

A Rational System of Government for Afghanistan

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By Dr. Abdul Hay Kayoumy

I. Introduction

This essay is by Dr. Abdul Hay Kayoumy, a retired senior-economist from the IMF and former professor of economics at the University of Washington at Seattle. Dr. Kayoumy contends that a true representative democratic government is the only means of reconstructing a historically battered and beleaguered Afghanistan. To that end, he offers a systematic outline of what form the new government and constitution should take and also suggests broad policy guidelines for UN involvement in the transition process.

II. Essay By Dr. Abdul Hay Kayoumy

"A Rational System of Government for Afghanistan"

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History has proven time after time the validity of the following premises:

1. The only constant phenomena is change.
2. Human nature strives perpetually for more freedom in all aspects of its life, be it from physical, spiritual, or intellectual constraints.
3. The strength of a democratic system of government lies in its fundamental principle of change through peaceful means, which despite its shortcomings is the only system that ultimately works.

These premises lead me to conclude that the future government of Afghanistan must be rooted in change through peaceful means and "democratic" in the truest sense of the word. A real democracy would also eliminate the necessity of a federal system in Afghanistan which in reality would result in nothing more than a feudal system rife with incessant ethnic conflicts between Pashtuns, Hazaras,

Tajiks, and Uzbeks. Such a system would lead to a continuous destabilization of the region, and would likely necessitate yet another military intervention by the US to restore peace and again eliminate terrorism. Anyone proposing a federation would do well to re-examine the history of Afghanistan as well as European history during the Middle Ages.

A new Afghan government will have an excellent opportunity to incorporate fundamental democratic provisions in the new constitution of the country. I believe most scholars of Afghan history would agree that the 1964 constitution proposed by King Zahir Shah and promulgated by the Grand Assembly (Loya Girga) was quite liberal. It incorporated many features of the constitutions of democratic countries around the world. However, the most important provision of the constitution, a provision that would allow for formal establishment of political parties, was not implemented. This crucial omission coupled with another provision of the constitution that prohibited the royal family members from holding cabinet positions were the driving forces behind Sardar (Lord) Dauwood Khan's coup and establishment of the republican regime. President Dauwood Khan made the same mistake as his predecessor by allowing only his own political party to operate while excluding other parties from political activity. In 1978, the communists with Russian cooperation overthrew him in the bloodiest coup that Afghanistan had ever witnessed in its entire history.

The dictatorship of the communists (1978-91) and the subsequent occupation by the Russians (1980-89) resulted in 1.5 million dead Afghans and 5 million displaced refugees. As a result, the social, cultural and historical fabric of the society totally disintegrated. The fragmented and corrupt government of the Moojahedeens, now called the Northern Alliance (1989-96), led to the destruction of cities, villages, factories, and roads. The tyrannical, oppressive, and inhumane government of the Taliban (1996-present) has perpetuated this cycle of ruin and engineered the total destruction of Afghanistan's economy, its social fabric, its culture, its traditions, and its brave people's dignity.

The above historical developments and experiences clearly show that since 1978, the Afghanistan government has not worked for the benefit of its people. The country has been transformed into a tragic vacuum that drains its citizen's energies and forecloses any hope for living in peace under just and humane laws. Any government left unchecked cannot be trusted to do the right thing for its people. Therefore, limitations, checks, and balances must constrain and compel the powers to work for the benefit of its people rather than against them. Real democratic countries of the world, even those that are considered underdeveloped, such as Turkey and India, have been able to achieve this objective through the strict enforcement of laws enshrined in their constitutions.

In Afghanistan's case, in addition to the checks and balances on government powers provided through the creation of three branches of equal statures: executive, legislative, and judiciary, the following provisions should be incorporated into the constitution to insure that the laws prescribed would be enforced:

1. The Grand Assembly (Loya Girga) elections should be held every six years and be under UN supervision. Every Afghan citizen over the age of 18 should have the right to vote regardless of race, ethnic origin, gender, religion, or language. The 445 representatives of the Grand Assembly should be elected in proportion to the population of various ethnic groups forming the Afghan nation. The six year terms for elections is logical for Afghanistan as it provides for greater stability as well as for a more adequate peaceful period (from politics) for completing sorely needed economic projects.

2. The elected Grand Assembly (GA) in turn would elect the Supreme Guardian Leader (SGL) of the Unity of Afghan people and territory on a 2/3 voting majority basis. The SGL would be sworn in to uphold the constitution and would serve as the commander-in-chief of the army and internal security forces. This chosen person's duty would be partly ceremonial, but more importantly the SGL's primary duty would be the preservation of Afghanistan's internal and external security. This leader

would not be a king because every 6 years the GA has the right to elect a new leader. The SGL would then submit his or her choice for vice Guardian Leader to the Grand Assembly for their approval. Should anything happen to the SGL or vice-GL during their term, the current senate and congressional heads (Majles Ayan and Shoorai Milli) would temporarily take over the respective positions and convene the Grand Assembly within 2 months to select the new team of the Guardians. The SGL would also appoint three members to the Supreme Court for 15 year terms, while the remaining 6 members would be elected by the GA.

