LEGACIES OF CONFLICT

Healing Complexes and Moving Forwards in Bamiyan Province

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About the Afghanistan Research and Evaluation Unit

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AREU was established in 2002 by the assistance community working in Afghanistan and has a board of directors with representation from donors, the United Nations and other multilateral agencies, and non-governmental organisations. AREU receives core funds from the governments of Denmark, Finland, Norway, Sweden and Switzerland. Specific projects in 2011 have been funded by the European Commission (EC), the International Development Research Centre (IDRC), the Humanitarian Aid Department of the European Commission (ECHO), the UK Department for International Development (DFID), and UN Women.

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Acronyms

AREU	Afghanistan Research and Evaluation Unit
AIHRC	Afghanistan Independent Human Rights Commission
CBDR	community-based dispute resolution
CSO	civil society organisation
FGD	focus group discussion
ICTJ	International Centre for Transitional Justice
LRA	Lord's Resistance Army
NSP	National Solidarity Programme
WHO	World Health Organisation

Glossary

Terms are Dari unless otherwise specified

dard-i-dell	pain in one's heart
dard dell-i-shan ra aram kuna	calm a heart's pain; conveys a sense of closure
daulat	government/state
dell-i-shan ra yak kuna	make a heart whole; conveys a sense of closure
estiqbal	acknowledgement with pride and respect
hadith	sayings of the Prophet Mohammad
huqooq-ul-ibad	rights of God's servant (or the individual) in criminal matters
hoqumat	government/executive part of the state
Inqelab	"Revolution"; refers to the period when the mujahiddin took up arms against the Soviets
islah	Islamic conflict resolution principle, in which peace and social cohesion are pursued through a process of negotiation and reconciliation
jalasa	council convened to solve problems as they arise; similar to a *jirga*, though more commonly found in Hazara areas
jerib	unit of measurement; one *jerib* is equal to 2,000 square metres
jirga	council formed to solve problems as they arise
kalanha	elders and respected people in the community; often known as "whitebeards"
khunbaba	"Blood price," used here to mean what type and amount of compensation is needed to compensate someone's death

mohr	soil from Karbala city in Iraq where Imam Hussain's grave lies; Shiites put their foreheads on this while saying prayers
oqda	can be translated as "complex" and is used in this case to indicate hatred, hostility or obsessive feelings stemming from conflict
qawm	form of solidarity group that is flexible in scope; defined by tribe, clan, ethnicity, locality or other characteristics as determined by the group
qimat khoon	"blood price"; see *khunbaha*
Qizilbash	a minority ethnic group of Shia Muslims living in different parts of Afghanistan; believed to be descendants of King Afshar
Sayed	a *qawm* believed to be descendants of Prophet Mohammad
shawahed	testimonies, either informally or in courtroom proceedings
shura	council; sometimes equivalent to the term *jirga*, but sometimes with a more persistent membership and ongoing governance roles rather than being for ad hoc problem solving

1. Introduction

This case study is part of the "Legacies of Conflict: Justice, Reconciliation and Ways Forward" research project, which aims to deepen understanding of the impact of past and present war crimes and human rights violations on Afghan communities. It also seeks to explore what community members want in terms of "justice," "peace" and "reconciliation." This research by the Afghanistan Research and Evaluation Unit (AREU) began at the end of 2009 and was conducted in Kabul, Bamiyan and Ghazni Provinces. This study focuses on qualitative data collected from one urban district in Bamiyan City (Sayed Abad) and one rural community in Yakowlang District (Dara-i-Ali) between December 2009 and May 2010. The research was funded by the Royal Norwegian Embassy in Kabul and developed in cooperation with the International Centre for Transitional Justice (ICTJ).

The study provinces and districts were chosen to reflect a degree of ethnic diversity and to encompass as far as possible the different phases and intensities of conflict that the people suffered in a particular place. Security issues as well as physical and social access were also taken into consideration. Bamiyan Province was selected as an area that experienced suffering under the communist regime, the worst excesses of the Taliban, and conflict between local commanders during the civil war and at various other stages of the conflicts. The succeeding two sections in this introductory chapter explain the overall research focus and the conceptualisation of specific research themes. These are uniform in all the provincial case studies and will be followed in synthesising findings across all the locations.

1.1 Overall research focus and issues explored

Despite the scale and length of conflict in Afghanistan, the country's victims have never experienced systematic justice. Since the signing of the Bonn Agreement in 2001 there has been limited action by the Afghan government and its international partners to address the culture of impunity in Afghanistan, and alleged perpetrators of some of the worst human rights abuses have retained positions of power. However, interest and engagement in promoting transitional justice by Afghan civil society and the media is growing and becoming increasingly diversified. This project is inspired by these ongoing efforts to promote transitional justice in Afghanistan. It seeks to contribute to the fragile process by developing qualitative,[1] in-depth knowledge about the impact of conflict and what justice in the wake of war crimes and human rights violations means to Afghans in local communities.

Previous AREU research demonstrated that transitional justice in Afghanistan is often misunderstood and conflated to mean addressing questions of criminal responsibility only.[2] By adopting an open-ended and responsive approach, this research aims to allow Afghans themselves to describe what they mean by "justice," "reconciliation" and "peace" in Afghanistan, and create the space for previously unexplored ideas—including perhaps locally-based initiatives—for achieving this. This includes exploring transitional justice

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1 Qualitative research aims to gather a holistic understanding of complex realities and processes. The possibility of objectivity is questioned and instead the aim is to understand differing and often competing subjectivities in terms of very different accounts of "facts," different meanings and different perceptions. See Linda Mayoux, "Quantitative, Qualitative or Participatory? Which Method, for What and When?" in *Doing Development Research*, eds. Vandana Desai and Robert B. Potter (London: Sage Publications, 2006).

2 This finding is based on research by the author. See Emily Winterbotham, "The State of Transitional Justice in Afghanistan: Actors, Approaches and Challenges" (Kabul: AREU, 2010).

mechanisms in an Afghan context, taking into account the role an Islamic framework and community-based justice mechanisms[3] may play in these. As Fletcher and Weinstein assert, often little attention is paid to the role of the rule of law in different cultures and how popular expectations of justice may differ.[4] AREU's research hopes to go some way toward addressing this dearth of information.

The research is intended to complement previous and ongoing efforts by other organisations. It collected in-depth information from a number of individuals within a select number of communities about the legacies of conflict, ultimately to build a picture of what different communities desire in terms of justice, peace and reconciliation. Earlier research has included the Afghanistan Independent Human Rights Commission (AIHRC)'s "A Call for Justice" and the Afghanistan Justice Project's "Casting Shadows," both conducted in 2004.[5] Since then the situation has changed and it is meaningful to again ask what these terms mean in Afghanistan nearly ten years after the overthrow of the Taliban and in an environment of escalating conflict and continuing impunity. In doing so, the research aims to identify strategies and mechanisms that could allow communities to move forward. The project aims to ensure that policymakers are aware and informed of the desires and demands of different communities in Afghanistan in relation to transitional justice, reconciliation and peace. Specifically, it hopes to inform them of the most appropriate accountability and reconciliation processes to address crimes committed during the conflict periods. As such, it aims to contribute to processes that ensure that those who have been most affected by Afghanistan's conflicts are the key actors in future accountability and reconciliation activities.

Four major themes and accompanying questions have structured this study:

- *Experience of conflict*: how have individuals and communities experienced the different phases of conflict and its accompanying violations? How do these experiences affect perceptions of Afghanistan's wars?

- *Dealing with the legacy of conflict*: how have people coped with the violations suffered and what processes do they perceive would help address the legacies of war?

- *Addressing victims' suffering and dealing with the perpetrators of war crimes*: what does the demand for justice for war crimes mean at the local level? What are the most appropriate mechanisms of recourse and resolve to deal with the perpetrators of war crimes and to satisfy victims' demands?

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3   "Community-based dispute resolution refers to the processes used for resolving disputes within the community in which the dispute has taken place." See Deborah Smith with Shelly Manalan, "Community-Based Dispute Resolution Processes in Bamiyan Province" (Kabul: AREU, 2009), 1.

4   Laurel E. Fletcher and Harvey M. Weinstein, "Violence and Social Repair: Rethinking the Contribution of Justice to Reconciliation," *Human Rights Quarterly* 24, no. 3 (2002): 573-639.

5   The Afghanistan Independent Human Rights Commission's (AIHRC) consultations about Afghan perceptions of war crimes and gross human rights violations were published in "A Call for Justice: National Consultation on Past Human Rights Violations in Afghanistan" (Kabul: AIHRC, 2005). The report can be downloaded at http://www.aihrc.org.af/rep_Eng_29_01_05.htm (accessed 25 January 2009). It was primarily quantitative in nature with a survey being conducted with 4,151 respondents. Two hundred focus group discussions were also conducted, although much of the data was presented in a quantitative manner in the report, and it did not provide detailed information about the impact past (and present) violations has on Afghan lives today. The Afghanistan Justice Project (AJP)'s "Casting Shadows: War Crimes and Crimes Against Humanity: 1978-2001" (http://www.afghanistanjusticeproject.org/warcrimesandcrimesagainsthumanity19782001.pdf, accessed 23 August 2011) is largely a documentation exercise, although it does provide policy recommendations. AIHRC's more recent conflict mapping exercise is also essentially a documentation project, collecting factual evidence rather than investigating perceptions and desires as this project aims to do.

- *Ways forward*: how can Afghanistan achieve peace and reconciliation and move forward? How can different demands for justice and recompense be reconciled with demands for peace and reconciliation?

1.2 Conceptualising transitional justice: Justice, forgiveness, peace and reconciliation

The concept of "transitional justice" is central to this project. Transitional justice is an umbrella term used to describe measures associated with a society's attempts to come to terms with a legacy of large-scale abuses to ensure accountability, serve justice, reconcile former enemies and achieve peace. The practical experience of the United Nations in countries from Cambodia to El Salvador reinforced the clear message that transitions would lack sustainability if they were not founded upon accountability and the rule of law, and would lack legitimacy if they were not grounded in justice.[6] In essence, justice must not be bargained away. The creation by the UN of ad hoc war crimes tribunals, the establishment of an international criminal court, and the disposition of the judiciaries of some countries to act extraterritorially by applying universal jurisdiction all reflect a growing international consensus that individual human rights be upheld and that genocide, war crimes and crimes against humanity do not go unpunished.

One of the most recognisable approaches to dealing with the complex legacy of wartime atrocity has been criminal trials. One of the central normative arguments for trials in the contemporary period of criminal justice is that punishment can play a role in highlighting society's transition to a democratic, law abiding state, and underlining the difference from the previous regime.[7] As Kritz explains, a public forum revealing the horrors of individual crimes can demonstrate that individuals will be held accountable in future.[8] There is also the argument that criminal trials play a role in truth-seeking by creating historical records, reconciliation processes and in satisfying victims' demands for retribution and accountability.

Much has been written in opposition to the purported effects of this legalist approach. As Bass writes, legalists can be criticised for setting a mass of "lofty objectives" for war tribunals.[9] Instead, Hamber argues that dealing with the past needs to be approached as creatively as possible, including as many voices as possible.[10] Fletcher and Weinstein support this and advocate the adoption of an ecological model that is designed to focus on multiple levels of society and adopt multiple processes of social repair. This requires a variety of interventions: state-level criminal trials, commissions of historical record (truth commissions), individual or family psychosocial support, and community-based responses.[11]

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6   Rama Mani, "Ending Impunity and Building Justice in Afghanistan" (Kabul: AREU, 2003); Neil Kritz, "Coming to Terms with Atrocities: A Review of Accountability Mechanisms for Mass Violations of Human Rights," in *Law and Contemporary Problems* 59, no. 127 (1996): 127.

7   Neil Kritz, "The Rule of the Law in the Post Conflict Phase: Building a Stable Peace," in *Turbulent Peace: The Challenges of Managing International Conflict,* eds. C. Crocker, F. Hampson and P. Aall (Washington: United States Institute of Peace, 2001).

8   Kritz, "Coming to Terms with Atrocities."

9   Gary John Bass, *Stay the Hand of Vengeance: The Politics of War Crimes Tribunals* (Princeton: Princeton University Press, 2000), 284.

10   Brandon Hamber, "How Should We Remember? Issues to Consider When Establishing Commissions and Structures for Dealing with the Past," paper presented at *Dealing with the Past: Reconciliation Processes and Peace-Building* (Belfast, Northern Ireland: 1998).

11   Fletcher and Weinstein, "Violence and Social Repair."

In contrast to the legalist approach, the creation of South Africa's Truth and Reconciliation Commission saw the reconciliation model gain resonance with practitioners. Consequently, the therapeutic moral order has become another dominant framework within which states attempt to deal with a legacy of violent conflict. The basis of this model is the need to heal victims and the nation as a whole, which often negated the retributive model on the grounds that it threatens a return to violence. The rise of the post-conflict therapeutic framework was tied to the global proliferation of amnesty agreements.[12] Notably, over 66 amnesty laws came into being in between 2001 and 2005.[13]

However, the enactment of the Rome Statute in 2002, and the growing acceptance of this by a number of countries,[14] has gradually changed many of the assumptions of earlier peace versus justice debates, at least for States Parties. Although there will at times be short-term tensions between negotiators and prosecutors, if one seeks to obtain sustainable peace then peace and justice are mutually reinforcing. The Statute has lent significant momentum to the trend against amnesties, although this is not always universally followed.[15]

The key for this project is to investigate how Afghanistan's victims frame the issue and what their underlying goals and demands are. To effectively deal with the legacy of a violent past it is necessary to deconstruct what "justice" means to people in the aftermath of mass violations. Exploring what people mean by justice, and what processes are involved, is a central component of this project. In context, criminal justice is just one of many possible interpretations;[16] justice can mean having a job and an income, returning home, testifying in a trial, revenge, receiving an apology or learning the truth about missing relatives and receiving bodies for a proper burial. Indeed, the Nuremberg Declaration—an intergovernmental document dealing with peace and justice—states that justice contains elements of criminal justice, truth-seeking, reparations and institutional reform as well as the fair distribution of, and access to, public goods and equity within society at large.[17]

In countries such as Afghanistan which have been torn apart by civil conflict, the pursuit of justice is often linked with healing processes. Hence the demand at communal and political levels is often not just for "justice" but for as much justice as possible or as much justice as is constructive. Keen suggests there are dangers in a rigid policy of punishing abuses. He argues it is doubtful whether South Africa's security services would have accepted the end of apartheid without the prospect of some kind of amnesty.[18] This raises questions such as how much justice is needed and what type of justice is required to secure peace while upholding international law. In post-conflict environments, particularly in the case of civil wars, there is often a limit to how far criminal justice

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12   Claire Moon, "Healing Past Violence: Traumatic Assumptions and Therapeutic Interventions in War and Reconciliation," *Journal of Human Rights* 8, no. 1 (2009), 71-91.

13   Louise Mallinder, "Can amnesties and international justice be reconciled?" *The International Journal of Transitional Justice* 1, no. 2 (2007): 208-230, in Moon, "Healing Past Violence."

14   As of June 2011, 114 countries are members of the court.

15   David Tolbert and Marieke Wierda, "ICTJ briefing: The Rome Statute Review Conference," June 2010, Kampala, http://ictj.org/sites/default/files/ICTJ-RSRC-Global-Peace-Briefing-2010-English.pdf (accessed 9 July 2011).

16   Laurel E. Fletcher and Harvey M. Weinstein, "A World Unto Itself? The Application of international justice in the former Yugoslavia," in *My Neighbour, My Enemy: Justice and Community in the Aftermath of Mass Atrocity*, eds. Eric Stover and Harvey M. Weinstein (Cambridge: Cambridge University Press, 2004), 4.

17   "Nuremberg Declaration on Peace and Justice: Definitions," 19 June 2008, http://www.peace-justice-conference.info/download/Nuremberg%20Declaration%20A-62-885%20eng.pdf (accessed 9 July 2011).

18   David Keen, "War and Peace: What's the Difference?" in *Managing Armed Conflicts in the 21st Century*, eds. A. Adebajo, C. L. Sriram and F. Cass, 1-22 (London: Routlege, 2001).

can be pursued when the aim is oriented toward the larger goal of healing relationships. This is not to ignore, as Moon argues, that in some cases[19] healing is contingent upon first achieving justice.[20]

This reading brings us to the question of what exactly peace is. At one level, Keen says this question can be quickly dispensed with: "war is violent and peace is, well, peaceful; in other words, peace is the antithesis of war."[21] However, Keen goes on to challenges this juxtaposing of "peace" and "war." Instead, he argues that if wars—particularly more recent civil conflicts—can involve elements of cooperation and collusion, of limiting violence, and of the consolidation of various kinds of order, then it is also important to note that peace can be quite violent.

Galtung explains the presence of violence in peace in his conceptualisation of negative and positive peace. In this interpretation, negative peace is the "absence of personal violence" whereas positive peace encompasses the "absence of structural violence."[22] Structural violence here includes processes of exploitation and marginalisation, anything that limits human well-being to levels below what is possible.[23] He consequently suggests that genuine, long-lasting peace entails more than an end of violence and conflict.

If genuine peace is to be achieved in the aftermath of civil conflict, one must inevitably turn to the concept of "reconciliation." As previously stated, the idea of reconciliation as a model in post-conflict societies has gained particular resonance in academic, humanitarian and political circles. However, the concept is controversial, since it can be conceived in a moral, quasi-religious way, involving individual acts of confession and forgiveness, and for the prioritising of therapeutic moral order over the punitive. Critics highlight that this type of behaviour is rare in post-conflict situations and there is something inherently patronising in the idea that international actors should seek to promote it.[24]

It is also acknowledged that this term is fraught with ambiguity.[25] In its broadest terms, reconciliation involves: developing a shared vision of an interdependent and fair society that values different opinions and political beliefs; acknowledging and dealing with the past through providing the mechanisms for justice, healing, restitution and reparation; building positive relationships; significant changes in culture and attitudes; and substantial social, economic and political change. It is both an outcome and a process and requires, in the best circumstances, a cognitive change—in beliefs, ideology and emotions.[26]

John Paul Lederach describes reconciliation as the shared space interdependently occupied by four social energies: "Truth, Mercy, Justice, and Peace."[27] Rigby reiterates

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19   Moon, "Healing Past Violence."

20   Moon, "Healing Past Violence."

21   Keen, "War and Peace: What's the Difference?"

22   Johann Galtung, "Violence, Peace, and Peace Research," *Journal of Peace Research* 7, no. 3 (1969).

23   Galtung, "Violence, Peace, and Peace Research."

24   Observation based on author's interviews conducted in Bosnia-Herzegovina for MSc dissertation: "Can International Criminal Trials Pave the Way towards Reconciliation in the Aftermath of 'New Wars'?: Coming to terms with the past in Bosnia-Herzegovina," MSc thesis at London School of Economic and Political Science, September 2006.

25   See the works of John Paul Lederach, Jean Bethke Elshtain, Andrew Rigby, Joseph Montville and Johan Galtung, among others.

26   Y. Bar Siman Tov, "Israel-Egypt Peace: Stable Peace?" in *Stable Peace Among Nations*, eds. A. M. Kacowicz, Y. Bar Siman Tov, O. Elgstrom, and M Jerneck (Boulder, CO: Rowman Publishers, 2000), 220-38.

27   John Paul Lederach, "Building Peace and Reconciliation."

the importance of these components, stressing the importance of healing and closure for both victims and perpetrators. He notes that "imperfect reconciliation occurs when the new political leaders can settle for an imperfect process lowering their aim for achieving social harmony but victims are expected to forfeit their claim to restitution."[28] In this view, pitting justice and peace against each other as alternatives is, as Volf terms it, "cheap reconciliation." He argues that to pursue cheap reconciliation means "to give up on the struggle for freedom, to renounce the pursuit of justice, to put up with oppression."[29] He concludes that "far from standing in contrast to justice, for such a notion of reconciliation justice is an integral element."[30] The United Nations Secretary-General's seminal Rule of Law report supports this view: "Peace and justice, if properly pursued, promote and sustain one another. The question can never be whether to pursue justice, but rather when and how."[31]

In the context of this work, a narrower understanding of reconciliation should be explained, known as "political reconciliation." This involves processes through which an inclusive political platform is created for formerly hostile parties, particularly political institutions and actors. As Sajjad argued, in the context of Afghanistan, the term "reconciliation" when articulated and applied by policymakers follows more the parameters of political reconciliation; it alludes to political negotiations between antagonistic parties, rather than involving communities for the processes of healing, truth-telling and transformation of relationships between previously antagonistic parties.[32]

Also relevant is the concept of reintegration, which is often used interchangeably in Afghanistan with reconciliation (most people interviewed largely drew no distinctions between reconciliation and reintegration). However, Sajjad's research for AREU on reintegration and reconciliation in Afghanistan challenged the assumption that they are mutually reinforcing and that success in one will automatically lead to success in other.[33] Reintegration is the last stage of the Disarmament, Demobilisation and Reintegration process and describes how ex-combatants gain civilian status and sustainable employment. It is essentially a social and economic process with an open timeframe, primarily taking place in communities at the local level.[34] In reality, Sajjad argues that reintegration alone cannot fully prevent a return to conflict, ensure the good faith of the parties involved, and be a substitute for other peace enforcement mechanisms, such as strengthening the rule of law, security sector reform, or effective implementation of the conditions of a peace agreement.[35]

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28   See Andrew Rigby, *Justice and Reconciliation: After the Violence* (Boulder, CO: Lynne Rienner Publishers, 2001).

