujahedeen, however, they went back to their religious seminaries after the withdrawal of soviet troops and without actually participating in the power sharing. The movement of Taliban emerged as resistance force to the unethical, unjust and un-Islamic practices of the ruling elites and the civil strife in Afghanistan (Crews & Tarzi, 2009). Interestingly, among the several things that worked to boost the movement of the Taliban, the ethnic factor played a pivotal role in ousting the ruling Tajik elites and reinstating the traditional authority of Pashtuns in Afghanistan. Taliban launched a massive offensive against Masoud government seized Kabul and established 'Emirate of Afghanistan' in September 1996.

The Emirate was founded on the same principles and ideology as was envisioned at the time of Peshawar Accord and thus was succeeded in maintaining peace and stability in almost 90% of the Afghanistan being in its control. Although the Emirate was facing continues threats from the ethnically regrouped forces of Ahmad Shah Masoud, the Northern Alliance, the overall situation of Afghanistan was relatively stable for a period of 5 years unless it was invaded by United States in 2001.

Since the United States invasion in October 2001, the turbulence remains even today. After a decade and half of the war in Afghanistan, America finds itself in a no-win situation. The situation in Afghanistan is even worse than it was before American intervention. Beside several factors that have resulted in the failure of US and NATO in bringing peace and Stability in Afghanistan, one of the least debated issues is the very nature of the Bonn Agreement 2001 and the American approach towards the conflict transformation in Afghanistan.

In October 2001, during Operation enduring Freedom, United States along with its NATO allies invaded Afghanistan, in the wake of September 11 attacks, and toppled the Taliban government. In December 2001, a diverse group of ambassadors and warriors agreed upon an agreement, known as Bonn agreement, for future political discourse and state structure of Afghanistan. An interim authority was formed under the Chairmanship of Hamid Karzai for a period of 6 months. The interim authority convened a *loya jirga* and a transitional authority was established for a period of two years. As stipulated by the Bonn agreement, the transitional authority held elections and also drafted the Constitution for Afghanistan in 2004. The primary objective of Bonn Agreement was to hunt down *Al-Qaeda*; political development of Afghanistan was the secondary objective. The calling of Warlords from Afghanistan to Bonn, Germany, and militarily supporting the Northern alliance to tackle the Taliban government further clarify the strategic notion of Bonn Agreement. The Bonn agreement was successful for its primary objective; however, it failed in bringing peace and stability in Afghanistan. The US approach towards conflict transformation in Afghanistan was through democratic development and political participation. The rule of law was dealt as a by-product. The policy of power sharing by different ethnic factions in Afghanistan was adopted to ensure political development. Although the successful power transfer has been witnessed in the previous years, the overall situation of the country has been worsened even further and the overall US policy of power sharing has thus failed to secure stability in Afghanistan.

#### **IV. Conclusion**

Ironically, the ethnic struggle in Afghanistan was instigated by the same Soviet Union which undermined ethnic struggle of Jewish socialist organization, the *Bund*, on its own land through Stalin's theories of nation and national minorities. Furthermore, the ethnic struggle in Afghanistan was then escalated by the same United States which tries to belittle its role on its own multi-ethnic territory. The hypocritical approach of both Soviet Union and United States towards Afghanistan delineates that both the major powers had their own interests in the civil strife and instability in Afghanistan. In such a scenario any conflict transformation initiative by United States for Afghanistan, such as Bonn agreement, could not resolve and in fact did not mean to resolve the conflict. Despite several prominent theories and various historical examples about the decline of nation state resulting through ethnic struggles, the American followed the same policy of power struggle between various ethnic groups. Furthermore, the absence of clear provisions in the Constitution of 2004 regarding the separation of powers between executive, judiciary and legislature along with the provisions of Article sixty which entrusts the President with authority over legislature and judiciary furthers the hypocrisy of United States in promoting democratization in Afghanistan. Resultantly, the conflict still remains intact.

The only way to peace and stability in a multi-ethnic society of Afghanistan is to belittle the menace of ethnic struggle through effective rule of law as being practiced successfully by United States and even by Pakistan in their own multi-cultural societies. Pakistan, in 1992, had tried to erode the idea of ethnic struggle in Afghanistan by envisioning a rule-based Islamic system as stipulated by Peshawar Accords. The same system when adopted by Taliban government has resulted positively and Afghanistan was relatively more stable and peaceful than it is today. Although the principles stipulated by Peshawar Accord had ensured peace and stability during Taliban regime, the transition government under the Accord did not sustain long. The reason behind its failure was the mode of its formation i.e., power sharing. Although the principles still remain crucial for peace in Afghanistan, seeking solution for the conflict by the same mode would face the same fate once again.

Although the current sway of negotiations between the Taliban and United States would supposedly end the 17 years war in Afghanistan, it cannot ensure peace. The negotiations, as perceived from its mood, are meant to resolve the difference between two parties to the conflict i.e., United States and Taliban. It does not seek peace building at all. Even political participation and power-sharing among the indigenous power hubs, won't last long in the context of securing peace. United States just want to part its way. It could procure peace building once it had the chance. Peace building in Afghanistan would wait for another victor to arise.

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