



Negotiation: By, With, and Through the Afghan People

by Tim Mathews

This submission is offered at this time to coincide with the upcoming panel discussion at the United States Institute of Peace, titled, “Making Peace in Afghanistan: the Missing Political Strategy.” The goal is to spur discussion and raise issues that have been absent in recent debates surrounding the prospects of a negotiated solution in Afghanistan. It does not offer definitive answers or advocate for a specific policy. Rather, the intent is to influence the debate by causing people to rethink assumptions about the appropriate actors to be involved in negotiations and consider how best to engage those actors.

The idea of a negotiated solution has gained greater attention recently,¹ but most discussion evokes images of Taliban leaders sitting down with Afghan officials to hammer out an agreement for how they will share power to rule over the ordinary citizens of Afghanistan (hereinafter “the Afghan people”). The Afghan people are the most salient stakeholders in this conflict and the focus of a negotiated outcome should be to develop a process that includes their voice. Fortunately, this may be both the most moral approach and the approach with the greatest chance of success.

The discussion below raises questions and issues to spur debate about the process of negotiation in Afghanistan. To demonstrate complexities in the Afghanistan context, this discussion employs two hypothetical villages as examples: Village X and Village Z.

- Villages X and Z are in close proximity to one another and their inhabitants occasionally interact with one another. It takes approximately two days for residents to travel to the nearest city.

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¹ See generally Alex Strick van Linschoten and Felix Kuehn, *Separating the Taliban from al-Qaeda: The Core of Success in Afghanistan*, New York University Center for International Cooperation (February 2011); “An Open Letter to President Obama” at afghanistancalltoreason.com; Bernard Finel, *Planning a Military Campaign to Support Negotiations in Afghanistan*, Small Wars Journal, Oct. 19, 2010; Talatbek Masadykov, Antonio Giustozzi, and James Michale Page, *Negotiating with the Taliban: Toward a solution for the Afghan conflict*, Crisis States Working Papers Series No. 2 (January 2010); Antonio Giustozzi, *Negotiating with the Taliban: Issues and Prospects*, The Century Foundation (June 2010); Vanda Felbab-Brown, *Negotiations and Reconciliation with the Taliban: The Key Policy Issues and Dilemmas*, Brookings Institute (January 2010); Gilles Dorransoro, *Afghanistan: Searching for Political Agreement* 10 (Carnegie Endowment for International Peace 2009).

- Village X has had positive experiences with a Community Development Council (CDC) established by the National Solidarity Program (NSP)² and is supportive of a government effort to establish village councils either patterned upon the CDC or something similar. Village X has had negative experiences with Afghan National Police and opposes government efforts to establish courts.
- Village Z had a negative experience with the NSP, feeling that funds channeled through the program were poorly used, so Village Z is suspicious of establishing a village council, but it also prefers to not be ruled by the Taliban. Furthermore, Village Z is suspicious of using Afghan courts. Village Z is under Taliban control and fears confrontation between ISAF or ANSF with the local Taliban forces.

What is a Negotiation?

When parties to a dispute agree to negotiate, they are presumably agreeing to engage in a process of communication for the dual purposes of determining what each party seeks from the other and agreeing upon how each will obtain those things in a mutually acceptable way. There are several elements wrapped up in that statement: the parties, their dispute, their agreement to engage in a process of communication, the dual purposes of determining what is sought and determining how it will be obtained, and their presumptions about those purposes.

The Parties

The parties to disputes in Afghanistan are those that have interests in the ongoing conflict. These stakeholders include unorganized groups of people and organizations. Unorganized groups may include villages, tribes, ethnic kin, or people of certain political opinions. The organizations include the governments of Afghanistan and Pakistan, ISAF, and the fragmented organizations we know as the Taliban.

Organizations have their own interests as organizations and they also compete to represent interests of unorganized groups of people. The unorganized groups will change allegiances according to continual reassessment of whose interests most closely align with their own. These allegiances will not likely be absolute, but rather will vary from interest to interest.