29   Miroslav Volf, "Forgiveness, Reconciliation, and Justice: A Theological Contribution to a More Peaceful Social Environment," *Millennium: Journal of International Studies* 29, no. 3 (2000): 867-877. Though it must also be acknowledged that Volf's conception of reconciliation is derived from a theological perspective, many of his arguments hold relevance to the author's reading of reconciliation.

30   Volf, "Forgiveness, Reconciliation, and Justice."

31   "The Rule of Law and Transitional Justice in Conflict and Post-conflict Societies," Report of the Secretary-General, August 24, 2004, UND Doc. S/2004/616, para. 21. In David Tolbert and Marieke Wierda, "ICTJ briefing: The Rome Statute Review Conference" (Kampala: June 2010), http://ictj.org/sites/default/files/ICTJ-RSRC-Global-Peace-Briefing-2010-English.pdf (accessed 9 July 2011).

32   Tazreena Sajjad, "Peace at All Costs: Reconciliation and Reintegration in Afghanistan" (Kabul: AREU, 2010).

33   Sajjad, "Peace at All Costs."

34   Sajjad, "Peace at All Costs," referencing Nicole Ball, "Disarmament, Demobilization and Reintegration: Mapping Issues, Dilemmas and Guiding Principles" (The Hague: Centre for International Policy, Netherlands Institute of International Relations, 2006), http://www.reliefweb.int/rw/lib.nsf/db900sid/HVAN-6UFKQR/$file/cling-ddr-aug2006.pdf?openelement (accessed 23 August 2011).

35   Sajjad, "Peace at all Costs," referencing Nicole Ball, "Disarmament, Demobilization and Reintegration."

The terms "justice," "peace" and "reconciliation" were used constantly throughout this project by the people interviewed. This section has briefly reflected on what these terms entail in an academic sense, and the rest of the paper aims to demonstrate what they mean to people in the research communities. If we are to understand how to best approach these processes it is vital to explore the meaning they hold at the community level.

Finally, while transitional justice theory formed the theoretical backdrop to the research, one of the aims of this research is to locate transitional justice in the specific Afghan context. As discussed, the term "transitional justice" can imply certain connotations. In Afghanistan, it is often misunderstood and conflated to mean addressing questions of criminal responsibility only, which can prompt suspicion. Consequently, to avoid confusion about the aims of the project, the research team preferred to view and explain the project simply as exploring the legacies of conflict and legitimate ways to "heal *oqda*" (Dari) or "*kina*" (Pashto), which can be translated as "complexes" and is used in this case to indicate hatred, hostility or obsessive feelings stemming from conflict, and to "*delle shan ra yakh kona*" (to make people's hearts cool) or "*dard delle shan ra aram kona*" (to calm their hearts' pain).[36] These concepts of "having *oqda/kina*" or "*dard-i-dell*" (pain in one's heart) and the notion of needing to "calm" or "cool people's hearts" were adopted because these were the terms used by respondents to refer to their unresolved pains and issues.

It should be recognised that the notion of a "complex" is also a concept in Western psychology based largely on Jung's theory of the personal unconscious. According to this, complexes are emotionally charged contents around a highly charged emotional nucleus based on an experience which at the given time was incompatible with the person. They are apparently formed due to a person's life experiences so are individual and unique, part of the personal unconscious. Often they operate autonomously and interfere with the intentions of the will, disturbing the memory and conscious performance. In Jung's opinion, complexes are not negative in themselves but their effects can be.[37] This is a similar interpretation to the one adopted by Afghans who argued complexes needed to be healed.

This desire to adopt the terminology closest to those used by respondents was also reflected in word selection. The author tries to avoid the use of the terms "war criminal" or "war crimes" in the paper; these terms are imbued with legal connotations under international law, which was not a point of reference for most of the people interviewed.[38]

1.3   Structure of the case study

Section 2 provides an overview of the methodology used for both the collection and analysis of the data, ethical considerations and details regarding the selection of the research sites, including an overview of their social, economic and geographical contexts. This provides an important background to the rest of the report, explaining why the research team was able to access and understand certain phenomena. Section 3

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36   It should be noted these are Dari phrases and Pashtuns did not explain their feelings in exactly the same way. This is addressed in the Ghazni case study.

37   C. G. Jung, *Psychiatric Studies. The Collected Works of C. G. Jung Vol. 1*, ed. Michael Fordham (London: Routledge, 1967).

38   What constitutes a war criminal or war crime in international law is clearly outlined. However, some people identified as perpetrators of crimes relevant to respondents in this research may not fall under this legal classification. Therefore, the decision was taken to refer in more general terms to "violators," "perpetrators of crimes during the war," etc.

discusses the violations and experience of suffering that has occurred in each community and the perceptions of the different phases of the conflicts among respondents in these areas. Section 4 explores how people have coped with the legacy of these conflicts and how they feel these should be addressed to heal victims' suffering. Section 5 examines desires and demands in relation to dealing with the perpetrators of crimes and human rights violations during war. Section 6 explores more widely how to achieve peace and reconciliation in Afghanistan. The conclusion then reviews the answers to the research questions raised in Section 1.

2. Methodology and Site Selection

This section introduces the research methods used for this study. It also covers site selection processes, information about how trust was built in the community, sampling and the provincial and community contexts of the study sites.

2.1 Research methods

The methods used for this research were semi-structured individual interviews, focus group discussions (FGDs) and informal conversations. Individual interviews allowed people to feel comfortable about speaking, while FGDs helped explore communities' perspectives of the past conflicts and, particularly, their ideas about addressing issues of justice, peace and reconciliation in relation to specific wartime experiences. These methods adopted an open-ended, flexible approach to give respondents the opportunity to define the most important issues for them.

A pilot study was conducted in an urban area in Kabul to develop and refine the research tools before fieldwork started. Research began in two areas in Bamiyan Province, an urban area in Bamiyan City and a rural village in Yakowlang District in the northwest of the province, running between June and November of 2010.

Prior to the start of the research, the team obtained permission from the municipality and district head of police to be introduced to the district officials as well as to each community's representatives. Community leaders were integral in introducing the team to the community and in overcoming any resistance to the research. Expectations were managed from the beginning by providing clear information about the research and making a distinction between AREU as a research organisation and other welfare or service-delivery NGOs. Additionally, the research team spent several weeks conducting informal conversations before beginning data collection. This was to gain contextual information about the area as well as build trust in the community.

Respondents and FGD participants were selected based on the following sampling criteria:

1. Age: This was designed to gain the knowledge and opinions of different generations who have experienced the conflict in varying ways. In the sampling, younger respondents included those aged between 18 and 29; middle-aged included respondents between 30 and 48; and older aged from 49 upwards. The oldest respondent was around 75 years old.

2. Ethnicity: Respondents were selected to reflect, as far as possible, the composition of the area. Since both sites were almost entirely homogenous, only Hazara respondents were selected. In the urban site a few Tajik households existed but were reluctant to be interviewed.[39]

3. Sex: Both men and women were equally represented in the categories mentioned in the sampling.

4. Experience of conflict: The sampling criteria included respondents who had been directly affected by conflict and had stories to tell but also included people less affected who might have different views about how to move forwards.

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39   A number of Sayed households lived near the rural research community. (Sayeds are a *qawm* believed to be descendant from the Prophet Mohammad. In Bamiyan, they are Shiite.) The research had intended to interview Hazara areas and then return to interview Tajik and Sayed households, but this was not possible. This is discussed in the research challenges.

All the informants underwent two rounds of semi-structured interviews. The first round focused on the stories of individuals and their experiences of different phases of conflict. The aim was to understand what experiences people had suffered at different times, how people dealt with different violations under the different regimes and which regime or period was the worst for them and for the community.

Based on the first interview, second-round interview guides were drawn up. Their main focus was: to obtain knowledge and understanding about what processes and mechanisms could help individuals deal with the past violations they had experienced. Specifically, this included how perpetrators of violations should be dealt with and what should happen to ease the suffering of victims and their families to enable them to deal with the legacy of the conflicts and move forward. Ultimately, this was designed to collect ideas about the appropriate ways to provide recourse and resolve in the aftermath of conflict in Afghanistan. On a conceptual level, both rounds of interviews were designed to collect respondents' feelings on the concepts of justice, peace and reconciliation.

Two rounds of FGDs were also held. The aim was to include the same respondents in the first and second round of FGDs but due to unavailability or sometimes unwillingness of the respondents, this was not always possible. This is discussed in more detail in the challenges section.

Across both urban and rural research sites and including first and second rounds, the Bamiyan study completed 48 individual interviews with women and 47 individual interviews with men, eight FGDs with women and eight FGDs with men. Table 1 and 2 in the appendix shows the distribution of the first and second round of interviews in the urban and rural areas with the different categories of respondents based on age and ethnic group.

Interviews were conducted by a gender, age and ethnically-balanced research team (Pashtun, Hazara and Tajik). Two international senior researchers were responsible for overall management of the research. Given the sensitive nature of the research, building trust and overcoming confidentiality concerns was vital, as was maintaining an open environment. In this regard, the interviewer was the same ethnicity as the interviewee wherever possible. Interviews were conducted in Dari and recorded in written notes.

Determining the reliability of data was managed by triangulating data collected from different sources and by asking researchers to record their own observations and reactions to interviews in daily field notes. Interview and FGD transcripts were coded using ATLAS.ti qualitative analysis software to help extract themes and sub-themes across the data as a whole.

It should be noted that since the research communities selected were largely ethnically homogenous, the intention was to return to Bamiyan City and try to secure a limited number of interviews with Tajik respondents—either from the few households still residing in Sayed Abad or from those living close by. There was also a plan to return to Yakowlang District and find a Sayed community to interview. This was not intended to be exhaustive, but was to provide some basic comparisons between the perceptions of these different ethnic communities. (The overall intention of research in Bamiyan Province was to focus on the Hazara community since other ethnic groups were interviewed in other areas.) However, due to time and budgeting constraints, the research team was unable to return and interview these communities. Consequently, information about ethnic relations presented here is purely from a Hazara perspective.

2.2   Site selection

For the overall research, provinces were selected to reflect a degree of ethnic diversity and to encompass the different phases and intensities of conflict over the past 30 years. Security considerations were paramount and some provinces were consequently ruled out as unsafe. Physical and social access was also taken into consideration. Bamiyan Province was selected as an area of a Hazara majority, which experienced some of the worst atrocities of the Taliban regime. However, it should also be noted that it also suffered violations under the communist regime and experienced conflict between the different local commanders at various points in the conflicts. Openness and willingness of community members to participate in the study was also a factor.

The major considerations for site selection were: 1) security of the area and safety for researchers and respondents, 2) openness and willingness of community members to participate in the study, 3) ethnic composition of the community and 4) experience of the conflicts.

In each province an urban and rural site were selected. This created an opportunity to compare a range of different communities' perspectives in different contexts. It is likely that the communities in the rural areas have experienced conflict as a community and as such may have witnessed similar events, even if they are experienced and remembered in different ways. In urban areas by contrast, patterns of migration mean that different people may have moved in from different areas at different times, and may well have had more varying experiences of conflict.

Taking these considerations into account, a community in the large area of Dara-i-Ali in Yakowlang District was selected as the rural field site. The primary reason for selecting this area was the extent of suffering of this village and the wider Yakowlang District during the Taliban regime. Moreover, no research had previously been conducted in this community and people there were receptive to the aims of the research. All the residents in this community are Hazara although there are a few Sayed households in the wider area of Dara-i-Ali. The community was made up of numerous households in close proximity to each other, which made it easier to select interviewees than in other communities in the area.

The large area of Sayed Abad in Bamiyan City was selected as the urban field site, since it also met the criteria mentioned above. Due to its location in Bamiyan City, people in the area have experienced suffering during every phase conflict (excluding the violence post-2001). They also experienced considerable factional divisions during the civil war. Moreover, while the area is now largely homogenous, it was once home to a minority of Tajik households. However, this community fled amid wartime tensions and has largely not returned.

2.3   Ethical considerations

The research consistently adhered to the principle of "do no harm." Permission was sought before beginning work and as many members of the community as possible were invited to the introductory meeting so the team could explain the objectives of the study and manage expectations. Respondents and participants were also assured of their anonymity and the confidentiality of their answers. Informed verbal consent was sought before conducting any in-depth interview or FGD.

It is standard practice at AREU to use pseudonyms for districts or villages to protect the confidentiality of the respondents. In this instance, however, this has not been

possible as providing details about each site's history—necessary to understanding the context in which respondents' experiences of conflict are embedded—has rendered the communities easily identifiable. Instead, confidentiality has been maintained by omitting specific personal details of respondents and participants, and their names have been changed throughout this report. Despite security concerns, it was also decided that easily identifiable figures, including alleged perpetrators, would also be included when named by respondents. Once again the logic was that these people were easily identifiable and providing them with pseudonyms would be largely redundant. It should, however, be recognised that any individuals identified in this report were named by interviewees and their inclusion does not represent a view of AREU or the author or indicate an allegation.

2.4 Research challenges and solutions

This section covers the challenges the research team faced when conducting the research. These are classified into three categories: security, sensitivity of the research subject, and the challenge in ensuring research quality. These are discussed here to clearly highlight the limitations of the research in view of its highly sensitive nature.

Security

Though Bamiyan is a secure province, tensions within and between communities remain and had an impact on the selection of study areas. In Bamiyan City, past conflicts have left severe hostilities and rivalries among different community members, in particular between different ethnic groups. Awareness of these tensions prevented research from taking place in one particular community, since it was felt this could have reignited potentially dangerous hostility among its members.

Sensitivity of the research

The sensitive subject of the research was the biggest challenge to confront. Exploring issues of war crimes, human rights violations or issues of community and ethnic relations are difficult topics to address, especially given the environment of ongoing impunity in Afghanistan.

Overall, people in both research sites felt comfortable to speak freely about many of these issues. The only concern occasionally mentioned by respondents was that the research team may have had connections with the Taliban and could be reporting back their stories. Male respondents in the urban area were perhaps most concerned about this, but generally people trusted the aims and intentions of AREU's research.

In fact, concerns over corruption, bribery and prevailing power structures within the state institutions had a greater impact on respondents' willingness to talk in both research sites. A substantial proportion of respondents believed that no positive change could happen in Afghanistan if it was against the wishes of powerful people. Occasionally, male respondents of varying ages raised the point that participating in an interview would have no substantial effect on the situation in their area. Older women in both sites also reflected on the futility of talking. It was often hard for some respondents to talk about the past because it forced them to recall distressing experiences.

Addressing these challenges, the team tried to be as clear as possible on the objectives and goal of the research, including how AREU planned to use the research findings from the research areas after the data is processed. Building trust and overcoming

confidentiality concerns was therefore vital. Throughout the course of the research, the team maintained a constant presence in the area to maintain relations and build that trust. The team received psychosocial trauma training in order to help them monitor respondent reactions and to guide interviews in the most sensitive manner. This included temporarily suspending interviews where necessary. Moreover, the research team found that sharing their experiences of conflict assisted building rapport during the research. In this respect, holding informal discussions in both communities prior to starting the research was also beneficial.

Quality of the research

As mentioned above, due to the sensitivity of the research topic and the current social context, respondents occasionally seemed to avoid talking about certain issues, particularly relationships in their areas. This issue was more apparent in the rural area, where respondents rarely addressed wartime tensions and experiences with the Sayed community in the wider Dara-i-Ali area (though informal discussions helped glean some information on the issue). In contrast, while the issue of relations between the Hazara and Tajik communities was sensitive in the urban site, respondents (particularly women) generally spoke freely about inter-ethnic violence at various points in the conflicts.

Certain topics such as rape, forced marriage and sexual assault were also difficult to explore. This was not specific to Bamiyan; culturally, rape is a highly sensitive issue for women and girls in all parts of Afghanistan. Rape is not criminalised under Afghan law, but it is prosecuted under adultery provisions of the Penal Code of 1976.[40] No respondent discussed first-hand knowledge of sexual assault or rape in their community or within their family. Instead, stories of rape were often based on hearsay. In some cases, people who spoke in more general terms might have had more direct knowledge or experiences, but were reluctant to disclose it.

Field and observation notes were essential ways of noting the environment in the community, any possible bias of the respondent, and any information that they appeared unwilling to discuss or provide. While extensive efforts have been made to triangulate the information in respondent's stories, it should be noted that this was not a documentation project. At times some of the stories could not be verified; where this data is used, any uncertainty surrounding its veracity is acknowledged.

2.5 Context

Afghanistan has experienced over three decades of conflict since the Communist Revolution in 1978. The conflicts can be divided into four major phases: the communist revolution and People's Democratic Party of Afghanistan government (1978-9), the resultant Soviet invasion and rule of Afghanistan (1979-89); the Najibullah government, it's fall, and the resulting civil war (1989-96);[41] the Taliban regime (1996-2001); and the post-Taliban transitional period (2001-present). This breakdown of the conflict is largely in keeping with how respondents perceived the different phases of the war.[42]

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40 Fatima Ayub, Sari Kouvo and Yasmin Sooka, "Addressing Gender-specific Violations in Afghanistan" (New York: ICTJ, 2009), in Emily Winterbotham, "Legacies of Conflict: Healing Complexes and Moving Forwards in Kabul Province" (Kabul: AREU, 2011).

41 While Najibullah's regime survived until Soviet financial support ceased in 1992, most respondents associated this period with the civil war that followed, and not with the Soviet occupation that came before.

42 It should be acknowledged that while these were the periods most frequently identified by respondents, they were also externally imposed by the research team. From the beginning of the research the decision was taken to explore these four key periods, which could have imposed a somewhat artificial structure on it.

Provincial context

Bamiyan has a population of 357,268[43] and is located in Afghanistan's central highlands (often referred to as Hazarajat because of the majority Hazara population in the region). Bamiyan City, the provincial capital, has a population of about 70,000 and is the largest town in the region. Bamiyan remains one of most undeveloped provinces of Afghanistan, with the majority of the people earning their incomes through agriculture, including wheat, potatoes and livestock. There is a main road under construction connecting the province to Kabul, which is designed to eventually extend as far as Herat and link the provinces in between. Bamiyan is rich in sites of archaeological and cultural significance, including the now-destroyed Buddha statues, Band-i-Amir, and Gholghola and Zohak cities. Many of these sites were damaged and looted during the different phases of the conflicts. At present, the province is widely considered to be one of the most stable in the country.

The people of Bamiyan, like most other areas of the country, have faced different aspects of suffering and casualties during each period of conflict. During the communist period, Bamiyan was a centre of resistance to the regime. One of the most significant events was the May 1979 uprising against the Soviets in which around 300 people lost their lives. A mass grave around the airport at Bamiyan City is believed to date from that event. This period witnessed migration from the area, especially from Bamiyan City; many families experienced casualties and a number of mullahs, elders and educated people disappeared.

The province experienced relative stability during the Najibullah government (which was still receiving financial aid from the Soviet Union) after the departure of the Soviet Union in 1989. Najibullah followed a policy of decentralisation of power to the regions in order to maintain stability. However, small-scale factional conflicts between the various Shiite and largely Hazara mujahiddin factions—such as the Shura-i-Ittefaq, Sazman-i-Naser, Sepah-i-Pasdaran and Harakat-i-Islami[44]—started to occur. This prompted intellectuals and elders from Bamiyan Province to negotiate with the commanders involved to unify and form the single Hizb-i-Wahdat out of these disparate groups.[45] At this time, Wahdat was headed by Abdul Ali Mazari, and its political arm is currently led by Mohammad Karim Khalili.

However, there was some dissent among the commanders. Akbari, a non-Hazara Shia from the Qizilbash ethnic group and a leading member of Pasdaran-i-Jehad (Islamic National Unity Party of Afghanistan), and Anwari, an important commander in Harakat, were against this unification of parties. Wahdat and Harakat (the latter followed by Sayeds in particular) thus became the two largest Shiite parties in control in Bamiyan.

After the collapse of Najibullah's communist government, the different mujahiddin factions who had fought against the Soviet and communist governments took power and established a government in Kabul. The civil conflict that then broke out in Kabul soon

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43 "Afghanistan Country Stability Picture—Edition 20, December 2009," DVD (Kabul: NATO/ISAF, 2009).