3. The Grand Assembly (GA/Loya Girga) would also be responsible for electing, through a simple majority vote, the head of the Executive Branch (The Prime Minister) of the Government, the President of the Senate (Majlis Ayan), and the President of the Congress (Shoorai Milli). The GS would also choose the remaining six members of the Supreme Court for a term of 12 years. The judiciary's longer terms of office are designed to avoid the possibility of becoming instruments of incumbent politicians.

4. The Grand Assembly will also elect 41 members of the Senate and 215 members of the Congress. The remaining members would return to their constituencies and function as liaison between their people and the government. These numbers are given here as indicators only and they can be adjusted by the Grand Assembly as it sees fit.

The new constitution must also incorporate a BILL of RIGHTS for all Afghan citizens, which should be a permanent and immutable document unalterable by any organ of the government. The SGL and Supreme Court will serve as the protectors and guardians of these rights at all costs. The Emblem of the BILL of RIGHT should read:

ALL INDIVIDUALS HAVE BEEN ENDOWED BY THEIR GOD WITH CERTAIN INALIENABLE RIGHTS AND SAID INDIVIDUALS WILL ESTABLISH GOVERNMENTS TO SECURE THESE RIGHTS.

The principles of the BILL of RIGHTS are:

1. Freedom of expression in all its forms (written, oral, artistic)
2. Freedom to pursue happiness (mental, physical, spiritual, cultural)
3. Freedom for internal and external movement of people and capital
4. Freedom to possess private property in any shape or form.
5. Freedom to maintain dual citizenship (for the thousands of Afghans who live and have been born abroad)
6. Freedom to choose Afghan citizenship (for immigrants who live legally in Afghanistan and abide by the constitution of the country)
7. Freedom from persecution (No one is guilty until proven guilty by a court of law. The punishment should be proportional to the crime, laced with humane compassion.)

The above four provisions together with the seven principles of the Bill of Rights should form the fundamental pillars of the new constitution. Considerable time and resources will be saved if relevant provisions from the 1964 constitution, are incorporated into the new constitution.

After establishing a representative government, a critical question arises: How to insure the stability, security, efficiency, and justice of said government? A strict implementation of the new democratic constitution will go a long way in achieving this goal. However, the process of implementation requires additional assistance. That assistance should come from UN staff and

military forces for the first few years at least. The UN ought consider the following policy prescriptions if it wishes to facilitate a smooth and peaceful democratic transition.

1. The UN should collect the arms of the warring military factions in exchange for money, food, medicine, and seeds.
2. A strong domestic police force to maintain internal security and peace must be built, trained, and equipped.
3. Afghanistan should not be allowed to have a standing army. Afghanistan's financial and precious resources must be channeled toward the reconstruction and development of the country rather than for the purchases of arms and equipment. After all, Afghanistan's army has never been used for external defense of the country in the entire history of the Afghan nation. The army has only been employed in civil wars to kill Afghans or for suppression during times of peace. The new leadership of Afghanistan should take note that a driving force behind the rapid development of post-war Germany and Japan was the limitation imposed on the buildup of their respective military forces.
4. The UN must guarantee the territorial integrity of Afghanistan. This would deter territorial ambitions of neighboring countries and provide regional stability, as well as make redundant the need for a standing army, . Furthermore, the presence of the UN forces will promote a sense of security among Afghans and enable them to devote their energies to developing their country and nourishing their impoverished and devastated families. The social fabric of the Afghan nation was completely shattered by the domestic communists, then by the Russian occupation, and then by the Mojahdeen and the Taliban. It now requires enormous rebuilding and rehabilitation. It is imperative that Afghans do not waste their effort and resources on their own destruction again.
5. Afghanistan should also be made a free trade zone area to encourage its economy to grow rapidly and reap the benefits of its geographic location at the crossroads of trade and commerce.
6. The UN should insure that its resources as well those provided by other donor countries are not be squandered on the recruitment of so-called foreign experts and administrative expenses. About 80 percent of the UN staff in Afghanistan should be comprised of Afghan expatriates and other domestic elements.
7. The UN and other comparable institutions such as the International Monetary Fund (IMF) and the World Bank (WB) should provide assistance in the reconstruction of the banking and monetary systems as well as the economic infrastructure of the country.
8. All existing Non-governmental Organizations receiving aid from the UN and other sources should be brought under the supervision of an umbrella organization to avoid misuse of funds and enforce accountability for the funds that they receive.

The above prescriptions for constitutional, governmental, and international undertakings, are by no means exhaustive. However, they are necessary preconditions for peace and stability in Afghanistan.

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