Returning to the examples of Villages X and Z, who are the parties? It depends upon how the dispute is framed. Is it one dispute pitting the Afghan government against the Taliban, in a struggle for control of the people? Or is it a set of smaller disputes?

The Dispute

Framing the dispute in terms of interests helps to clarify reasonable goals for what can be negotiated and what must be resolved at another time (either preliminary to, or following a negotiation). In the example above, the organizational stakeholders have clearly divergent interests. The Afghan government is unable to assert its authority over the territory of the state.

² The National Solidarity Program is a development program funded by numerous donor countries and multilateral donors, such as the World Bank. The purpose of the NSP is to enhance local governance by facilitating the election Community Development Councils which then vote upon local development projects funded with block grants from the NSP. The program is administered by the Ministry of Rural Rehabilitation and Development, with assistance from Non-Governmental Organizations known in the context of the program as Facilitating Partners.

The Taliban is challenging that authority. ISAF supports the Afghan government. If this dispute is only framed in terms of these overarching goals of the organizational stakeholders (ISAF, the Afghan government, and the Taliban) and then we debate whether to “bargain from a position of strength,” then we have oversimplified the problem. The situation can more constructively be viewed as a set of disputes, rather than one large dispute.

- Dispute 1: Local political decisions. The interests of Village X align with those of the Afghan government and ISAF. This coalition opposes the interests of the Taliban. Village Z prefers to not take sides.
- Dispute 2: Dispute resolution. The interests of Village X and Village Z align with those of the Taliban. This coalition opposes the interests of the Afghan government and ISAF.
- Dispute 3: Sovereignty. The interests of the Afghan government and ISAF align. They oppose the Taliban. Villages X and Z prefer to not take sides and will yield to Taliban intimidation.

Agreement to Engage in a Process of Communication

If ISAF or the Afghan government seek to achieve the overarching goal of establishing sovereign control by the Afghan government over the areas encompassed by Village X and Z, they would do well to build their coalition to include Villages X and Z. The Afghan government and ISAF may enter into communication with influential personalities in the villages, to identify what each party seeks from the other in order to more fully align their interests against the Taliban.

Determining what is Sought

In this simplified example, the Afghan government and ISAF could bolster their bargaining power by focusing on disputes 1 and 2. Thus, initially, negotiation would not involve the Taliban. The Afghan government, to assert a leadership role in negotiations and to move the process forward, must identify the grievances of the villages that pertain to disputes 1 and 2, and then communicate what the government seeks from the people with regard to these disputes.

In dispute 1, Village X is already aligned with the Afghan government, but Village Z prefers to not take sides. It is believed that this is due to Village Z having a negative experience with the NSP, whereas Village X had a positive experience. The negative experience of Village Z may have stemmed, for example, from a Facilitating Partner (FP) that held a disorganized election of members to the CDC and poorly managed details of an infrastructure project, resulting in delays and poor construction. A possible resolution may be for the Afghan government to arrange for Village Z to make another attempt at implementing an NSP project by using a new FP that has a better reputation.

In dispute 2, Villages X and Z are aligned with the Taliban. Likely grievances of the people may include corrupt or incompetent judges, excessive waiting time between filing a case and obtaining resolution, long distances between the village and the court that impact accessibility, excessive formality and paperwork that impact accessibility for people lacking legal representation or who are illiterate, and laws that do not reflect social norms of the village.

Expectations of the government will likely include assurances that the people will refrain from using Taliban adjudicators or mediators and will only bring disputes to the legal system if there is a good faith intention of honoring any adjudication or directives to seek alternative dispute resolutions.

A possible resolution to dispute 2, for the purposes of this example, might take the form of the Commission on Conflict Mediation in Khost Province³ which leverages the organizational capabilities of the Afghan government to organize bodies that perform dispute resolution in a manner that addresses most of the grievances with the legal system listed above.