44 Harakat-i-Islami is a Shiite party led by Asif Mohseni. The Shuray-i-Ittefaq (Unity Council) was founded in 1979 by Sayed Ali Behishti, Mohammad Hakim Samadi and Mohammad Hussain Nasiri and was later led by Karim Khalili; Sazman-i-Naser was founded in 1972 by religious scholars, who were later joined by some military activists such as Sadiqi Parwani, Abdul Ali Mazari, Hakimi, Nawid, Sujjadi, Hadi, Abuzar and Khodad Erfani, who were the most influential armed figures within the party. Pasdaran-i-Jihad was founded early in the 1980s, led by Mohammad Akbari and was supported by Iran.

45 Hizb-i-Wahdat was formed to bring together nine separate and mostly inimical military and ideological groups into a single entity. By 2009, however, Hizb-i-Wahdat was so fragmented and divided that the political weight it carried in the country bore little resemblance to what it had once been. Sayed Askar Mosavi, *The Hazaras of Afghanistan: An historical, cultural, economic and political study* (Tehran: Al Hoda, 1998).

spread to Bamiyan as the Shura-i-Nazar/Jamiat,[46] which was controlling the government at this time, advanced toward the province to destroy opposition there in the form of Wahdat. However, Bamiyan did not suffer the same level of devastation as Kabul, and conflict was largely limited to power struggles between different commanders.

The Taliban managed to enter the province in 1998 despite opposition from these different mujahiddin factions, resulting in massacres, property destruction and mass migration. While most Hazara commanders resisted the Taliban, Akbari publically proclaimed loyalty to them, supposedly to save the province from further devastation.

Map 1: Research sites in Bamiyan Province

Yakowlang District
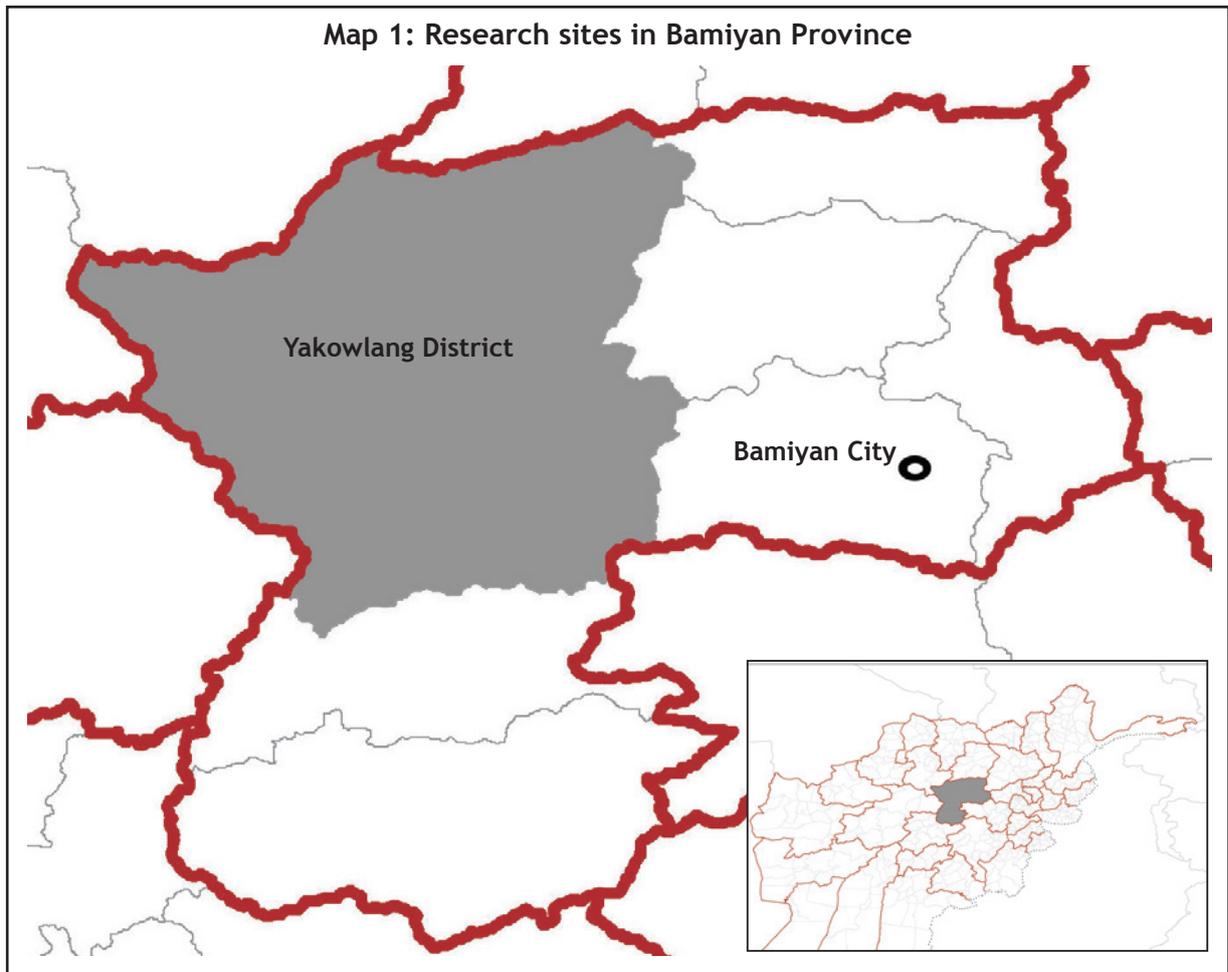
Bamiyan City

Urban context

Sayed Abad is about ten minutes' drive from the central bazaar of Bamiyan City. This recently extended community is composed of around 600 households spread across several larger and smaller villages, and research took place in the central part of this area.

Most of the people in this area have a small amount of farmland. People have easy access to the main bazaar in the centre of Bamiyan City. The residents of the community mainly make their living through farming by selling their crops in the bazaar. A few people have jobs in the government or with NGOs. However, a number of people discussed the lack

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46   Shura-i-Nazar was an alliance created between several mujahidin military commanders in the late 1980s, which formed the government during the mujahiddin period. It was led by the Jamiat-i-Islami party.

of available employment opportunities in the area and there is currently some economic migration to Iran. Most children attend school, although a substantial proportion of young boys combine this with part-time jobs in the bazaar or on the farm.

There are two National Solidarity Programme (NSP) *shuras*, one male and one female. As a consequence of significant human rights violations and abuses in the past, many NGOs have a presence in the area, although some residents complained that these have had no practical benefit to the community.

Historical background

During the communist regime the community was widely involved in the fight against the Soviets and this remains a source of pride. In this period, the area suffered significant damage as a result of rocket attacks or fighting on the ground. Soviet and government forces also frequently entered the area and took away men believed to be participating in the resistance, many of whom subsequently disappeared or were killed. On the other hand, the mujahiddin also abducted people who worked for the communist government.

Following the collapse of Najibullah's government in 1992, a shaky peace prevailed until the massacre in the largely Hazara Afshar district of Kabul in 1993. Following this event, the conflict soon spread to Bamiyan as Wahdat, who had been defeated in Afshar, moved to Bamiyan. They were followed by Shura-i-Nazar/Jamiat. The civil war affected relations between the Hazara and Tajik communities and to a lesser extent with Sayed populations of Bamiyan City. While Hazara communities there largely supported Harakat or Wahdat, Tajiks followed Shura-i-Nazar/Jamiat. The fact that some leaders of Harakat and other parties, such as Akbari, supported Shura-i-Nazar against Wahdat further complicated the situation.

Over the ensuing years control over the frontlines changed hands between Shura-i-Nazar and Wahdat, forcing the inhabitants of Sayed Abad to migrate at various points and resulting in a number of deaths. Violations also took on an ethnic basis as Tajik and Hazara communities looted each other's properties and burned houses in retaliation.

The arrival of the Taliban in Sayed Abad was a time of extreme distress for the inhabitants. Despite resistance from various mujahiddin commanders, the area was captured and stories of murder, disappearance, imprisonment, torture and the burning and looting of houses are widespread. This prompted several instances of mass migration, and a proportion of inhabitants moved to other parts of the country or migrated abroad during this time. Ethnic tensions triggered by the civil war also spilled over into this era, and certain members of the Tajik community reportedly collaborated with the Taliban.

Rural context

Research was conducted in an area of Yakowlang District known as Dara-i-Ali. Yakowlang is approximately three hours drive from Bamiyan City and Dara-i-Ali is around an hours drive in good weather conditions from Nayak, the district centre. Dara-i-Ali is a large valley home to a number of villages. The research site is a community of 35-40 households on one side of the valley, straddling a river.

Most of the people in this village derive their income from the land. Women are usually not directly involved with farming but help in maintaining the land and in grazing the livestock around the village. A very few people are big landowners and own around 20 *jeribs* (around four hectares) of land, but the average amount of land per person is

between one and four *jeribs*. This is largely insufficient for people's annual expenses. A number of people do not own any land and work as sharecroppers.

There is just one agricultural season in Bamiyan, in which just one crop is cultivated. As a result, most people in the area are relatively poor. The only water source is the river, which is used both for drinking and irrigation. People in the village regularly suffer water-borne diseases and the lack of clean water was a frequent complaint made by community members. Limited development efforts have reached the area, such as a literacy course for village women run by UN Habitat. Toward the end of the research, the NSP started working in the village to generate electricity from a nearby dam.

All villages of Dara-i-Ali share two NSP *shuras* with 15 members each. These were established five years ago and according to respondents have largely been unable to satisfy community needs. Communication among *shura* members is difficult given the substantial distances between villages in the valley, and only one or two meetings are held in a year. Consequently, problems in the community are presented to mullahs and other elders who work with the local government to resolve problems. The valley has one school, no clinic (the nearest available medical facilities are in Nayak) and no bazaar. Residents in the study community claimed it took their children nearly two hours to reach school.

Most of people in Dara-i-Ali are Hazara, but there are Sayed households living in some parts of the valley. Although relations among these communities have been affected by the past thirty years of conflict, tensions are currently low.

Historical background

As a remote rural area, this community remained largely unaffected during the communist era. While the community largely favoured the resistance, Soviet and government forces never entered the community. The area was occasionally hit by aerial bombardments targeting mujahiddin hidden in surrounding the mountains; in these attacks several civilians were killed or injured, houses and crops were destroyed and people were forced to temporarily flee to the mountains.

Overall, the community also escaped civil war violence since the military forces of the Shura-i-Nazar were defeated by Wahdat before they had a chance to enter Dara-i-Ali. The most serious complaints concerned the pressure the mujahiddin placed on this community in demanding food and other materials. However, it should be recognised that this conflict did cause tensions with the Sayed community since some of its members sided with Shura-i Nazar against Wahdat.

The Taliban era was by far the worst period this community faced. The Taliban invaded the area at various points, killing a number of male inhabitants and burning all houses, property and land they encountered. This caused the community to flee into the mountains and to migrate to neighbouring provinces.

3. War Stories: Violations and their Perpetrators during Afghanistan's Conflicts

This section of the paper is based on an exploration of the residents of each community's "war stories" and analyses people's perceptions of the conflicts. It first explores the relative intensities of the different conflicts as experienced by respondents in both research sites. It then goes on to examine who they identified as perpetrators[47] of the conflicts and their accompanying atrocities, and who they perceived to be the victims. Finally, it concludes with an assessment of how the conflicts in Afghanistan have been experienced—whether as a long and seamless period of uninterrupted violations"[48] or as distinct periods. In doing so, it draws any differences in perceptions between the communities or between people of different sexes or ages.

According to the overwhelming majority of respondents in both Dara-i-Ali and Sayed Abad, the Taliban period was by far the worst period of suffering for both communities, and is consequently discussed first. In contrast, the two communities experienced the communist and civil war periods with varying intensities. The period of resistance to the communist regime and Soviet forces in Afghanistan was generally considered to be the next worst conflict and is thus addressed second, followed by an analysis of the civil war period. In each section the experiences of the rural and urban communities are explored and the differences between them highlighted. The chapter compares and contrasts how different groups in each community experienced and perceived the different periods of the conflicts. This is done in order to bring a more in-depth understanding of conflicts and violations as experienced by the communities, and informs the following chapters of this paper.

Before turning to the analysis of the various conflicts Bamiyan has experienced, it is also important to note that the two communities perceive the current phase of Afghanistan's history in similar ways. The overwhelming perception was that this current period is not classified as "war," and there were no reports of extensive human rights violations under the Karzai regime. Both sites pointed to improvements in their daily lives and drew a clear line between this period and previous eras. However, while inhabitants are generally content with the peace that has been established, they complain about the lack of reconstruction and development in the province. There is a widespread perception that Bamiyan has been discriminated against and neglected in favour of more insecure areas. It was widely also felt that justice had not yet been implemented and complaints about corruption and lack of governance were common among all groups. All of this has contributed to a general lack of trust toward the government. Although the province is relatively stable, concerns still remain given rising insecurity in other parts of Afghanistan. Section 6 more closely explores people's perceptions of security, peace and justice in their province.

3.1 Perceptions of the Taliban period

When respondents were asked to discuss their wartime experiences they most frequently spoke about the Taliban period. To some degree this reflects the fact that this was the most recent of the three conflict eras identified by respondents. More significantly,

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47   Well-known, alleged perpetrators remain in the paper because they are often easily identifiable, which makes it redundant to change the name. However, less well-known or more "local" perpetrators have their names changed to protect their identity and those of the respondents.

48   AIHRC, "A Call for Justice," 11.

however, it demonstrates the extent of suffering that both communities faced during this time. There were several key reasons for this: the devastation the Taliban inflicted on both research sites, the perception that the Hazara community was deliberately targeted on ethnic and religious grounds, the impact Taliban presence had on community relations, and their unpopular policies.

Taliban violence

According to respondents, Hizb-i-Wahdat was largely in control when the Taliban entered Bamiyan Province in 1998. The two sides clashed as Wahdat and its supporters mounted a resistance to the incursion. During this first phase, as the Taliban sought to consolidate their position, they began to round up men in both research sites—both bases of support for Wahdat—to find out whether they were part of Wahdat or not.

A key difference between the two research sites can be drawn here. In Bamiyan City, respondents widely reported that when the Taliban arrived, the first thing they did was shoot a number of men in the community and round up another group of around 25 men and take them to the current location of Bamiyan's airport, where they were then executed.

In contrast, in Dara-i-Ali, the Taliban reportedly attacked the village several times over a three-year period. When the Taliban first entered the village they arrested a few men suspecting them of belonging to Wahdat, only to release them later. One respondent suggested that community elders were able to persuade these Taliban of the men's innocence and promise that they would not cooperate with the mujahiddin. As he explained:

> The Taliban arrested 100 people from around these areas. They wanted to shoot everyone; they even prepared weapons to kill us all but at this time a Taliban mullah came and told us that we were free to go if we did not cooperate with mujahiddin from now on. He said, "If you cooperate with the mujahiddin, next time we come to the area, we will kill you all."

The above cases are similar to events that characterized the Soviet occupation. However, it is clear that the Taliban subsequently moved from fighting an armed enemy to more random targeting of the population in general. Abuses recorded included the disappearance and execution of groups of men, whether armed or not, physical abuse of both men and women and the deliberate destruction of homes and livelihoods.

One explanation provided for the change of tactics was the strong resistance that Khalili and Wahdat mounted against the Taliban. Many respondents described how the Taliban were angered by the resistance they faced and so started to kill ordinary civilians in retaliation or because they identified them as supporting Wahdat. The targeting of unarmed civilians and the Taliban's willingness to use brutal force contributed to the sense in both communities that this was the worst phase of the conflict. Older respondents often argued that Soviet and communist forces generally did not target ordinary civilians, and their considerable abuses still paled in comparison to Taliban violence. Rahim, a middle-aged male respondent from Sayed Abad, summed up these feelings:

> If the Russians saw people who had weapons, they would arrest them, but not people who didn't have weapons. But the Taliban killed innocent people.

These claims of random killings should be tempered by the acknowledgement of the majority of respondents that the Taliban did not systematically target women and

children. Accounts of women being beaten for information about their male relatives were relatively common, but information about their deliberate murder was scarce. When such stories were told, largely by older female respondents, they were second-hand reports from other areas or were impossible to substantiate.

The research community in Dara-i-Ali seems to have experienced fewer murders during this time than Sayed Abad, perhaps due to its isolated location. Inhabitants of the area described receiving warnings from Khalili's followers of approaching Taliban forces and were largely able to flee direct violence. The number of people interviewed who reported the death of people in this specific community was very small, even though the wider area of Dara-i-Ali suffered substantial casualties. In contrast, many of the respondents in Bamiyan City appear to have experienced the death or disappearance of a relative.

Both communities, however, experienced heavy fatalities while fleeing from the Taliban. The fear that the Taliban unleashed in both research sites prompted the vast majority of community members to escape into the surrounding mountains; some staying for weeks, others for months. Both communities reported that the Taliban shot people in the back as they fled and allegedly killed a number of men, women and children in the process. Moreover, stories abound of old and young people dying of cold and hunger in the mountains or people being killed or seriously injured in falls. Noriya, an older female respondent from the urban site, Sayed Abad, provided a graphic description of this experience:

> We felt that if we were caught by the Taliban, we would be killed and cut into pieces. Maybe they would rape women. It was very difficult. On the one hand we were scared of the Taliban and on the other we were afraid of the cold of winter, the rain, and snow. Baba Mountain became a graveyard at that time. People who couldn't walk anymore, their families left them there. Many people died there because of the cold. Some people were injured and died because they fell down the mountains.

The high level of migration from Bamiyan City to other parts of the country and abroad reflects the severity of the situation when compared to the largely short-lived, localised displacement experienced during the communist period. In contrast, while several families from Dara-i-Ali also migrated to other parts of Afghanistan, the majority of respondents took temporary refuge in the mountains, returning when Taliban forces retreated. This reflects the fact that Taliban troops were not permanently based on the specific community and also its relative poverty (given the expense of migration).

Ethnic and religious discrimination

The identification of the Taliban as largely Pashtun and Sunni led to a widespread perception in both research sites that the Hazara community was targeted as a result of their ethnicity and Shiite faith, while other groups were left alone. In contrast to the Soviet period, this identification was believed to be a major reason for the random killings and atrocities the Taliban committed in the province. In fact, a number of older men and women in both communities believed the Taliban's overall aim was to eliminate the Hazara population and drive them from Afghanistan.

Despite this perception, a few female respondents in both communities emphasised that other ethnic groups also faced abuse. In particular, they drew on the murder of a substantial number of Sayed people in Yakowlang who had surrendered to the Taliban, which they felt proved the Taliban killed all people indiscriminately. Zarena, a middle-aged female respondent, explained this reasoning:

They were cruel to everyone and killed anyone...In the beginning Sayed people said that the Taliban wouldn't bother them because they are not Hazara. And when the Taliban came and started killing everyone they became afraid and all of them hid in the mosque. The Taliban then fired a rocket at the mosque and killed all of them, some of them were women and children.

There was also a general perception among respondents that the Taliban did not consider the Shiite Hazara to be Muslims. Given that Sayeds in Bamiyan are also Shiites, this would add weight to their argument. Several middle-aged and elderly men from Sayed Abad even believed that the Taliban thought the Hazara were Buddhist—allegedly as a result of the presence of the Buddha statues in Bamiyan city. Ultimately, it was generally felt that the Taliban saw Hazaras as infidels and believed they were waging jihad by killing them.

The bitterness this sense of ethnic and religious discrimination fostered among respondents was perhaps greater since the study communities identified the Taliban as fellow Afghans and, more significantly, as Muslims. The Taliban were perceived as basing their entire movement on their Islamic identity even as they committed crimes against other Muslims. In contrast, Soviet and communist perpetrators were perceived as infidels and so were perhaps judged less harshly. Zarmina, an older female respondent from Dara-i-Ali, summed up this general view: "Yes, they were worse than the Russians because Russians were Kafirs and Talibs call themselves Muslims and mullahs."

Box 1: Taliban religious discrimination against Hazaras

The Talib searched me and found my five thousand dollars and mohr. He asked me what this was. I explained to him that it is the soil of Karbala where the grave of Imam Hussein, the grandson of the prophet, lies. He told me that I was lying and said it was from the graves of the Buddha statues and that we were pagans.

Sakhi, older man, Sayed Abad

The Taliban believed that Shiites weren't Muslims but infidels. I know a person who was arrested. He was released because he knew a Talib who mediated his release. When this guy returned to our area he told us that when the Taliban killed people they raised their hands and faced the sky and said, "God! Accept this Jihad from me."

Hamed, younger man, Dara-i-Ali

Impact on community relations

The framing of the conflict in ethnic and religious terms had a strong impact on community relations. Although many of these divisions had already been triggered by the civil war, tensions carried over into the Taliban era. This is another key reason why this period was perceived unfavourably compared to the communist era, where the communities were largely unified against a foreign enemy.

In Sayed Abad, Tajik households historically formed a minority population. When the Taliban arrived, a number of Tajiks reportedly sided with them.[49] The urban community widely accused Tajiks of identifying leaders and those who possessed weapons to the Taliban, revealing people's hiding places, looting houses, and in a few cases committing physical violations themselves. Many—especially older respondents—felt that the Tajik community had used the Taliban period to profit from the conflict or to take revenge for violations they had suffered at the hands of the Hazara community, especially Wahdat,

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49   It is worth noting again that the research team did not interview any Tajik households in Sayed Abad.

during the civil war. The lasting impact of this was perhaps most felt among older female respondents in Sayed Abad who frequently blamed the Tajik community for violations.

Significantly, a few respondents in the urban community also cited positive examples of how community relations superseded ethnic identity. A couple of men discussed assisting their Tajik neighbours and protecting their crops and property from looters when Wahdat defeated Shura-i–Nazar. This also happened in reverse when the Hazara population fled the area during the Taliban period. As one male respondent, Delawar, illustrates, politicisation of ethnic divides could not always defeat existing communal loyalty:

> There was a Tajik woman who called my mother her sister. She kindly fed our sheep and goats when we fled from our homes. When I had left I thought nothing would be left alive by the Taliban. When we returned home it was not destroyed or burnt.

In contrast, while people in rural Dara-i-Ali expressed disappointment at the initial collaboration of Sayed communities with the Taliban, this betrayal was largely forgotten since a large number of Sayed men who surrendered to the Taliban were subsequently killed. Overall, this experience has had less of an impact on current relations in the community (discussed further in Section 6.1). It should be noted, however, that the team felt the community was reluctant to talk formally about wartime tensions between Hazara and Sayed communities. As discussed in the research challenges section, people were far more circumspect, did not address the issue or just claimed that relations were good. Only a very few younger male respondents openly criticised the state of relations in the past and present between Hazaras and Sayeds.

Unpopular Taliban policies

While Taliban brutality was the main focus of attention, other Taliban policies were also unpopular among respondents. The Taliban's policy of forcing people to pay money to avoid being sent to fight on the frontlines was particularly resented. Respondents in both research sites claimed that the Taliban forced people of all ethnic groups to fight for them against Hizb-i-Islami and Hizb-i-Wahdat in Shomali and Panjshir, and sometimes against Hazaras in Bamiyan. If a family didn't have a man to offer or could not afford the 5,000,000 to 8,000,000 Afs (around US$1,000-1,700 in the late 1990s) waiver, the Taliban would force them to leave the area.

Respondents in both research communities also discussed the economic conditions under the Taliban, complaining about the high cost and scarcity of many goods and the lack of employment. A couple of male respondents in Sayed Abad also singled out the Taliban's system of taxation for particular criticism. This was levied on trade or for religious purposes. As one man in Sayed Abad recalled, "If you had a truck of potatoes they took so much tax from you by force that by the end you were hardly left with anything useful." Compounding the harsh economic situation was the Taliban's deliberate policy of burning people's houses, shops and land in both communities, allegedly to prevent Hazaras returning to the area as a form of ethnic cleansing. Given Dara-i-Ali's reliance on agricultural production, the destruction of their land and crops was particularly resented by people there.

The Taliban came under more criticism than the Soviets and communists in regard to sexual violations and abductions of women. However, direct evidence of this is hard to pinpoint. Only one female respondent, from the urban area, said that she had actually witnessed women being abducted and all other stories related to the research team were based on hearsay. As discussed in research challenges, cultural barriers can make

rape and sexual violation a challenging topic to discuss in Afghanistan. However, the conclusion of Sakina, a younger female respondent from Dara-i-Ali, is perhaps closest to the truth: "No ordinary person saw with their own eyes that the Taliban had taken women or abused them. Only armed people who were fighting against Taliban said that it is true. I don't know whether they were right, maybe they had to make us frightened." Regardless of the validity of these claims, it is apparent that a significant proportion of women in both communities feared sexual abuse by the Taliban more than they did from Soviet or communist forces.

3.2   Perceptions of the communist period

Older respondents from both research sites reported proudly how their communities were heavily involved in the resistance to Soviet forces and the Soviet-backed regime. Many men actively joined the mujahiddin and other community members supported them by providing food and shelter when needed. This period of time is known as the *Inqelab,* or "revolution."

While both communities provided similar support to the resistance and expressed similar opposition to Soviet rule, they experienced this conflict in different ways. Only Sayed Abad witnessed regular fighting and aerial bombardments, because of its location. It became a base for the mujahiddin to launch attacks against the Soviet forces garrisoned around Bamiyan airstrip. In response, the Soviets attacked the area with rockets and aerial assaults, killing residents and destroying property and livelihoods.

Residents of Sayed Abad also reported the arrest, torture, imprisonment and killing of groups of men from the area that the government or Soviet forces suspected of being mujahiddin. Men were reportedly imprisoned for anything between a few days and several years, and people were brutally interrogated and regularly tortured. A number of men disappeared during this time and their bodies have never been found by their families. Older respondents widely reported how on several occasions men from Sayed Abad were rounded up, taken to the airstrip and then shot dead or run over by bulldozers. A number of mass graves in the area are known to date from this era.

Many inhabitants from Sayed Abad described fleeing into the mountains to escape intense phases of violence. Compared to the mass migration during the Taliban, a far smaller number moved more permanently, whether to other areas of Bamiyan Province, different provinces of Afghanistan or abroad to Pakistan and Iran. Respondents themselves drew direct comparisons in the pattern of migration at this time. According to Rahim, a middle-aged male respondent, "People didn't migrate to other provinces as they did during the Taliban time. People just moved from one nearby area to another area."

In contrast, Soviet and Afghan government forces never entered the research community in Dara-i-Ali and aerial bombardments of the surrounding mountains targeting the Mujahiddin were unusual. Respondents explained that this was because the area was too remote for Soviet ground forces to reach the village. Only one significant event was reported in the early of years of this era: Soviet forces attacked the district centre at Nayak and forced the mujahiddin to retreat through Dara-i-Ali into the surrounding mountains. In response, the Soviets bombed the mountainous areas around Dara-i-Ali and the research site itself was hit by bombs, causing several injuries and deaths and damaging houses and crops. This prompted community members to flee to the mountains for several months. Zahra, an older female respondent from the area, clearly described this time, drawing comparisons with the Taliban era:

> *That time was very bad. The Russian airplanes and helicopters came and bombed this area, and many people were killed, but they didn't come to this area by road. Because the Russian airplanes came and bombed us we left the area for one or two months in the mountains, and then came back. But at that time, the situation was still not as bad as under the Taliban.*

Despite the suffering caused, this was thus viewed as an isolated incident and overall this was a period of relative calm for the community. However, a number of older respondents from this community still reported relatives disappearing or dying while fighting for the mujahiddin.

It is important to draw comparisons between this violence and that committed by the Taliban in the eyes of the two study communities. While cases of execution, disappearance and torture were widely reported, people perceived this as limited to men fighting with the mujahiddin, as opposed to attacks on ordinary civilians reported under the Taliban. This is one of the key reasons why the Taliban era was perceived as worse than this period even in Sayed Abad, despite the level of devastation the Soviet and Afghan government forces caused there.

While the emphasis was on the abuses people suffered at the hands of both the Soviet and Afghan forces, there were also reports of abuses from a few older men in the urban community committed by the mujahiddin against those who worked for the Soviet-backed government. For example, Fida, an elderly man working for the municipality in Sayed Abad, described his experience: "At that time I was working in the municipality so, on the one hand, the government accused me of helping the mujahiddin, but on the other the mujahiddin came at night and threatened me, accusing me of being a communist."

Mujahiddin demands for food, finance and other amenities were also sometimes the cause of resentment in both communities. While many people were happy to provide material and financial support to the mujahiddin, a small number of older male and female respondents complained about the burden this placed on them. Moreover, these people also complained about the manner in which they were sometimes treated. Kobra, an older female respondent from Sayed Abad, summed up the complaints of this small group:

> *They were also cruel to people. In the evening, they came to people's houses and said to them, "We are doing jihad for you so you should make dinner every night for us." People had to make food for them and 10 to 15 people came and stayed for the night. Some people didn't have food for them to eat because they were poor. So they beat them and forced them to borrow food from others. They slaughtered sheep and people of the area couldn't say anything. So thank God that time has finished.*

3.3 Perceptions of the collapse of the Najibullah government and the civil war

Once the Soviet troops had left there was much less resistance to Najib's government in the period between 1989 and 1992. While some small conflicts happened between Hizb-i-Wahdat and Hizb-i-Harakat, this was a period of relative calm. In fact, several female respondents from Sayed Abad said that this was a good time because of the low prices of food and commodities.

When Najib's government collapsed in 1992, a period of uneasy peace soon gave way to rising instability as civil war spread to the province. During this time, two main rounds of conflict took place between Shura-i Nazar and Wahdat. However, despite ongoing conflict, both communities generally felt that they were not as affected by the violence of this period compared to the Taliban and communist eras.

The reason for this lies in the fact that the conflict was largely perceived as one between Wahdat forces and the government forces, as represented by Shura-i-Nazar, or between Wahdat and Harakat. Both communities emphasised that ordinary people played little role in this conflict—as one older female respondent in Sayed Abad put it, "the mujahiddin had nothing to do with the village people and mostly just fought in the mountains together." Men who had previously participated in resistance also reported that they had laid down their arms by this point. However, another factor to consider is the respect that people in both communities had for the mujahiddin for trying to protect them from both the Soviets and the Taliban. The research team therefore felt that people were reluctant to appear overly critical of these factions and leaders.

Distinctions can once again be drawn between the research sites. The rural area was more isolated from direct violence, and many respondents reported that they were able to conduct their normal lives, such as attending school, and purchase goods cheaply. While there were some complaints about the mujahiddin, the majority of the community considered this a period of relative calm. Any tensions that did arise between different mujahiddin factions were quickly mediated and resolved. For example, one older male respondent, Hakim, described how tensions erupted between two sub-factions of Wahdat (who largely controlled Yakowlang). However, due to the intervention of elders and whitebeards peace was mediated and the conflict ended.

In contrast, the urban community of Sayed Abad was more directly affected by the various clashes between the different mujahiddin factions. The ensuing violence prompted a substantial proportion of the population there to migrate to other parts of the province. Once again, however, this migration was largely short-term and localised, as opposed to migration witnessed during the Taliban period. This pattern of migration reflects that while the violence was disturbing to the residents of Sayed Abad, they felt less personally threatened than they had during the Taliban and even the communist periods.

Greatest criticisms of this period frequently concentrated on the ethnic and *qawm* divisions that were triggered by this factional conflict. While different ethnic groups in Bamiyan were largely united in their struggle against Soviet occupation, ethnic tensions were inflamed during the civil war period.

In Bamiyan city, Hazara communities largely supported the Harakat or Wahdat parties, while Tajiks followed the predominantly Tajik Shura-i-Nazar/Jamiat factions. Especially in Sayed Abad, the division of the conflict along ethnic lines was intensified by the fall-out from the fighting in Kabul. The defeated Wahdat forces arrived from Kabul accompanied by fleeing Hazara inhabitants bringing with them stories of the massacre of Hazaras at the hands of Shura-i-Nazar in the city's Afshar area. A number of older male and female respondents who lived in Sayed Abad during this time recalled how this prompted people to take revenge against the Tajik communities in Sayed Abad and in Bamiyan City more generally by looting or burning their properties. When Shura-i Nazar took control of Sayed Abad, respondents reported similar behaviour from Tajik residents in response. These reciprocal cycles of ethnic violence continued into the Taliban era. Qambar, an older aged male respondent from the community, summed up these cycles of violence during civil war:

> *There was fighting in the west of Kabul and the government destroyed Hazara people and robbed their houses, raped their women and committed other acts of cruelty to those people. Then people from west Kabul migrated and came here. Their hearts were full of pain. When they came here and the government started fighting here, they were cruel to Tajik people. When Hizb-i-Wahdat defeated Shura-i-Nazar Tajik people fled from their homes...Among the Wahdat forces there were some militias from outside Bamiyan City who looted the properties of Tajik people after they had escaped.*

These factional divisions also reached as far as Dara-i-Ali. In this area, Sayeds largely joined Jamiat while the Hazara population predominantly supported Wahdat. The research team also discovered that loyalties in the Dara-i-Ali community were divided during the civil war between those who supported Khalili and those supporting Akbari, who led another branch of Wahdat. However, as previously stated, very little information was collected from people in formal interviews or FGDs about wartime tensions between Sayeds and Hazaras or within the community.

3.4 Responsibility for the conflicts: Perpetrators and victims

Throughout discussions, respondents from both areas largely held Afghanistan's elites, leaders and different governments responsible for the war and its accompanying violations. Identifying people who possessed power as "perpetrators," they largely absolved "ordinary" people from direct blame for any phase of the conflict. In their eyes, while leaders fought for influence, territory and power, "ordinary" people—those with little money, power or position—were victimised and remained poor. It was also widely perceived that the various leaders during the different conflicts had gained support from ordinary people by capitalising on their illiteracy and personal loyalty.

Different groups of leaders were identified by respondents as being either perpetrators or instigators of violations in Bamiyan Province. Primarily, these included the Taliban, along with others who joined with them such as the Tajik community in Sayed Abad; the leaders of the mujahiddin who fought for power during the civil war and created an environment of insecurity (which in turn created the Taliban); and foreign powers—in particular the Soviet Union, but also countries such as Pakistan, Iran, the United States and the United Kingdom—for manipulating and escalating tensions inside Afghanistan.

All respondents were united in holding the Taliban responsible for the worst excesses of the conflict and for many of the most serious violations committed in Bamiyan Province. However, many people made distinctions between different types of Taliban. In both communities, people specifically identified Mullah Omar and Osama Bin Laden as most culpable. Meanwhile, a few older respondents explained that not all the Taliban behaved in the same way. They reported differences between how they were treated by Pakistani, Arab and Chechen Taliban compared to the Afghan Taliban. As Abbas, an older man from Dara-i-Ali, explained, "Foreign Talibs were worse than Afghans. The foreigners immediately ordered our execution but Afghan Talibs had some mercy in their hearts." Furthermore, perceptions of local people who joined the Taliban were more complex. A number of respondents in both areas felt that local Talibs were largely not involved in any murderous activities and even protected local communities, for example by warning them of the approach of Taliban forces. An example praised by a number of male and female respondents from Sayed Abad was of a Turkmen elder in the area who collaborated with the Taliban and collected weapons for them in an attempt to prevent the Taliban harassing ordinary people. In another case, one older male respondent from Dara-i-Ali admitted that he had joined the Taliban believing he could protect his community. He

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Box 2: Leaders and elites responsible for conflicts

The government of every time was responsible. They couldn't control the country and couldn't bring peace.

Nafisa, older female respondent, Sayed Abad

The leaders were responsible for all these conflicts. At different times they collected all kinds of people and armed them and then commanded them to attack.

Muhsen, younger male respondent, Dara-i-Ali

In the past 30 years whatever has happened is because of illiteracy. Although our elders were literate something was injected in their minds. Considering this I always advise my children to go to school. We suffered many difficulties because of illiteracy. Before people were illiterate, they did not understand but now they understand. Before there was no logic and reasoning; before when a commander ordered there was no one who didn't obey.

Hakim, older male FGD participant, Sayed Abad

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explained, "The reason I was with the Taliban was to protect our community and our honour. When I saw the killings and violations, I left them."

A number of largely elder female respondents from Sayed Abad felt that the Tajik community in Bamiyan City was as responsible for violations as the Taliban were. The fact that the Tajiks had turned against their neighbours was especially distressing to these women. They argued that they felt betrayed by the Tajiks' collaboration with the Taliban, which was essential to their success in the conflict since they had no prior knowledge of the area. They also emphasised that the Tajiks took part in numerous violations, particularly against women, on the Taliban's behalf, which explains why women in particular perceived them as perpetrators.

Perceptions of the culpability of mujahiddin leaders and commanders in Bamiyan were somewhat more complex and people appeared more reluctant to single this group out. However, a significant portion of particularly older male and female respondents in Sayed Abad—and to a lesser degree in Dara-i-Ali—emphasised the mujahiddin's responsibility during various stages of the conflicts. In particular, they criticised the factional war—which they perceived as launched in the interests of the mujahiddin—for manipulating divisions between people and ultimately creating the conditions that allowed the Taliban to emerge and seize power. These respondents felt that leaders had capitalised on illiterate people's emotions and loyalty to them as a result of their success during the *inqelab*. Leaders were perceived as using the conflict to enrich themselves and consolidate their power while failing to help those who have been victimised. According to Rasool, an older male respondent in Dara-i-Ali, "At first the mujahiddin were unified so they could defeat a superpower; then they continued fighting in order to take power and make money until the Taliban came."

A substantial minority (largely younger women) of respondents in both communities actually held the mujahiddin, in particular Khalili, partially responsible for deaths of people at the hands of the Taliban. Several female respondents in Dara-i-Ali blamed Taliban atrocities on the presence of Khalili's forces in the area, explaining how prior to their arrival they had been relatively unaffected by Taliban violence. Additionally, a number of men and women in Sayed Abad identified mujahiddin commanders who had sold their frontlines to the Taliban and allowed them to attack the community.

However, the majority of people in both communities rejected this view, arguing that the mujahiddin and Khalili were trying to protect their areas from the Taliban. Moreover,

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> **Box 3: Commanders partially responsible for Taliban violations**
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> *Mohaqiq, Khalili, and Wali Zaki are responsible for this because they all fought with the Taliban and the Taliban killed innocent people. Wali Zaki sold the front line to the Taliban and then they were able to capture the area.*
>
> <div align="right">Yalda, younger female respondent, Sayed Abad</div>
>
> *The leaders of parties are responsible because they should have signed an agreement in which people would not have been killed. For example in Behsud, Akbari and Sangardost came to a resolution to accommodate the Taliban so these people did not suffer and did not migrate. Therefore, I am saying political leaders and parties are responsible*
>
> <div align="right">Poya, younger male respondent, Sayed Abad</div>
>
> *If you ask for the truth then I would swear that Khalili was bad as well as the others. I don't have a good memory of Khalili. For three years he was not in Nayak but in other places. But when he came here and fought with the Taliban then the Taliban came and killed people. Why didn't they go to the mountains to fight with them? Why did they come to this area?*
>
> <div align="right">Tahera, middle-aged Hazara female FGD participant, Dara-i-Ali</div>

they suggested that if there had been no resistance to the Taliban, people would have faced far worse violations. For example, Khadija, an older female FGD participant from Dara-i-Ali, strongly disagreed with Tahera's statement in Box 3, saying:

> *Hey crazy! [Pointing to Tahera] If Khalili was not here then the Taliban would have come here without any problem and would have taken people from their houses and killed them all. We heard that they came and took people from their houses, then Khalili attacked them from the mountains so this helped and they couldn't take all the people, only a few. Otherwise they would have taken everyone and raped them.*

Foreign powers also came under attack for their role during the different conflicts. The Soviets were perceived as responsible for not only invading Afghanistan but for numerous violations under their occupation. Other respondents, largely men of all ages from both research sites, emphasised the ongoing interference of other foreign powers in manipulating tensions inside Afghanistan to achieve their own aims. Iran and Pakistan were particularly blamed for interfering in Afghanistan's internal politics and for inciting divisions between Hazaras, Pashtuns and Tajiks. Foreign powers were also blamed for supplying money and arms to factions inside Afghanistan, which was seen as perpetuating conflict even as far as the present day. A few individuals also emphasised the responsibility of the United States and the United Kingdom, discussing in particular the historical role the United Kingdom had played in Afghanistan.

Interestingly, only one person interviewed—an elderly man from Sayed Abad—was prepared to acknowledge the responsibility of ordinary people themselves in supporting these various commanders and in participating in conflict. Instead, the vast majority of interviewees largely concentrated on heaping blame on leaders and elites and preferred to identify themselves and their fellow community members as victims.

3.5   Concluding remarks: The nature of war

This section has analysed people's perceptions of the different conflicts that affected Bamiyan Province and identified who they held responsible as perpetrators. While the communities had similar experiences under the Taliban, it is clear that as an urban site,

Sayed Abad experienced more direct suffering during the communist and civil war period than the remote community in Dara-i-Ali.

Both areas experienced conflict largely as a community and respondents had broadly similar views on the level of violence and suffering they faced. In both communities, age and sex divisions played only a small role in determining how individual respondents viewed each phase of each conflict. The only significant difference was the tendency of elder female respondents in the urban area to blame the Tajik community more than their male counterparts, perhaps due to the violations they specifically faced at their hands. It could also be argued that the urban community had slightly more negative perceptions of the mujahiddin and held them more responsible for the conflicts, largely as a result of their civil war experience. However, overall the Taliban remained the worst perpetrators for interviewees.