Determining How It will be Obtained

Obtaining the outcome of dispute 1 may be relatively straightforward. The NSP has demonstrated the ability to elect CDCs and complete projects even in areas under Taliban control. The resolution of dispute 2 is a more complicated matter, both because it is a process involving more creativity, and because its success depends upon some degree of Afghan government control, or absence of Taliban intimidation. Furthermore, in this simplified example, resolution to disputes 1 and 2 may be preliminary steps necessary for forming a coalition to address the overarching goal of sovereignty of the Afghan government in dispute 3. The mutually acceptable concessions by each side in disputes 1 and 2 may be contingent upon assurance that the Afghan government can deliver on its end of the negotiated terms, which will require cooperation of the villages. This leads into the even murkier issue of presumptions.

Presumptions about Purposes for Negotiating

Are all parties bargaining in good faith? Given the poor reputation of the Afghan government, the lack of confidence in the ANSF, and lack of trust in ISAF, it is likely that the villages will be skeptical about the ability of the Afghan government to uphold its side of the bargain. With this in mind, the villages may view the negotiation process as an opportunity to extract short-term gains by bargaining in bad faith. They may seek to obtain assistance or money in exchange for promises of cooperation, with no intent of actually cooperating, since doing so would risk retaliation from the Taliban. This would be quite rational on the part of the villages, making even this simplified example not so simple. It is possible that all negotiations break down completely because the villages have been bargaining in bad faith and are not willing to cooperate with the Afghan government against the Taliban, thus undercutting the ability of the government to uphold the agreement in dispute 2. Disputes 2 and 3 thus fail. The village might get some short-term gain from dispute 1, but the situation does not markedly improve for anyone.

Of course, this difficulty also arises if one attempts to negotiate with the Taliban. Are the Taliban negotiating for a voice in the Afghan government? Or are they negotiating in bad faith to obtain short-term concessions that give them tactical gains? Building a coalition before negotiating with the Taliban would degrade the ability of the Taliban to capitalize upon such deceit.

³ The Khost Commission on Conflict Management is a committee of respected elders, assembled by the Provincial Governor, that acts as a mechanism for alternative dispute resolution. For a detailed explanation, see Tribal Liaison Office, *Between the Jirga and the Judge*, United States Institute of Peace (2009).

Revisiting the Dispute

If disputes 1 and 2 succeed, then the Afghan government may have succeeded in expanding its coalition of groups whose interests are aligned with its own. This can give the Afghan government bargaining power against the Taliban, but it may also change the nature of the dispute. Given the gains made by resolving disputes 1 and 2, the Afghan government may pursue dispute 3 by not negotiating. The government may seek to forcefully remove the Taliban as a clear demonstration of growing influence and power. Or, the government may choose to negotiate, seeking to avoid inevitable losses in a military action by bargaining for a withdrawal of Taliban forces or even the integration of reconcilable members of the Taliban into the Afghan government and/or local communities.

Conclusion

Much discussion about negotiation focuses on talks between governments or leaders of very large organizations, or discusses negotiation very generally, without addressing the participants. The purpose of this hypothetical above is to re-frame the discussion in a way that not only provides for, but assumes, a prominent role for local leaders, small communities, and the people who have the most salient interests at stake in this conflict. The conflict in Afghanistan likely arose, in large part, due to exclusion of a large segment of the population from the constitutive process that established the new Afghan government. But thus far, most discussions about a new way forward perpetuate this problem. Rather than excluding one ethnicity or one region, we now risk excluding anybody who has not amassed wealth or power by way of being a drug lord, warlord, or corrupt official. There also needs to be some consideration of how we give a voice to the rest of the Afghan people. It is their country, after all.

Tim Mathews is a former US Army Infantry Officer, commissioned in 1999 at Marion Military Institute. He served on multiple deployments to Bosnia-Herzegovina and Iraq. Since separating from the Active Army in 2008, he has earned a Master of Business Administration from George Washington University and he is a Juris Doctor candidate in the class of 2011 at the University of Maine School of Law.

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