It is clear from the data that the communities view the last three decades of conflict in Afghanistan as four distinct periods of time; the frequency and ease with which both communities identified the "worst" conflict clearly demonstrates this point. Moreover, respondents were able to clearly locate the time in which violations occurred.[50] Indeed, as this section makes clear, community members in Bamiyan understand the causes of the conflicts they experienced, the overall political situation in Afghanistan at the time and who they perceived as the perpetrators of particular violations to be.

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50   The AIHRC discovered in research for their "A Call for Justice" report that almost 30 percent of those who had experienced conflict-related violence were not able to identify the period in which the violation occurred. They consequently concluded that conflict in Afghanistan has been experienced by many victims as "a long and seamless period of uninterrupted violations," irrespective of who was actually in power at the time.

4. Dealing with the Legacies of Conflict: Addressing Victim's Suffering

The previous section outlined some of the heavy costs that each regime inflicted on the two research communities. To date, there have been no concerted efforts to deal with this complex legacy of wartime atrocities. At best, this has meant that wartime events have been largely ignored in Afghanistan. At worst, revisionist historical interpretations promoted by the perpetrators of crimes have dominated at the political level.[51] In this environment, the experiences and suffering of ordinary people, who make up the bulk of Afghanistan's victims, have been largely ignored. This section explores how the legacy of the conflict continues to affect people today and how victims want their suffering to be addressed. As outlined in the theoretical analysis, justice in the aftermath of conflict can mean a variety of things. Addressing criminal responsibility is one interpretation, but there are a number of other processes that can provide resolve for victims.

Section 4.1 focuses on the emotional and psychological impacts of the war, exploring how people still experience mental suffering as a result of the trauma of conflict. Sections 4.2 and 4.3 examine which processes people perceive could help heal this suffering, looking at the role of truth-seeking, the need to remember and record the past, opinions about commemorations, and, finally, how to compensate for the damage of the war. Section 4.4 then presents ideas about how these processes could be implemented.

4.1 Lingering effects of war: Mental, psychological and emotional problems

It was clear that the vast majority of people in both communities are still grappling emotionally with the legacies of the conflicts. This was particularly obvious among respondents who were struggling to deal with the death or disappearance of a loved one or were haunted by shocking scenes of violence. One group perhaps least able to cope with the past were those that had experienced the disappearance of family members. This is discussed in more detail in Section 4.2. These experiences continued to affect their emotional and mental health and their ability to cope with everyday life. A common sentiment was that while a person may be able to temporarily enjoy an experience, an underlying suffering was always present. Generally, respondents explained that even though peace had been largely reached in Bamiyan Province they were unable to forget the past. "Forget" in this sense means that they had been unable to deal with the past violations and their wartime losses. An old man from Dara-i-Ali, Hakim, summed up this overall sentiment:

> *I can say that the after effects of the conflicts exist in our body as a disease does and some of these effects still remain in our hearts. When a violation affects the heart, a person is dead just like a withered flower. Since the time Karzai has become king, everything has gone well. But this withering has not left our hearts.*

People in both areas discussed suffering from a range of psychological or emotional problems. Common ailments included feelings of nervousness, fear and panic. In a few serious cases people reported that their relatives had been driven to what they classified as "mad." The urban community more frequently discussed serious mental

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51 Scott Worden and Rachel Ray Steele, "Telling the Story: Lessons for Afghanistan from the Cambodian Experience" (Washington, DC: United States Institute for Peace, 2008), http://www.usip.org/resources/telling-story-documentation-lessons-afghanistan-cambodian-experience (accessed 23 August 2011).

and psychological ailments affecting people they knew. It is not surprising that the past conflicts have left a greater traumatic impact on the community of Sayed Abad than Dara-i-Ali given the prolonged violence this area experienced during each conflict.

A significant proportion of respondents drew links between mental suffering and physical illness, such as high blood pressure and headaches. While no psychologist was involved in the research, these appear to be common anxiety symptoms or post-traumatic stress syndrome.[52] Ultimately, it is significant that people are aware of the relationship that exists between emotional suffering and physical illness. This reflects their own personal awareness of the significant impact conflicts have had on their emotional and physical "well-being." As The World Health Organisation (WHO) argues, "Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity."[53] Well-being in this Afghan context can be defined as an individual's ability to cope with the normal stresses of life, to work productively and fruitfully, while making a contribution to her or his community. Using this, a number of people argued that they struggled to cope with their daily lives as a result of their wartime experiences.

Women were more likely to report that they faced mental and health problems as a result of wartime experiences. Men in both areas admitted ongoing suffering, but were less likely to link this to psychological effects. When they discussed mental or psychological problems it was largely in relation to female relatives.

Box 4: Ongoing mental and health problems

Now I don't feel well, I have mental problems. I am good for a minute and then suddenly I become so nervous I feel thirsty. I think all the people of Afghanistan have got psychological problems.

Aqela, younger female respondent, Sayed Abad

Yes, the war has a bad effect on all and some people or women have developed [high] blood pressure. Before, people didn't have health problems. These problems came during the Taliban time and my family then developed health problems.

Samad, older male respondent, Sayed Abad

The majority of people interviewed said that the passing of time had little impact on their ability to forget or deal with the past. People generally considered that their ability to cope hinged on an improvement in their lives as well as better security conditions in the country as a whole. This is discussed further in Section 6, but it is important to emphasise here that ongoing violence was shown to perpetuate and compound people's feelings of insecurity. As Muhsen, a younger male respondent from Dara-i-Ali, succinctly put it, "If there is war, the heart's complexes are not reduced." In particular, respondents highlighted how the Taliban's insurgency and attacks triggered feelings of great distress among respondents. Women perhaps most frequently expressed this concern, but a substantial proportion of men shared their fear. Current violence served as a reminder both of ongoing insecurity and of past conflicts and provoked fears that the Taliban would once more enter Bamiyan. As Sajida, a younger woman from Sayed Abad, put it:

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52   It should be noted that while these findings were discussed with a psychosocial counselor, no medical professional was involved in the diagnosis and instead the text concentrates on what people themselves defined.

53   World Health Organisation, "Mental health: a state of well-being" (October 2009), http://www.who.int/features/factfiles/mental_health/en/ (accessed 25 July 2011).

If the Taliban disappeared from Afghanistan, people's sorrows would become less and they would slowly forget them. The radio says that there is fighting in Kabul and some other places and so we still remember our own war memories and become sad that war is ongoing. I get worried about what would happen if the Taliban come again. Where should we go from here?

Although both communities stressed their continuing struggle with the past, they also emphasised that they were able to cope because they had no choice. Most people also highlighted the positive role that religion played in their ability to cope with their experiences. Typically, people explained that patience and tolerance were hallmarks of being a Muslim; they were compelled to bear the injustices they had suffered and that God would reward them for their tolerance.

4.2 Addressing victims' suffering: Uncovering "truth" and recording the past

To date, there has been no official enquiry released into either specific violations or the general consequences of Afghanistan's wars. Consequently, a key demand frequently voiced by respondents in both areas was that wartime events be investigated to build an accurate picture of the different phases of the conflicts. Not only did people believe they had the right to know the truth, but they wanted this information to be disseminated and acknowledged, in order to contribute toward goals such as reconciliation and social reconstruction.

Building a picture of the past and truth-seeking

Overall, the majority of respondents in both research sites were in favour of fact-finding processes. People felt they had the right to know truth about past events and build an accurate picture of the different phases of the conflicts. Generally, people considered it important to discover the total number of war dead under different regimes, as well as the identities of the perpetrators in each case. However, for the vast majority of people, these desires were driven by personal motivations. In particular, people saw inquiries into the extent of damage in their area as fundamental to reparation processes that so many of them desired (see Section 4.3). People also wanted to know who was responsible for the death of their relatives or how they had died. Perhaps the strongest demand for investigations came from those whose family members had disappeared.

Disappearance and dealing with the past

It was widely accepted that investigations into the fate of an individual who had disappeared were vital. A substantial number of families in both communities, especially from Dara-i-Ali, had lost relatives, particularly during the communist period, but also during the Taliban.

Uncertainty over the fate of a loved one is often an obstacle in coming to terms with the past. In contrast to the stark finality of death, grieving processes are often delayed in cases of disappearance because without bodies and funerals relatives are often unable to accept the reality of their loss. As Reza, a middle-aged male respondent in Dara-i-Ali, put it, "When you bury a dead member of your family or your friend's corpse, your heart will be calm and consoled. But if he has disappeared, it is a very harsh situation. We are still looking and waiting for them." Respondents argued that unsolved cases of disappearance worsened people's complexes, which if not resolved would increase tensions across the country and could have a negative impact on security. People consequently demanded

that cases of disappearance be investigated and families find out for certain whether someone had died, how they had been killed and who was responsible. The fact that the government had failed to launch such investigations prompted widespread hostility in both communities, as is discussed further in Section 4.4.

People therefore argued that offices and commissions should be created to investigate disappearance issues. The media were also perceived to play a vital role in broadcasting inquiries about people. In fact, male respondents at an FGD in Dara-i-Ali discussed how a radio station had implemented one such programme. As one of them described:

> *Radio Ashna has a programme about people who have disappeared. It announces the names of people who have disappeared, then it says that whoever hears and knows about these people should please call the numbers listed by the radio.*

Also relevant to cases of disappearance is the issue of mass-grave sites. It should be noted that the respondents drew a distinction between mass graves containing bodies of victims of mass killing, buried in a proper way,[54] and what Stefan Schmitt calls "criminal mass graves." These are identified as sites linked to war crimes, genocide or crimes against humanity that are often clandestine, implying secrecy and lack of knowledge.[55]

For example, falling into the first category, two grave sites exist in the valley of Dara-i-Ali that are known by the community to contain the bodies of Taliban victims, one allegedly holding as many as 40 or 50. These grave sites were created by inhabitants of Dara-i-Ali after they had retrieved the dead bodies of their family members from the Taliban. These sites are marked and looked after by the local communities. In Sayed Abad, community inhabitants frequently discussed a site dating from the Khalqi period which contained at least 80-90 bodies. Inhabitants said that this grave was opened a few years ago and bodies reburied. Noriya, a middle-aged female respondent from Sayed Abad, described this event:

> *These martyrs were identified. They were killed during the Russian time. They were killed by tanks and then put in trenches. Some of them were buried alive. Some years ago it was opened and they were buried separately.*

The fact that people know about these sites and who is buried in them differentiates them from "criminal grave sites" in Afghanistan, which have largely remained uninvestigated.[56]

Questions surrounding how to address mass graves elicited varying responses. Firstly, knowledge of exhumation processes and forensic analysis is very basic in Afghanistan, and only a few respondents claimed to understand their potential. Typically, respondents

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54   The final report of the United Nations Commission of Experts on the Former Yugoslavia identified four general types of mass grave focusing on the legal aspects both of the grave and of manner of death of those contained: Sites containing bodies of not unlawfully killed civilians or combating soldiers, buried in a proper way; Sites containing such bodies, buried in an improper way; Sites containing the bodies of victims of mass killing, buried in a proper way; Sites containing such bodies, buried in an improper way. See "Annual Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law committed in the Territory Of The Former Yugoslavia Since 1991," UN Doc A/49/342-S/1994/1007, 29 August 1994, http://www.un.org/icty/rappannu-e/1994/AR94e.pdf (accessed 23 August 2011).

55   Stefan Schmitt, "Mass Graves and the Collection of Forensic Evidence: Genocide, War Crimes, and Crimes against Humanity," in *Forensic Taphonomy: The Postmortem Fate of Human Remains*, eds. W. D Haglund and M. H. Sorg Raton (London: CRC Press, 1996): 277-292.

56   For more information on Afghanistan's mass grave policy, see Emily Winterbotham, "The State of Transitional Justice in Afghanistan: Actors, Policies and Approaches" (Kabul: AREU, 2010).

believed that it was impossible to identify people after so much time had passed and their bodies had been destroyed. In this case, it was generally argued that it was better to leave grave sites alone. However, once forensic science was explained a substantial proportion of male and female respondents argued that unidentified graves should be exhumed, bodies identified and subsequently returned to their families for burial.

However, one older male respondent from Dara-i-Ali objected to the exhumation of mass graves, arguing that it was against Sharia to disturb bodies once they had been buried. He instead suggested that opening gravesites could reopen wounds and that the past should be left behind.

Acknowledge and record suffering of ordinary people

While both communities widely felt that they had the right to know truth about the past, a large part of their support for truth-seeking processes was based on a desire for recognition of their suffering. There was a real demand for victims' voices to be heard and for many this could in itself represent a form of justice. In particular, people wanted the government to demonstrate its interest and concern by exploring what had happened in their communities. This desire for government recognition of suffering is a common theme throughout this section and is addressed in more detail in Section 4.4. At times, people merely wanted someone to care enough to ask what had happened to ordinary people over the past 30 years.

This desire was perhaps strongest among older female respondents, particularly from Sayed Abad. The majority of middle-aged and older female respondents interviewed in Sayed Abad expressed gratitude that researchers were asking for their stories and reflected on the cathartic benefits that sharing their experiences had provided. Fakhria, an older female respondent from Sayed Abad, represented this view:

> I feel bad but relaxed and my shoulders have become less tense. So, when you talk to us we become happy and thank you for coming. It is really difficult to remember the war but it is good to talk about it and empty our hearts.

It should be noted that sharing stories was not cathartic or healing for everyone. This is reflected in the fact that one woman chose not to be interviewed a second time, feeling that the questions had awakened memories that she was not comfortable revisiting. A few older female respondents from Sayed Abad also mentioned that while women discuss wartime events, men largely avoid the subject.

While there was a widespread desire in both communities that their suffering be investigated and recognised, support for recording and documentation processes was more divided. In fact, roughly equal numbers of research participants from each community were either for or against documentation. One key difference was that in the urban site, women of all ages and older and middle-aged men were in favour of recording the past, while younger men often spoke out against this practice. In the rural site, younger male and female respondents were supportive of documentation, but older respondents expressed more concerns. It is not entirely clear why there were these differences of opinion. While it is understandable that the poorly-educated, largely illiterate elderly population of Dara-i-Ali may have been slightly suspicious of recording processes, it is surprising that a group of younger, more educated male respondents in Bamiyan City expressed similar concerns. One possible explanation is that this group, with fewer memories of conflict, was more concerned with the future rather than continuing to dwell on the past.

People who supported documentation and recording processes believed it would have two main benefits. Firstly, that people across Afghanistan and globally, especially the younger generation, could learn from past experiences, assisting the process of reconciliation and social reconstruction in the country. Secondly, documentation processes would help identify those who were guilty of crimes.

Respondents in favour of recording victims' stories felt it would ensure that their suffering was not forgotten and would instead form part of Afghanistan's history. They emphasised that this could help the country, in particular the younger generation, learn from past mistakes. Learning from the lessons of the past and creating a united history was also seen to play a role in reconciliation and unification processes. This was the view expressed at an FGD with younger male participants in Dara-i-Ali, who stressed that documenting and disseminating Afghanistan's troubled past could contribute toward the creation of a stronger Afghan national identity.

Box 5: Recording and learning from the past

It is useful for the next generation to understand what difficulties people experienced in the past. They will understand their national identity better and they will understand many other things. If the past violations are registered the children will understand what history our forefathers have had, which has not been good, so they will try not to repeat this again.

Mahdy, younger male FGD participant, Dara-i-Ali

All the problems and challenges people have faced should be registered in history; it is good to build an understanding among people. For example, I am a whitebeard and I do not know anything about the past.

Fida, older male respondent, Sayed Abad

It is good if everything is recorded, because the international community and the government will become aware of victims' pain and what they suffered. So this will be a form of justice for them if they are able to give testimonies.

Nadira, younger female FGD participant, Sayed Abad

There was also a hope among various men and women that this process would lead to the identification of those who were guilty of crimes, known as *khains*, or "traitors." There was a clear demand to draw a line between genuine jihadis and those who used conflict to enrich themselves or commit violations. Recording processes could therefore highlight the primary responsibility of certain individuals and distinguish between them and a larger circle of bystanders and collaborators. This fits with the overall perception of the clear divide between perpetrators and victims as outlined in Section 3. It should be noted that only one man (Rasool from Dara-i-Ali) reflected on the positive impact that individualising guilt could have on ethnic relations in Afghanistan. He claimed that identifying specific individuals could help demonstrate that certain people and not entire *qawms* or ethnic groups were responsible for crimes during the war. This could then help prevent people from blaming or taking revenge against entire groups and assist trust-building and reconciliation.

A few younger women from both areas also suggested that recording and publicising guilt might be perceived as a form of punishment and as some form of justice for the victims of atrocities. This would ensure that people's crimes were not forgotten and that, even if they never faced legal retribution, they would be identified as criminals both now and to future generations. For example, one younger female respondent, Hosay, stated:

> *Victims' sorrows will be decreased and their hearts will become cool. If criminals aren't punished, their testimonies will work to bring justice for them. If everything is documented, it will be good also, because one day people will know who are criminals and who are not.*

However, for many more people processes of fact-finding and documentation were more important in forming the basis of criminal prosecutions. While the word *shawahed* ("testimony") can be used informally, it is often associated with legal testimonies in the courtroom. The frequent reference to the need for testimony reflects the strong association between recording wartime stories and building legal evidence against criminals (see Section 5 for more discussion on the topic). The words of Zubaida, an older female FGD participant from Sayed Abad, reflect the understanding of the vast majority of respondents about one of the key purposes of documentation:

> *It is very good if one gives testimony. Without testimony and witnesses it is difficult to recognise criminals, and the government needs testimony and witnesses to bring justice and punish the criminals. When there is no testimony and proof, it will not be clear who the criminals are, and criminals and innocent people would be the same. If the government had the power to do something, it would be good to record everything and then try them.*

Appropriate recording and registering processes

Recording the past in history books was the primary method identified of preserving information. Men and women in both communities perceived books to be credible and public means of preserving information not only about the war, but concerning the guilt of individuals. Once published in this form, it would then be more readily accepted by future generations, which was the priority for most people.

Male respondents, largely younger men participating in FGDs in Dara-i-Ali, also pointed to the work of civil society organisations (CSOs), such as AIHRC or the UN, and the subsequent documents they produced as appropriate ways of recording the crimes of the past. Moreover, the type of field research conducted by AREU was highly praised. One male respondent in Dara-i-Ali, Mahdy, explained that he supported this type of approach because AREU research was concentrating at the community level and so trying to ascertain an accurate picture:

> *History should be registered in a real way. For example, you could ask officials about a village without putting yourself through trouble, but you came here and asked local people and registered your understanding and evaluations because you want to know the reality—therefore, you didn't ask an army officer or a historian, you came to the people.*

A couple of male respondents in both areas discussed that while the government should investigate what had happened during the conflicts, they would prefer that documentation was conducted by figures they perceived to be more impartial, such as historians or the types of organisation mentioned above.

Dangers of recording

As noted above, an equal number of people spoke out against recording and documentation processes. Overall, security was the key concern for this group of respondents. Younger men in Sayed Abad and a substantial proportion of elder women in Dara-i-Ali in particular felt that recording certain events could prompt revenge, either among individuals or between entire *qawms* or ethnic groups, which could lead to further conflict. These

people felt that past crimes should be forgotten since reminding people about past abuses might "renew past wounds" and "create more complexes" that could affect future generations. One younger male FGD participant in Sayed Abad even explained how when he had read a book about the mistreatment of Hazaras, he was so angry and sad he would have "skinned the head" of the first Pashtun he saw. He therefore questioned whether it was possible for people to read about such events without triggering emotions of hatred and revenge. In fact, one middle-aged woman from Dara-i-Ali explicitly stated that she wanted the past to be recorded so that future generations would know what had happened and take revenge.

A less frequently applied argument was that in the absence of a government willing to implement trials, recording the past was simply futile. Moreover, as one female FGD participant from Dara-i-Ali pointed out, remembering the past without the ability to seek any form of recourse could in fact increase people's pain. Instead, respondents subscribing to this view felt that past events should just be forgotten since registering them would bring no tangible and immediate benefits to Afghanistan.

Organisations conducting research or documentation on these highly sensitive issues thus need to be aware not only of presenting information in the most sensitive manner possible to avoid reigniting or enflaming tensions between different groups, but also to ensure that they avoid raising expectations about what these various initiatives will achieve.

4.3   Commemorate the past

Memorialisation processes are typically designed to recall and demonstrate respect for things that have happened in the past. It is intended to assist healing processes, and also frequently to demonstrate a commitment that these events should never happen again. However, questions about the relevance and appropriateness of memorialisation processes generally received only lukewarm support in both communities. Even for those in favour of an official approach to memorialisation, this was not an urgent priority.

Of those in favour, largely elder men from Dara-i-Ali, memorialisation was one way of demonstrating respect to the country's victims and martyrs. They believed memorialisation initiatives should allow people space to remember, reflect and pray for the martyrs of the conflicts, which could assist healing processes. The erection of minarets near grave sites, building of commemorative mosques or the establishment of commemoration days were perceived as permanent markers of respect to victims. These would ensure that the younger generations did not forget the losses or sacrifices of their parents' or grandparents' generations. As Rasool, an older male respondent from Dara-i-Ali, explained, "A minaret can be like a monument, it becomes like a shine. And it can remain forever so the next generation is reminded of the past."

However, memorialisation efforts gained more support from people from both research sites when they were framed as contributing to wider development efforts. In particular, women from Dara-i-Ali supported the creation of schools, roads and clinics, lacking at the time of research, that would commemorate the names of martyrs. This reflects the overriding feeling in both research sites that although addressing the past Afghanistan is important, there are currently more pressing priorities such as employment, schooling and other forms of development.

These sentiments suggest that costly efforts at creating memorials for remembrance alone could be negatively received by many people struggling to feed their families

and find jobs. For example, one older male FGD participant from Sayed Abad criticised annual remembrance ceremonies for martyrs and the disabled, feeling the money might be better spent on practical help for their families. Consequently, the majority of people in both communities spoke out against memorials, claiming that they would have little impact on people's healing processes or in improving the lives of Afghanistan's survivors. These people emphasised that martyrs were dead and the priority should rest on those who were still alive. Moreover, a few men and women from both communities suggested that a visual reminder of the past could actually be damaging for people and could reopen or "refresh" wounds. As Qaiyum, a middle-aged male respondent from Sayed Abad, put it:

> *Their pains will not be decreased, there is no point. I believe we should not change the name of streets and build things to remember the war because it doesn't help anyone. It is just a memorial and it is of no use for the martyrs because they went and they are not now in this world.*

A further reason why respondents were at best half-hearted in their support of an official memorialisation process perhaps lies in the fact that both communities already have their own mechanisms of commemoration. In Dara-i-Ali, identified grave sites containing the bodies of Taliban victims are marked and tended to by people of the area and a board listing the names of those who were killed by the Taliban marks the entrance to the valley. In Sayed Abad, respondents described an annual ceremony marking the death of their martyrs. Given that these local communities have their own memorialisation mechanisms and that discussions surrounding commemoration tended in reality to reflect desires for development, the argument could be made that there are currently more pressing demands than memorialisation.

4.4   Compensate suffering and loss: Repairing damage

International law recognises that a reparatory approach is an important way to acknowledge a society's collective responsibility toward victims.[57] While it may be impossible to fully repair the damage done to victims or make assessments of the harm suffered by individuals, a reparations programme can still offer certain solutions. The idea that the people of Afghanistan should be materially or financially compensated for the wide-scale damage caused by the wars was the most strongly supported approach in both communities. There was a widespread perception that if people's living conditions were improved then they would be able to handle their wartime grief better. Respondents in both research sites emphasised the practical benefits of financial and material reparation when houses had been destroyed and the main wage-earners had been killed, disabled or had disappeared. It is, however, important to try and distinguish general demands for development—a priority for almost every single respondent—and compensation or reparation for damage inflicted by the conflicts. However, this is complicated by the fact that the vast majority of respondents made no such distinctions, as discussed further in Section 6.

People proposed a variety of types of compensation, including: cash payouts; assistance with rebuilding houses, schools and clinics; provision of jobs; housing and education for orphans; and assistance for disabled people, who in many cases are unable to work or marry. The overwhelming demand from respondents in both communities was that the

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57   The right to reparation in the form of restitution, compensation, rehabilitation and satisfaction and guarantees of non-repetition was set forth in the United Nations General Assembly, "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law," Resolution 60/147, 16 December 2005.

government should launch a full-scale investigation into the extent of damages caused by the conflicts and then provide the appropriate assistance based on people's individual needs. Consequently, respondents identified an intrinsic link between fact-finding processes and reparative policies.

A small number of men of all ages from both areas suggested that the perpetrators of crimes should be forced to contribute toward reparation policies. They argued that those who had looted properties, land and belongings should return these and those who had gained financially should reinvest this money in developing Afghanistan. This demand rested on the perception that many perpetrators of wartime crimes had actually gained in wealth, position or power through their involvement in the conflicts but, in return, had failed to care for the ordinary people who supported them. As one older man explained:

> No one, from Karzai to any of the others, has done anything for the people. The leaders like Mohaqiq, Khalili and Fahim received money that came from abroad. They can establish factories to create job opportunities for thousands of people, but they invest that money in foreign countries. Where have they got so much money? They should give assistance to all provinces including Bamiyan.

Insisting that these individuals reinvest or return money and other wartime time spoils to Afghanistan was consequently one way of providing both recourse and resolve. This was perceived not only as repairing the damage of the war, but also as an acknowledgement of the support people had provided to these leaders.

The vast majority of respondents emphasised that while financial and material compensation for past losses was helpful, reparation policies should be forward thinking. One key area was job creation, which was widely supported by both communities. In Dara-i-Ali, people also felt education should be prioritised: women should be given literacy courses because they had been deprived of education and orphans should be able to attend school. Since education was seen as the only way that Afghanistan could move forward and put the past behind, it constituted a key form of compensation.

Compensation, it was perceived, would have two impacts: firstly, people felt it would help repair the physical, material and, perhaps, some of the emotional damage caused by war; secondly, it would demonstrate a recognition of ordinary people's suffering. However, it is important to acknowledge that financial or material reparation was generally only perceived as sufficient to provide compensation for economic loss, destroyed houses or looted property. Respondents frequently stressed that it was largely impossible to compensate people for the death or disappearance of a loved one. Qadir, a younger male FGD participant from Sayed Abad, summed up this general understanding:

> It can financially help, if we see the issue in a materialistic way, but it will not help from a spiritual perspective. For example, my brother was killed in war. If I am paid ten or fifteen thousand dollars it may decrease my pains and solve my financial problems. But from a spiritual perspective it cannot help. Only God can cure the pains. I cannot forget and ignore my brother because of money.

Moreover, no respondent indicated that this could act as an alternative to a retributive approach.

However, a substantial proportion of male and female respondents in both communities still emphasised that compensation could help ease some of the pain and suffering people

faced on a practical level. Common statements heard were that this type of policy could somewhat ease people's pains. Mosina, a middle-aged female FGD participant from Dara-i-Ali, explained that compensation could still "ease pain and be a *marham* [ointment or salve] for the people."

4.5 Implementing restorative and reparative processes

Across both research sites, three main actors were generally seen to have the legitimacy needed to implement restorative and reparative policies: the government, the international community, and Afghan civil society. Of these, the government was perceived by nearly every respondent as primarily responsible.

The overwhelming feeling was that the government possessed both the necessary power and the moral responsibility to help Afghanistan's victims. The government, and President Karzai in particular, were identified as leaders of the country and thus responsible for assisting their people and repairing the damage caused by past conflicts. However, perception that development attention has bypassed or ignored Bamiyan has caused considerable resentment toward the government in both communities and has eroded its legitimacy.

The major desire underlying the other processes mentioned in this chapter was thus for recognition of people's suffering by the government. The demand that the government demonstrate it "cared" about ordinary Afghans was a particularly common demand. In fact, government acknowledgement of suffering was often more significant to respondents than the actual process itself. Launching investigations into the past conflicts and the fate of those who had disappeared, supporting documentation and recording processes, or conducting financial assessments and implementing a comprehensive reparation policy were all processes strongly linked to government legitimacy. If the government took the lead in implementing any one of these, respondents believed that this would reflect the collective responsibility owed by society to the victims and demonstrate that those in power were acting in the interests of ordinary people. Salim, a younger male respondent from Sayed Abad, explained further:

> *The government can value victims by giving them, for example, financial support and acknowledging with pride the contribution they have made. This support could decrease the pain seen during the oppressions. This is something that the government should do for those who suffered during the fighting, and if the government shows victims how much they are valued I am sure it will be effective.*

It should be emphasised that a substantial proportion of younger men and women attending FGDs in both communities strongly linked the government's failure to establish commissions or launch proper investigations to the government's lack of legitimacy. It is unclear why these groups in particular drew such attention to this, although many of them were likely affected by the disappearance of a relative during the communist and Taliban periods. Some had grown up without fathers or had witnessed the ongoing suffering of relatives and neighbours caused by not knowing the fate of a loved one. Nadira, a younger female FGD participant from Sayed Abad, reflected the feelings of this group:

> *The families of those who have disappeared say that they feel so sad about them. Their hearts are full of pain and they say the government doesn't care about us. So, this makes people hate the government. There is a family I know who lost a relative about 20 years ago and the government hasn't sent anyone to them to ask them about what they want and how they have suffered. That*

> *is why people dislike the government and why they have lost trust in the eyes of the people.*

While the government was seen as the most legitimate actor to implement such processes, some respondents, particularly men in both communities, were realistic in their expectations about whether it would do so. They emphasised that repeated requests for development assistance and help had gone unheeded and this had led to widespread disillusionment about the role of the government. Moreover, they argued that while alleged human rights violators remained in power they had little hope that the government would investigate wartime events. Others reflected on the pervasive nature of corruption in the country and appeared to suggest that even if reparations were awarded they were unlikely to reach those who most needed them. An older male respondent in Sayed Abad drove this point home emphatically: "Millions of dollars have been allocated to Bamiyan but nothing has been done for us. When assistance comes it is only distributed to a few people and the rest vanishes! So will the government try and help victims?"

As a consequence of this perception, some people also envisaged a role for the international community. It should be noted that only a few, largely older male and female respondents from Dara-i-Ali, discussed this role in individual interviews. In contrast, greater numbers of male and female respondents of all ages in Sayed Abad were supportive of a role for the international community. The difference in these sites could be due to the stronger international community presence and development projects in Bamiyan City in contrast to the rural areas. However, in both areas this was widely debated in FGDs, probably in large part due to the fact that researchers in the second round FGDs described roles the international community had played in other countries in addressing the legacies of past conflicts. This transfer of knowledge is reflected in the words of an elderly female FGD participant from Dara-i-Ali, who said, "It would be very good if the international community dealt with wartime events. In other countries they dealt with wartime events, they could do that here as well."

Overall, however, it should be emphasised that the international community was still perceived as an inferior alternative to government action. Moreover, the majority of those who supported a role for the international community envisaged that this should take place in collaboration with the government. As a younger female FGD participant, Shazia, put it, "First the government is responsible and then the international community should also become aware of what people suffered. They have to know what people suffered and how they were tortured and then work with the government."

The understanding that the international community should assist the government in implementing reparative and restorative policies was largely based on recognition of their existing role in the country. Respondents were aware that the international community was there not only in a military capacity but that a number of organisations and countries concentrated on development activities as well. The international community and international civil society was seen to have the necessary power, the financial resources and the specialist expertise to assist in implementing any of the policies listed in this section. For example, a few male respondents discussed the role of the United Nations and specifically the expertise of organisations like the International Red Cross in cases of disappearance. Moreover, there was an underlying feeling that organisations such as the UN had a responsibility to put pressure on the government to deal with these issues and not to forget about Afghanistan's victims.

Only two respondents argued against a role for the international community. Both of these were elderly respondents from Sayed Abad. The first woman, Fakhria, argued that

the international community were not concerned with Afghanistan or its people and so would not be of any help. The second, a man, Fida, argued that the international community could do little that was practical since it had no real knowledge of the country, or specifically of cases of disappearance.

Box 6: Role of the international community in implementing restorative and reparative policies

The international community has the power to do anything. In other countries that have suffered wars and have had many losses, they helped them, so they can help Afghanistan also.

Sidiqa, younger female FGD participant, Sayed Abad

The UN can be effective both inside and outside of Afghanistan, both in providing budgets and finding people who have disappeared. NGOs can also collect orphans and prepare schools and give them and education so that girls can become doctors and boys engineers.

Hamed, younger male FGD participant, Dara-i-Ali

The list of people who have disappeared is in the district governor's office and with the government; also the Red Cross has the list of them. If these people are in other countries then they could find them to ease the pain of their families. This is the job of the international community and the Red Cross. The government should give the list of the disappeared people to the Red Cross and to the Ministry of Foreign Affairs in order to find them, and then tell the families whether they are alive or dead.

Rasool, older male respondent, Dara-i-Ali

The final actor respondents perceived as responsible for assisting victims was Afghan civil society.[58] It should be emphasised that only a handful of respondents mentioned civil society as an important actor, and once again this was largely during FGDs. This is not surprising given the widely-perceived weakness of Afghan civil society. Moreover, it reflects the impact of the research methods on both communities: once again, in FGDs, the researchers discussed and explained the role of civil society in other countries. Consequently, this built an awareness of its potential role and prompted the demand that Afghan civil society develop so that it could both represent and assist Afghanistan's victims.

In terms of existing CSOs, a number of male respondents in Sayed Abad delegated a specific role for the AIHRC in investigating the crimes and legacies of the past. As previously stated, respondents largely preferred that independent organisations take the lead in documentation processes to ensure that such efforts were unbiased. Among FGD participants, particularly those in the community of Dara-i-Ali, AREU's research triggered a desire that other organisations be created in Afghanistan to investigate the past in a similar fashion and that more funding be allocated to this type of work.[59] It should be noted that respondents who envisaged a role for civil society also believed that CSOs would need to cooperate and collaborate with the government in order to have any real impact. There was also an understanding that greater interaction was needed between CSOs in different parts of Afghanistan.

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58 Kaldor and Theros discovered that civil society in the Afghan context was a sophisticated view of civil society that does not restrict itself to the Western model of NGOs or urban intellectuals. Across the consultations, they interpreted "civil society" as a broad variety of institutions, groups, and individuals—both traditional and modern—seeking the common good. See Marika Theros and Mary Kaldor, "Building Afghan Peace from the Ground Up" (New York and Washington, DC: The Century Foundation, 2011).

59 AIHRC's "Conflict Mapping Project" is an example of this, of which these respondents were unaware.

This section has explored societal-level processes that respondents suggested could help them deal with their wartime suffering. These processes should not be considered exclusive but overlapping and mutually beneficial. However, while truth-seeking processes received significant support from many people, recording and documentation processes were much more divisive: Many expressed real concerns about the dangerous implications of documentation on security and ethnic relations in Afghanistan. Compensation was the most popular policy, although reparations were only perceived as sufficient to address material losses and not to compensate the death or disappearance of a relative. Moreover, compensation policies were often confused with general development and it is not clear whether greater general development would be preferred to specifically reparative policies. This set of priorities also meant that memorialisation was the least popular option since respondents generally felt that money should be spent on more pressing concerns such as education and healthcare.

The overall demand was that victims' past suffering be recognised by the government. Perhaps one of the strongest ways for the government to demonstrate its concern for the country's victims would be to deal with those responsible for their suffering. These issues are the focus of the following chapter.

5.   Dealing with the Perpetrators of Wartime Violations

Opinions about how to deal with the perpetrators of wartime violations can be grouped into two broad categories. The first emphasises the significance of holding war criminals formally to account, typically articulated as the need to "punish." The second advocates the need to "forgive" or "forget" the past. However, on closer analysis this distinction is not so simple. In reality, it is almost impossible to place respondents into one or other category since an overwhelming number of them expressed contradictory opinions, appearing to change their mind within the space of one interview, one discussion group or over a series of interviews or discussions.

Rather than discounting these fluctuating opinions as unreliable testimony, the fact that such changes occur is significant in itself. On one level, it reflects the fact that they have had little previous opportunity to reflect on these issues, contributing toward uncertainty about how to answer questions. Variable responses are thus sometimes the result of a respondent developing their own opinions throughout the course of the research.

On the other hand, it is sometimes possible to identify why an individual may have been prompted to change his or her mind. In some cases, respondents advocated varying approaches for different crimes or certain perpetrators. In others, consideration of the challenges the current environment in Afghanistan might pose caused people to change their mind. Typically, changes in mind went in one direction, from advocating punishment to demonstrating a willingness to forgive or forget (See Figure 1).

The analysis of this section therefore explores the range of these opinions. Section 5.1 outlines respondents' perceptions of the obstacles to pursuing accountability for crimes committed during the war. Section 5.2 examines opinions supporting holding perpetrators to account and looks at punishment from a procedural perspective, exploring which mechanisms are legitimate and who has the appropriate jurisdiction in this area. Section 5.3 outlines opinions advocating a "forgive" and "forget" approach. Section 5.4 concludes by outlining conditions and mechanisms that could build support for forgiveness as an approach.

5.1   Contextual considerations

Before examining views about why perpetrators should be punished, forgiven or at least ignored, it is important to reflect on the environment in which any policies and processes to confront crimes of the past must operate. A previous AREU paper explored the environmental challenges to implementing transitional justice in Afghanistan.[60] These included: lack of governance and rule of law, and specifically a weak and corrupt state justice system; the limited political will of the government and its international partners to address the culture of impunity in Afghanistan; and deteriorating security in the country. It concluded that the continued failure to address issues of impunity and implement a comprehensive process of transitional justice has shaped how Afghanistan looks today. An additional challenge frequently mentioned across both communities was the difficulty of proving guilt given the specific nature of Afghanistan's past conflicts.

Concerns about all these challenges were generally shared by most respondents rather than being specific to a certain area or group. It should, however, be acknowledged that the extent to which respondents discussed a specific challenge differed. Male

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60   Winterbotham, "The State of Transitional Justice in Afghanistan."

Figure 1: The relationship between context and the desire for punishment or forgiveness/forgetting

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┌─────────────────────┐      ┌─────────────────┐      ┌─────────────────────┐
│ Desires for punishment│  ▷  │ Current context │  ▷  │ Desires to forget or│
│ and criminal justice │      │                 │      │      forgive        │
└─────────────────────┘      └─────────────────┘      └─────────────────────┘
         │                            │                    │            │
         ▼                            ▼                    ▼            ▼
                                                    ┌───────────┐ ┌───────────┐
                                                    │Forgiveness│ │Forgetting │
                                                    └───────────┘ └───────────┘
                                                          │            │
                                                          ▼            ▼
┌─────────────────────┐      ┌─────────────────┐   ┌───────────┐ ┌───────────┐
│Arguments in support │      │ Weakness of the │   │ Arguments │ │ Arguments │
│   of punishment     │      │state justice    │   │in support │ │in support │
│                     │      │    system       │   │    of     │ │of a       │
└─────────────────────┘      └─────────────────┘   │forgiveness│ │forgetting │
         │                            │             └───────────┘ │ approach  │
         ▼                            ▼                   │       └───────────┘
┌─────────────────────┐      ┌─────────────────┐         │             │
│Positive impact on   │      │Impunity at all  │         ▼             ▼
│context as a key      │      │levels of        │   ┌─────────────────────┐
│argument             │      │government       │   │Impact of contextual │
└─────────────────────┘      └─────────────────┘   │considerations on    │
         │                            │             │decision to support  │
         ▼                            ▼             │this approach        │
                          ┌─────────────────┐       └─────────────────────┘
                          │Security situation│
                          └─────────────────┘
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respondents in both areas were more likely to go into detail about the failures of the rule of law and justice system, while women (especially in Dara-i-Ali) more generally questioned the ability of the government to implement justice.

Weakness of the state justice system

People in both research sites generally considered that the government and its justice system have an obligation to provide security and protect the rights of Afghan citizens. However, in contemporary Afghanistan, the formal system has limited reach and legitimacy. Even ten years after the fall of the Taliban, state governance struggles to function effectively in the face of limited human resources and infrastructure, a legal system that remains largely in tatters and local power structures that largely continue to trump central authority. The total failure of the state during the civil war of the 1990s ended the existence of a formal "system" of laws and institutions to uphold them. Meanwhile, the informal system sought to fill the void, adding Sharia courts and commanders' *shuras* (councils)[61] to the more traditional *shuras* of village elders or "whitebeards."[62] Research suggests some 80-90 percent of both criminal and civil disputes are currently resolved outside the formal system.[63]

The limitations of the state justice system were recognised by many respondents, although men were the most vocal in their complaints. As many respondents' personal experiences attest, while judicial structures exist in theory, they are in practice weak, hard to access and largely ineffective. Respondents directly linked these specific failures to the overall failure of the government to implement the rule of law in the country. The general feeling was that if the Afghan government could not command respect for the rule of law then it was unlikely that the state justice system would possess the necessary power to administer justice. In essence, people felt that the rule of law was not being implemented at the highest levels of government and consequently had little meaning at the ground level.

The weakness of the Afghan government was attributed to the lack of legitimate and capable people in positions of authority, particularly in central government, which was largely blamed on corruption and impunity. There was little faith in the potential of this system to change as long as people were able to bribe or intimidate their way into positions of power, particularly during elections. This impression was particularly strong since the research took place prior to and following the 2010 parliamentary election. As a recent AREU paper has noted, they increased the distance that most respondents feel between themselves and their government and exacerbated a deep distrust in electoral and state institutions.[64] "We see some people have collected votes using money," said Karim, a younger FGD participant in Dara-i-Ali. "How can we be hopeful that the parliament will bring change in society?"

Pervasive corruption at all levels of government was felt to be the key factor in the failure of the administration and the state justice system to implement justice. There

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61 The term *shura* is sometimes equivalent to the term *jirga*, but sometimes with more persistent membership and ongoing governance roles rather than being for ad hoc problem solving.

62 Thomas Barfield, Nojumi Neamat and J. Alexander Their, "The Clash of Two Goods: State and Non-State Dispute Resolution in Afghanistan" (Washington, DC: United States Institute of Peace, 2006), http://www. usip.org/files/file/clash_two_goods.pdf (accessed 11 December 2010).

63 Barfield, Noujiumi, Thier, "The Clash of Two Goods," quoting "Afghanistan in 2006: A Survey of the Afghan People" (Kabul: The Asia Foundation, 2006), finding that only 16 percent of Afghans would go to a government court to resolve their disputes.

64 Noah Coburn and Anna Larson, "Undermining Representative Governance: Afghanistan's 2010 Parliamentary Election and Its Alienating Impact" (Kabul: AREU, 2011).

was thus a widespread perception that judicial processes were being administered by incompetent or dishonest people who were subject to corruption and bribery. Frequent examples focused on the expectation that court officials were open to or required bribing at every stage of the legal process, whether simply to bring a case to court in the first place or to secure the release of prisoners before their guilt or innocence could be proved.

A number of respondents, particularly male FGD participants in Dara-i-Ali, considered that a contributing factor in this failure of the government to uphold justice was the weakness of the Afghan population itself. These men argued that if the Afghan people had more knowledge they would be able to hold the government to account more effectively. The absence of a strong civil society to represent the needs of the people was seen as critical in this regard. Mosa, a middle-aged FGD participant from Dara-i-Ali, summed up this view:

> There is no strong organisation to put pressure on the government. Civil society does not have enough money and does not have enough power...If people demonstrate for two days they cannot continue for any longer. If they do not have a leader, who can put pressure on the government?

Culture of impunity

Despite the scale and length of the violence, there has been no accountability for past crimes in Afghanistan committed during any of the phases of war.[65] There has been little action to address the culture of impunity in Afghanistan and alleged perpetrators of some of the worst human rights abuses have retained positions of power. This was widely acknowledged by both communities; while regimes might have changed, respondents often emphasised that those who held power had not. More significantly, it was felt that a proportion of those in power had also continued their "wartime" criminal behaviour. Fakhria, an older female FGD participant from Sayed Abad, explained that "Those who had power in the past are still in power. Those who were cruel, they still are cruel, and no one can say anything to them."

Respondents in both areas mentioned the names of individuals who had retained power in central government despite their alleged roles in wartime atrocities. In urban Sayed Abad, male respondents often identified individuals from the province who continued to live freely in the community or who had obtained positions in the provincial government or as judges and legal officials. In contrast, respondents in the rural community did not tend to identify local perpetrators in formal positions of power. One possible reason for this is that the distance of the rural site from the district centre, let alone the provincial capital, made alleged perpetrators less visible.

The continued presence of these individuals in positions of power was held directly responsible for the government's unwillingness to address wartime violations since they had little incentive to investigate and address these crimes. This was strongly emphasised by younger male participants at an FGD in Dara-i-Ali. Fraidoon captured the feelings of this group, arguing, "Now there are some people in the high positions of the government whose hands until yesterday were involved in spilling the blood of people. They were the heads of criminal bands, they do not want justice."

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65 Trials have, however, been held outside Afghanistan in the United Kingdom and the Netherlands. The trial of the aged communist intelligence chief, Assadullah Sarwari, is excluded as it can be seen as a parody of the transitional justice process, violating basic standards of due process for a fair trial. For more information see Sippi Azarbaijanni Moghaddam, "On Living With Negative Peace and a Half-Built State: Gender and Human Rights," *International Peacekeeping* 14, no. 1 (2007): 133-4.

However, despite their past actions these individuals were still able to marshal support during election periods. Several men from the urban research site acknowledged voting for those they believed guilty of wartime crimes since they were perceived as best able to defend their *qawm's* honour and interests. Alidad, an older male FGD participant from Sayed Abad, was one man who admitted this:

> *Let me tell you a simple saying, it is said that water is dirty from its foundation. All our elders are guilty, why did they kill people? But you see, although we know these realities still Safa [another FGD participant] and I elected one of those violators for the parliament. The conditions cause us to do so.*[66]

Moreover, the shifting and uncertain nature of Afghan politics mean that Afghans face great difficulties in deciding which political leaders they should support, forcing many to ultimately side with the "devil they know" as the most reliable choice.

At all levels, respondents identified the deeply entrenched set of power dynamics that continues to plague the country as one of the major challenges yet to be confronted. Respondents emphasised that those who had abused their power in the past were protected by the fact that they currently held the strings of government in their hands and could still garner support by politicising ethnic or qawm identities or indulging in corruption and intimidation.

Challenges that Afghanistan's wars present to proving guilt

Cases of mass atrocity, particularly those of an ethnic nature, typically involve vast numbers of people and crimes are conducted by and against specific religious, ethnic or other solidarity groups. Moreover, the conflict in Afghanistan has, in reality, been several conflicts, each with multiple phases and actors, making it difficult to write a comprehensive story.[67] People in both research sites frequently remarked that since Afghanistan's various conflicts involved vast numbers of people and many different factional, ethnic and *qawm* groups, it is difficult to identify perpetrators, collaborators, followers and victims. In reality, the suffering endured by Afghans during the past conflicts has known no geographic, temporal or ethnic bounds. Essentially, everyone has suffered. In fact, several men from the urban area emphasised the challenge of identifying a criminal in an environment where people were forced to fight:

> *At that time people from Bamiyan were also with the Taliban, as well as people from Pakistan. Therefore it is hard to distinguish between the bad and good people. They [Taliban] were taking people by force to the front to fight against Massoud. If we did not accept and go and fight they would kill us. All of the people of Afghanistan had a hand in things. Even Afghan children were involved in the past war.*

> —Salim, younger male respondent, Sayed Abad

Consequently, the majority of men and women interviewed stated that they would not be able to identify the specific individual who had wronged them. This was compounded by the fact that the main perpetrators were largely perceived to be strangers to both communities. Great weight was placed not only on being able to identify *who* was responsible, but on being able to prove it, which was seen as vital to judicial processes. But as one man in Sayed Abad explained, "If there is a document the UN can prosecute the violators, the problem is that there are no documents and evidence available." In

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66   For more on the tendency to vote along *qawm* lines in Afghanistan, see Noah Coburn and Anna Larson, "Voting Together: Why Afghanistan's 2010 Elections were (and were not) a Disaster" (Kabul: AREU, 2009).

67   Worden and Steele, "Telling the Story."

the eyes of many people, it was difficult to imagine how necessary documentation and evidence would be obtained after so many years had passed, despite the conflict mapping work conducted by AIHRC in this area. This lack of understanding regarding the ongoing documentation processes and the ability of specialised organisations to discover "truth" and facts even decades after crimes were committed was a key reason underpinning people's absence of expectation of punishment of perpetrators of crimes.

Security

Bamiyan is one of the most peaceful provinces in Afghanistan and has remained largely unaffected by the deteriorating security situation in other parts of the country. Regardless, the harsh experience of Taliban rule has left its mark on both communities, who were sensitive to any possibility of a return to violence in the province. Consequently, respondents raised concerns that holding people to account would trigger further violence, perhaps not in Bamiyan but in other parts of Afghanistan. Conversely, several male respondents in both areas emphasised the link between impunity and deteriorating security. This was employed as a key argument for a retributive approach, as is outlined in Section 5.2.

Respondents generally perceived these challenges as presenting considerable obstacles in the path of securing justice for wartime crimes. One of the main objectives of this project has been to explore people's demands for justice and locate these within the specific Afghan context. The project aimed not only to present idealistic desires but encouraged people to reflect on the realities of the current environment in Afghanistan. The tendency that was observed in research undertaken in Kabul Province was thus even more pronounced in Bamiyan: while many people strongly supported punitive measures initially, reflecting on these conditions caused people to change their mind about the appropriate approach in a majority of cases. This is clearly demonstrated in the ensuing sections.

5.2   Holding perpetrators to account

Both communities widely rejected forgiving those guilty of wartime violations and came out in support of a retributive approach. This section first presents the range of opinions in support of punishing perpetrators. It then goes on to explore how respondents envisaged this happening in practice, including procedural elements such as appropriate jurisdiction, legitimate accountability mechanisms and who should or should not be held to account. Widespread support for punishment was observed in both research sites among male and female respondents. It should be re-emphasised, however, that these attitudes were not necessarily fixed.

Arguments in favour of punishment

Justice and Islam

Islam formed the theoretical basis for many of the arguments put forward in support of accountability for wartime crimes. However, while Islamic norms and practices clearly informed a substantial part of people's thinking, only a small number specifically framed their arguments in terms of Islamic and Sharia law. It should also be noted that the interpretations presented here are not the author's own but those outlined by people in the communities. In Afghanistan, where large sections of the population remain illiterate, understanding of Islam is often built through oral narratives.

Islamic law was widely perceived to require accountability for serious crimes, outlining specific punishments for crimes such as murder, rape and theft. For example, murderers should be hung and thieves should have their hands cut off. Serious violations of human rights consequently had to be addressed under Islamic law. Punishment was often conceived as a process of "taking back victims' rights" by ensuring that victims, martyrs and innocent people's *qimat khoon* or *khunbaha* ("blood price") was met.[68] In this context, blood price means the appropriate compensation that should be provided if someone is killed, including punishment or financial and material compensation.[69] Raziya, a younger female respondent from Dara-i-Ali, summed up this position:

> *Islam says that cruel people should be punished and martyrs' blood should be avenged—they should be asked why they killed them without any reason. Poor people's rights should be upheld. God and the Prophet don't like cruel people.*

The general understanding that people had a predefined right under Islam to seek redress and recompense for crimes committed against them or against their family offered further justification for punishment. This is perhaps strengthened by historical precedent in Afghanistan. Prior to the establishment of a state justice system, the general understanding was that everyone had a personal right to punish transgressors themselves and take appropriate retribution: an eye for an eye, a tooth for a tooth, a life for a life. In the absence of court prosecutions, this led to blood feuds operating under specific sets of restraints that defined acceptable limits of action.

Justice for victims and family

It was widely believed that the scale of crimes and the number of victims in Afghanistan were too great to go unpunished and that allowing the perpetrators of gross crimes to simply walk free was morally repugnant. It should be recognised that this argument generally only applied to crimes categorised as "serious," such as murder or rape. People often drew clear distinctions between crimes that they felt they could forgive, or at least ignore, and those that required retributive action. Crimes involving material or financial losses, such as looting, might in normal circumstances under state and Islamic law require formal punishment. However, given the unique situation post-conflict environments present, most (if not all) people interviewed were willing to give up their rights to seek punishment of these crimes. Qadir, a younger male respondent from Sayed Abad, explained this:

> *The ones whose family members have been martyred, they cannot forget. They may forget if the ones who have martyred them are prosecuted. But some other families who have faced fewer injustices and violations may easily forget the past as time passes.*

In a large number of cases, men and women in both areas desired retribution that would cause the perpetrators physical or emotional pain. This was perceived as serving the combined goal of punishing the guilty and providing vindication for the victims. Victims in these communities frequently framed the issue in terms of "healing *oqda*." Punitive measures would "*delle shan ra yakh konad*" (make their hearts cool) or "*dard delle*

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68   The difference between in *qimat khoon* and *khunbaha* is simply that the first is used more conversationally while *khunbaha* is mostly used in writing. Previous AREU research on community-based dispute resolution (CBDR) in Bamiyan described blood price as the amount of compensation that should be paid if someone was killed. This research found that this does not only cover monetary payments but compensation was also perceived as the punishment of the perpetrator or any other type of compensation that was deemed suitable.

69   AREU work on CBDR points to the frequency of demands for blood price in Bamiyan. See case 7 in the appendix of Smith with Manalan, "Community-Based Dispute Resolution Processes in Bamiyan Province."

shan ra aram konad" (calm their hearts' pain). Part of the perceived healing potential of punishment lay in forcing people to appreciate the pain they had unleashed on their victims. In doing so, the hope was that the criminals would feel regret about their past crimes.

For a few women in Dara-i-Ali, the healing potential of retributive justice actually held more significance than the potential security risks associated with holding people to account. These women were part of a minority who argued the need to see punishment regardless of the context. The feelings of this group are reflected by Zarmina, an elderly woman from Dara-i-Ali:

> *Punishment will have a bad impact on security and peace because their companions will bear hatred and hostility and again they will start fighting and kill people. So, it will have a bad impact. But if they don't see the results of their crimes and realise their guilt and are not punished, peoples' heart will still be full of pain. So, they should be punished.*

Justice and security

As explained, the security concerns associated with administering justice to those guilty of wartime violations posed a dilemma for respondents. Many were torn between the fear that punishing the perpetrators could exacerbate insecurity in the country on the one hand, and perceptions of the positive link between justice and security on the other.

When discussing the positive correlation between justice and security, both communities emphasised that the failure to hold people to account had allowed the continued abuse of power by an elite few inside government. Meanwhile, failing to hold the Taliban to account was perceived to have enabled them to regroup and continue with their war against the government. Many therefore argued that if the Taliban, in particular, were punished and consequently prevented from committing further abuses, this would have a positive impact on security. A younger female FGD participant from Dara-i-Ali summed up this general view: "When there are no bad people, security will get better, not worse. These are bad people who are responsible for suicide attacks, killing people and leaving lots of women widowed and children orphans, they [the Taliban] have to be removed from here."

It was also felt that administering justice against those responsible for wartime violations would serve as a lesson to criminals, their supporters and to ordinary people. By demonstrating that this type of behaviour would no longer go unpunished, it would make them less likely to repeat their crimes. Ensuring that people were held to account for all crimes was thus seen as essential in building respect for the rule of law in Afghanistan. While male and female respondents from both areas shared this opinion, this view was perhaps most strongly voiced by younger male participants of an FGD in Sayed Abad and was well summed up by Qadir:

> *I agree with implementing law to reform the next generation. If law is not implemented against me if I have done something wrong what lesson would this send to other people? If law had been implemented against violators, you would not see violations in Helmand and other places where there are conflicts now.*

Box 7: Two examples of revenge killing

There were two Tajiks in the area, one was a Khalqi [a communist faction] and the other one was a Mujahid. The Khalqi had once arrested and beaten the Mujahid. During the factional war, the Khalqi moved to Mazar. As soon as that Mujahid was informed he decided to take his revenge and one night he entered the Khalqi's house. He fired at him while he was sitting with his family. However, instead the brother was killed. The family caught the Mujahid while he was escaping and the Khalqi cut him into pieces with an axe. These kinds of cases have had happened many times between different ethnicities. It is common in Afghanistan that a person who has lost a family member does not leave the killer alone.

Qambar, older male FGD participant, Sayed Abad

The man who killed a person was from Kakrak in Sayed Abad. The man he killed was a Tajik who all the people knew had killed Hazara people. So, the person from Kakrak came and killed the Tajik and took his revenge. The Tajik had done bad things to him and looted his house and he had also been cruel to all the people in the area so the man felt that they suffered a lot and so he killed him. This happened during the Taliban time. After that he ran away to Iran and Pakistan and the Taliban couldn't run after him. He has still not come back, because he is afraid that if he does so, the Tajiks will kill him.

Zarmina, older female respondent, Dara-i-Ali

So far, the analysis has explored the positive correlation between accountability or punishment and security in relation to the impact on the perpetrators. However, an additional argument employed by respondents was that formal punishment was needed to prevent victims seeking vengeance. Despite acknowledging in theory the right outlined under Islam for an individual to seek redress where crimes were committed against them, in practice, many people feared the risks this presented to security. People in both communities argued that in the absence of a formal justice process some victims might attempt vigilante justice, which could trigger cycles of vengeance. While power dynamics between victims and perpetrators in Afghanistan largely prevent wide-scale vengeance, this concern was legitimised by general knowledge of several cases of revenge killing in both research sites (see Box 7).

To stop personal vengeance, the formal judicial system was perceived as best placed to "take revenge" for the victims by the majority of people interviewed. A middle-aged male respondent from Dara-i-Ali, Rahim, summed up this general desire for the government to act instead of the victims:

> *We cannot drag criminals to be hanged because if we do their relatives will do something to us. This kind of work is the responsibility of the security sector, the police and the government. If everyone takes their revenge the situation will probably get worse. It is because people haven't obeyed the law that we have come to this situation.*

Finally, one additional argument expressed by younger female FGD participants in Sayed Abad actually downplayed the threat of justice to security, arguing that any resultant violence was unlikely to be worse than what they had already experienced. In this view, the security implications were consequently not as significant as the overall benefit derived from punishing people. Sidiqa reflected the sentiment of this FGD, arguing, "We know that situation will get worse, but criminals should be punished. Maybe it will not become any worse than during the war." Moreover, these women and some men in both areas argued that since the presence of the international community could guarantee security, it is actually the best time to investigate and prosecute people.

Who has the appropriate jurisdiction to deal with the perpetrators of war crimes?

Three main sources of jurisdiction[70] were discussed in relation to administering justice: the Afghan government applying state justice procedures; the international community through international justice mechanisms; and elders and whitebeards, largely through local dispute resolution structures.

For the overall majority of those supporting a retributive approach, the government possessed the appropriate jurisdiction to administer justice for crimes of this nature. In the case of serious crimes, it was widely agreed that state authority is essential, with punishment dealt out in line with Islamic or Sharia law.[71] Consequently, community members often stressed that perpetrators should be "punished legally" and "according to the law."

In particular, documentation processes in the formal system were seen to be more durable, more readily enforced, and more likely to prevent future conflict. This perception was also observed in AREU's research on community-based dispute resolution (CBDR) processes, which found that respondents derive confidence from the belief that when their dispute outcomes and legal entitlements are registered with the government they are unalterable, no matter what might occur politically.[72]

While the state justice system was perceived as the most appropriate forum for determining and administering punishment, it was also widely felt that a "good government" or a "real government" should protect victims by punishing perpetrators. As Abbas, an older male respondent from Dara-i-Ali, worded it, "If the government is a good government it will compensate people's losses and put the violators on trial." This perceived responsibility was also based on the understanding, in theory, that the government had the necessary power to ensure victim's rights were not trampled on. Moreover, as previously outlined, state-led justice as opposed to victims' revenge was perceived to better serve the interests of security and peace in the country.

This belief prevailed despite widespread acknowledgement of the weakness and limitations of the state justice system and the government's lack of legitimacy. However, as Beyer argues, the role of the state is more determined by citizens' expectations on what it should fulfil rather than what it does in reality.[73] Theros and Kaldor argue that increasing interaction with the outside world has increased awareness and expectation

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70   Jurisdiction is defined as the practical authority granted to a formally constituted legal body or to a political leader to deal with and make pronouncements on legal matters and, by implication, to administer justice within a defined area of responsibility. Jurisdiction can be allocated according to geographic area, dispute type, size of claim, phase of dispute or a number of other factors depending on the design of a particular legal system; jurisdiction can be exclusive to a single legal body or can be shared among legal entities.

71   Previous AREU research on CBDR found that Afghanistan's justice system is based on a multi-layered approach. People tend to delineate dispute type and the corresponding appropriate resolution fora by describing them as "big" or "small." Big disputes include serious crimes involving death or injury; land or water claims of long duration, between villages or involving multiple parties from within the village; protracted inheritance or land division disputes; divorces; and cases of severe or recurring domestic violence. For more information see Deborah J. Smith, "Community-Based Dispute Resolution in Nangarhar Province" (Kabul: AREU, 2009); Smith with Manalan, "Community-Based Dispute Resolution in Bamiyan Province"; and Rebecca Gang, "Community-Based Dispute Resolution in Balkh Province," (Kabul: AREU, 2010).

72   Rebecca Gang, "Community-Based Dispute Resolution in Kabul Province" (Kabul: AREU, 2011).

73   J. Beyer, "Imagining the State in Rural Kyrgyzstan: How Perceptions of the State Create Customary Law in the Kyrgyz Aksakal Courts" (Halle/Saale, Germany: Max Planke Institute for Social Anthropology, 2007).

of the responsibility of the government. They suggest, moreover, that the demand for a strong central government is perhaps currently stronger than in previous times and a reaction against the power of a new generation of strongmen who control military and financial resources.[74]

However, respondents distinguished between what they wanted the government to do in theory and what was possible in practice. Given the general awareness of the unwillingness and inability of the government and state institutions to punish criminals, a number of respondents envisaged a role for the international community. While people did not see international jurisdiction as superseding government authority, they felt it could fill the vacuum left by the absence of the latter. The strongest support came from men in Dara-i-Ali and women participating in FGDs in the area.[75] In contrast, less support for international jurisdiction was observed among men and women in the urban site.

Those who envisaged a role for the international community considered that it had a responsibility to deliver justice for the people of Afghanistan based on its ability to do so and its continued presence in the country. A few younger men in the rural site specifically outlined a role for the UN, which was known to possess a "black list" of criminals and was consequently well-placed to identify those who should be punished.

Some groups argued that the international community not only possessed the necessary power to prosecute Afghanistan's major wartime criminals, but were perhaps better placed to do so. Although people in Sayed Abad were less in favour of international jurisdiction, an FGD with younger women there pointed to the fact that, given the prevalence of corruption and bribery in Afghanistan, those guilty of crimes might be able to bribe their way out punishment. International judicial processes were viewed as more legitimate and less subject to bribery or corruption. Female participants at an FGD with older inhabitants in Dara-i-Ali also felt that international tribunals would better serve security interests in Afghanistan. As Khadija, an older woman in Dara-i-Ali, remarked (to the widespread agreement of her focus group):

> The local people can't punish criminals, it is impossible because it will create another cycle of hatred. In local communities there aren't any people who are able to do so it is better that the international tribunals do this work.

Nevertheless, considerable opposition to international involvement was observed in Sayed Abad. A key argument applied by male participants of an FGD in Sayed Abad was that Muslims could not be prosecuted by non-Muslims. This concern was summed up by Delawar who asked, "How can an infidel court judge and prosecute Muslims? It is forbidden in Islam." A more common concern was that perpetrators should be punished in Afghanistan so that the victims could see their punishment. Even those who saw the benefits of international justice also acknowledged that holding trials outside Afghanistan could limit the potential cathartic benefits of retributive punishment. Sidiqa, a younger female FGD participant from Sayed Abad, captured this concern:

> If they are punished here it will be good so that people can see with their own eyes that they were punished. People's hearts are very painful, so they would feel cooler, and their pain would decrease.

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74   Theros and Kaldor. "Peace from the Ground Up."

75   It should be noted that in individual interviews women in the area rarely discussed a role for the international community. The most obvious explanation for the difference is that the second round of FGDs included information about the role of the international justice mechanisms in other countries. Women in these groups therefore supported this approach based on their new knowledge. In contrast, women who did not participate in the FGD largely had no prior knowledge of the role international jurisdiction might play and consequently did not conceive of this approach.

For the majority of respondents in support of retributive measures, it is clear that formal sources of jurisdiction—either Afghan or international—were perceived as the most legitimate. However, given Afghanistan's multi-dimensional justice system, a few, largely male, respondents from each community suggested that well-respected local authority figures, such as *kalanha* (elders) had a role to play. Generally, this small group felt that elders in each community could hold consultative and inclusive *jalasa*s (meetings) in order to discuss how best to deal with a perpetrator according to Sharia law. If the decision was taken to punish criminals, then heads of the community's *shura* and elders could designate the appropriate punishment. However, the power of elders and *shuras* to deliver judgement was largely related to less serious crimes. Respondents generally believed that the perpetrator should be handed over to the formal authorities in more "serious" cases.

Finally, a small number of women suggested that victims themselves could be a source of informal power, feeling that they should be responsible for administering punishment outside of the formal system. However, overall this option was largely rejected by both communities. Instead, a few younger men in a FGD in Dara-i-Ali felt that, as Afghan citizens, people had a responsibility to assist the government in creating an environment in which justice could be upheld. These men suggested that people themselves should document past violations and raise awareness of them in their respective communities. Hamed expanded on the ideas of this group:

> *I believe people should develop to a stage where everyone understands that I, for example, do not have the right act tyrannically towards other people and other people also do not have a right to be tyrannical against me. In this way, the situation for prosecutions of criminals will be created automatically.*

Legitimate mechanisms for holding perpetrators to account

As outlined above, the majority of people in favour of a retributive approach supported formal mechanisms of punishment. This section explores organised mechanisms of holding perpetrators to account, namely criminal prosecutions administering sentences of capital punishment or imprisonment.

Putting perpetrators of atrocities on trial was widely supported in both areas. As discussed above, state courts were seen as the most appropriate forums to prove guilt and deliver judgment; their evidence-based judgments and documentation were widely felt to be essential in prosecuting crimes of this nature. As Zubaida, an older female FGD participant from Sayed Abad, put it, "It is very good if someone gives testimony in court. Without any testimony, witnesses and evidence, it is difficult to recognise criminals."

Court processes were also perceived as fulfilling restorative and healing goals, contributing towards truth-seeking processes through two technologies of truth: the "testimonial" and "confessional."[76] The power of testimonial truth turns on the spectacle of victims' suffering, communicating not just the forensic details of a violation but the personal pain resulting from the act. Despite the security concerns discussed above, there was clearly a demand among both communities to inform the relevant authorities what they had suffered and an obvious willingness to speak about their pain.

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76 Claire Moon, *Narrating Political Reconciliation: South Africa's Truth and Reconciliation Commission* (Maryland: Lexington Books, 2008). Moon argues that these truth technologies are usually associated with National Reconciliation that is based on a therapeutic moral order and is typically based on amnesty and truth commission mechanisms rather than retributive processes. However, many respondents perceived that criminal prosecutions were also equipped to deal with these goals.

> **Box 8: Arguments in favour of capital punishment**
>
> *Every society has its own law and verdicts, and in the same way Islam has its own. In every society and country verdicts should be implemented according to their own law. In Islam, the death penalty should be applied to murderers...Here in Afghanistan, because people are Muslims, murderers should be sentenced to death. Otherwise, Islamic law has been ignored. If the Islamic Law is not implemented, the court is not reliable.*
>
> <div align="right">Qadir, a younger male FGD participant, Sayed Abad</div>
>
> *If they are given capital punishment it is better. If they live, they will free themselves using money. Others will learn from this experience and repeat the same cruelty.*
>
> <div align="right">Fakhria, older female FGD participant, Sayed Abad</div>

By contrast, the authority of confessional truth lies in its potential to demonstrate the "renewed humanity" of a perpetrator, to which a public display of emotion, remorse or apology is crucial. The confession represents a statement both of repentance and of personal virtue.[77] This acknowledgement of guilt and regret was crucial for many respondents interviewed, particularly women. Moreover, given the complexity of wartime events, testimonies and confessions were also perceived to create evidence, which, as one younger FGD participant in Dara-i-Ali pointed out, could help overcome some of the barriers to justice: "[Criminals] are supported by their sects or their *qawms*. I think that evidence should be gathered against them so that no-one can support them. This way the government can prosecute the oppressors."

While criminal trials received significant support from a wide range of respondents, people differed in their opinions about which punishments should be administered. Sentences of capital punishment, typically conceived as hanging, were a divisive issue. A significant proportion of women interviewed in both areas favoured hanging for serious crimes; in comparison, only a limited number of men desired this approach.[78]

In the eyes of this group, capital punishment was seen to fulfil the requirements of Islamic law, uphold the rights of victims and serve some interests of security by eliminating criminals. Under Islamic law, the designated punishment for murder is hanging, which female respondents in particular saw as adequate compensation for victims' blood price. In contrast, punitive measures such as imprisonment or removing people from positions of power were perceived as insufficient, as people could bribe their way out of prison and might then repeat their crimes.

However, on the whole, imprisonment was a more popular option than the death penalty. Even many of those women who favoured the death penalty argued that lengthy prison sentences could be an acceptable substitute for the death penalty. One of the most frequent arguments in favour of this approach was that it was in the best interests of Afghanistan's security. Some respondents felt that capital punishment carried the risk of inciting violence, either from the family of the criminal or from his or her followers. Nasrin, an older female respondent from Sayed Abad, explained:

> *They should be hanged or killed, but I think if this happens their family members and others will start fighting and the situation will become worse*

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77   Claire Moon, *South Africa's Truth and Reconciliation*.

78   It should be noted, however, that as a community people from Dara-i-Ali tended to speak in more general terms—supporting punishment and criminal processes, but not specifically listing punitive measures.

> *again. So I think it is better that the government take the leaders and imprison them for life.*

Overall, the evidence suggests that victims were more concerned with seeing some form of criminal process implemented than on the specific punitive measure. This was similarly observed in the analysis of the research conducted in Kabul Province.[79]

Who should be punished, who should be forgiven?

This section has so far addressed why people felt alleged perpetrators of wartime violations should be punished and how this should happen. It is now important to be more specific and outline who should be punished and, consequently, who should be forgiven.

As mentioned above, it was widely felt that only people who had committed the most serious crimes, such as murder, rape or serious torture, should be punished. Since the leaders during each conflict were perceived to be responsible for triggering the conflict in their struggle for power, as well as for orchestrating some of the worst atrocities, the overwhelming perception was that they should be the ones to face punishment. Accordingly, ordinary militants should be absolved because they had followed orders. Instead, it was felt that these followers would learn from the punishment of their leaders. An older female respondent at an FGD in Dara-i-Ali explained:

> *They should not let the leaders walk around. They have to see their punishment to understand what they have done. The leaders are the ones who have done bad things to people and ordered people to fight and kill. When the top leaders see their punishment then it will ease the pain of the people. It will also be a good lesson for smaller commanders to learn not to commit crimes against humanity.*

Consequently, even though a significant proportion of people in Sayed Abad frequently identified Tajik, and in a few cases fellow Hazara, perpetrators from the area as responsible for a number of violations against the Hazara population, they did not tend to identify them as requiring punishment. Not only were some of their crimes classified as less serious—looting, informing, burning houses—but the fact that they tended to be followers or collaborators rather than leaders largely meant that they were not perceived as requiring punitive measures.

From a pragmatic perspective, most people felt it was difficult if not impossible to identify and prosecute all those who had played a role in the conflicts, given the length and scale of the violence in Afghanistan. The emphasis was therefore placed on those who were most culpable—largely the leaders—and who were also more easily identifiable. The need to prove guilt was perceived as key to punitive processes and, in the event that the guilt of a criminal could not be proven, they should not be punished. The leaders of the Taliban were consequently identified most frequently as requiring punishment, not only because they were seen as most culpable but because it was felt their criminal status was proven. Mosa, a middle-aged male FGD participant from Dara-i-Ali, explained this widely held view:

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79 Winterbotham, "Legacies of Conflict: Healing Complexes and Moving Forwards in Kabul Province." One distinction that is worth briefly raising is that while in Kabul respondents frequently demanded that people be removed from power, only a handful of people made reference to this approach in Bamiyan. The key reason for this is likely that for both communities the worst offenders—the Taliban—were not perceived to be in power. It was, however, strongly demanded that they not regain power, as is discussed in Section 6.3.

> *Who can gather the feet? But it is possible to find the head: he who gave commands and on whose orders people were murdered by the feet. However, the word "warlord" is used to apply to many people and faces, but it is difficult to prove who is guilty. People can easily say, "I was only defending." I believe the Taliban should be punished because it is proved that they are criminals.*

In contrast to the above discussion, a small number of largely older women from Dara-i-Ali suggested that followers also merited punishment if they had committed crimes. These women emphasised that ordinary or "little" people had committed cruel acts and therefore deserved to be punished. Shakira, a middle-aged female respondent from the area, explained this thinking: "They were so cruel to us; we will not forgive them. All of them were cruel. There were cruel leaders and little people. Leaders ordered and they acted. Both are criminals, both should be punished."

In comparison to the widespread desire to punish the Taliban, there was far less demand to prosecute communist leaders, despite the suffering both communities experienced at their hands. Given the emphasis on identification and evidence-based judgments this is largely explained by the fact that these perpetrators were most frequently identified as Russian, and had thus returned to their own country. Consequently, it was widely questioned how realistic it was to discuss punishment when there was nobody present to hold accountable.

People did not generally have any specific desire for the mujahiddin to face punishment for their role in the civil war. Firstly, respondents indicated that they were not directly affected by civil war violence. Secondly, the mujahiddin were often praised by people of all ages for trying to protect both communities from the Taliban and the Soviets.

It is important to highlight one divergence: while the majority of inhabitants of both communities saw the Hazara leaders as representatives and protectors of Hazara people, one group of men of varying ages from Dara-i-Ali argued that well-known leaders of mujahiddin factions, including Hazara ones, needed to be punished. Several possible reasons are behind this. Firstly, this group blamed these leaders for putting their individual quest for power over the security of the country, as exemplified by acts such as Akbari's siding with the Taliban. Secondly, they resented the demands these leaders had placed on their area for food and livestock, despite its poverty. A third possible reason lies in evidence of some division of support between Akbari and Khalili in this community; prevailing loyalties toward either man could thus have led respondents to indict the other. A final reason suggested by the male research team was that, at times, respondents wanted to appear unbiased and so when naming leaders from other ethnic groups also named leaders from their own.[80]

5.3   Forgive and forget

This section presents opinions on the need to forgive or the willingness to forget. The analysis makes a clear distinction between these two approaches. "Forgiveness" entails a genuine willingness to forgive wartime perpetrators and the perception that this is the most desirable approach. In contrast, the inclination to "forget" is viewed more as a political decision to give up the right to hold criminals to account, often influenced by the contextual challenges that exist in Afghanistan. However, it should be recognised that respondents used these words interchangeably and it has been up to the author to determine what the true meaning was. This section first addresses arguments made

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80   It should be noted that the presence of a male Pashtun researcher might have increased this tendency among the male research team as opposed to the female.

specifically in favour of forgiveness, then explores what prompted people to argue they could or should forget wartime crimes. Finally, it looks at conditions in which a respondent may be encouraged to forgive or forget.

Arguments in favour of forgiving or forgetting

As outlined in the introduction to this section, these sections are grouped into opinions and not into groups of respondents. Opinions are not fixed and the vast majority of respondents frequently changed their mind or expressed opposing viewpoints. The most general conclusion that can be drawn is, firstly, that both communities were overwhelmingly prone to change their mind. While the majority of respondents in each community argued for punishment, most of these later changed their mind to a forgive or forget approach. This was true of men and women of all ages in both areas. This tendency also appeared to stem from a pragmatic decision to "forget," and only a very small minority of people from both communities supported forgiveness as the best option.

Forgiveness as the best way forward

A small minority of men in both areas supported forgiveness rather than just expressing a willingness to forget crimes committed against them. As a group, women in Dara-i Ali were the least forgiving.

Arguments for forgiveness tended to be based on two understandings: the first was that forgiveness would serve the interests of peace, reconciliation and development in Afghanistan. The second applied largely to the individual benefit of personally forgiving perpetrators.

Although the first argument is similar in a sense to the emphasis on "forgetting" for the sake of security considerations, it is distinct since it takes the form of a more positive choice. In this view, what's past is past, crimes cannot be undone and those who have been killed cannot be brought back to life. Since many people were simultaneously both victims and perpetrators and are all ultimately Afghans, forgiveness was thus seen as the best way for the country to move forward.

The second argument applied to the merits of individual forgiveness, viewing the ability to forgive one's enemy, even in the absence of punishment, as part of the healing process. In the minds of those supporting this view, forgiveness bore the potential to induce change in perpetrators, teaching them the merits of good behaviour and shaming them about their past actions. As a few of these men put it, "the best kind of revenge is forgiveness." These men also suggested that Islam supported forgiveness between Muslims as well as the right to retribution:

> *If I as Muslim have some problem with my other brothers, when somebody came and tried to mediate and reconcile us I would be glad. There is a hadith from the prophet that says if a Muslim is angry with another Muslim, it should not continue for more than three days, otherwise they will have deserted Islam.*
>
> Qadir, younger male FGD participant, Dara-i-Ali

> *We are Afghan and, as always, we have dignity and we are generous so we will ignore their sins, because the joy you can get from forgiveness you will never get from revenge. The best revenge is forgiveness. If you forgive the enemy they will be a slave forever...If you kill ten people in revenge then it will not have any benefit. So forgiveness is the best way.*
>
> Rasool, older male respondent, Dara-i Ali

It should be recognised that many more people from both communities discussed their ability to forgive personally and gave up their rights to revenge but still argued that the government needed to implement justice. Moreover, even those who advocated the need for individuals *and* the government to forgive did not generally envisage violators escaping punishment altogether. Instead, they emphasised that they could forgive in this lifetime because God would punish in the afterlife. This belief that God would still punish was accepted by all people interviewed in both communities. The distinction is that for the tiny number of people in favour of forgiveness. God was perceived to be the sole source of jurisdiction in providing justice and punishment for these crimes. A far greater number wanted to see punishment by God *and* by the state. For the majority, God's punishment was only sufficient in the absence of any other alternative. Hozma, an older female respondent from Dara-i-Ali, summed up this more general feeling:

> *I pray to God. He will punish them. I leave everything to God. We are poor people. We have no power to do anything. We cannot approach those people or capture them and kill them. Our government cannot capture them. If the government could capture them and punish them we would be very happy but I know that it is impossible.*

Arguments in favour of "forgetting" past crimes

> *The conditions caused us to accept forgiveness. If those conditions were not created, forgiveness was not accepted.*
>
> —Qambar, older male FGD participant, Sayed Abad

This quote encapsulates the feelings of the overall majority of people in both research sites. While only a limited number genuinely felt forgiveness was the best approach, a far greater number of people in both areas argued pragmatically, after reflecting on the Afghan environment, that they should give up their right to seek redress. This tendency was also noted in the Kabul research. In both cases, the reasoning was similar: while many people ultimately wanted to see the punishment of perpetrators, the challenges of Afghanistan's current environment seemed to preclude this happening in practice. This perception was also shared by those arguing for forgiveness.

Older and middle-aged women in both communities appeared the most bitter about relinquishing their desires for retribution and their opinions shifted back and forth most frequently. The sentiments and confusion of this group were well reflected by Mosina, a middle-aged female FGD participant from Dara-i-Ali:

> *We don't want war anymore. Who is there to punish them? Even if we know those who have committed cruel acts then we would still not be able to punish them...If people are saying that they forgive, then it is because they have to.*

Justice, jurisdiction and forgiveness

One of the major considerations concerning the punishment of perpetrators of wartime crimes was the unequal power dynamic between victims and perpetrators in Afghanistan. According to this perception, victims lacked the power to either personally take revenge or successfully demand state action in this area, with the government (and sometimes even the international community) largely unwilling or unable to take action. This prompted the typical response that "we shall leave them to God."

Moreover, even if the government was willing to administer justice for past crimes, a number of male respondents in Bamiyan emphasised that the state justice system was incapable of handling them. Not only was there the challenge of endemic corruption to

confront, but these male respondents argued that many court officials were themselves guilty of wartime violations. According to Esmat, a younger male FGD participant in Sayed Abad,

> *If all of them are prosecuted, no one will remain in the country. Moreover, we do not have any judges to prosecute the criminals. For example, D is a judge and he wants to prosecute Q. In court Q will say to D, "How come you are prosecuting me while you, yourself, have committed every single action and violation that I have."*

Moreover, in an environment where the rule of law is not established and security not guaranteed, there was a fear that witnesses and alleged criminals would be subject to intimidation, threats and might even be killed before they could testify.

Capturing and identifying criminals given the wartime context

As discussed previously, the war in Afghanistan has, in fact, been a series of conflicts made up of several different phases, involving large numbers of people. Respondents generally argued that it was impractical to prosecute all those involved and that the state justice system was incapable of managing this process. The complex nature of Afghanistan's wars was also perceived to present a challenge to identifying and proving who were guilty of crimes during the conflicts.

As mentioned above, one issue identified in Bamiyan Province specifically was the acknowledgement that many of the perpetrators—both Taliban and communist—had long since left the communities. It was therefore questioned in practical terms how realistic it was to discuss punishment when there was no one available to hold to account. This same tendency was observed in the research community in Shakardara District in Kabul Province. Furthermore, a tentative conclusion that was drawn from the Kabul data and is backed up by research in Bamiyan is that the absence of perpetrators in communities can perhaps weaken the strength of the desire to see retribution. The fact that these communities are not confronted on a daily basis by those they hold most culpable could make it easier for them to conceive that they could "forget" these past crimes. To some extent the issue of punishment has thus been solved in the Bamiyan study communities. Bamiyan has achieved relative peace; the Taliban are no longer in power and are currently waging a war against the government and international forces in which many are dying. In the eyes of some respondents the Taliban were therefore receiving God's punishment. This led to a certain level of apathy among respondents, which perhaps further explains the frequent fluctuations in opinions.

Security and forgiveness

The challenges posed by the current security environment presented the greatest concern for all respondents interviewed. While many people in both areas saw the positive correlation between justice and security in Afghanistan, they also feared that legal processes against perpetrators could have the opposite effect. This reflects the complexity of implementing retributive transitional justice mechanisms in an environment of insecurity.[81]

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81   In fact, AIHRC found in "A Call for Justice" that while 76.4 percent of respondents felt that bringing war criminals to justice would increase stability and bring security, only ten percent felt it would decrease as a result. The concern of these respondents in Bamiyan consequently perhaps reflects the deteriorating security situation in the country between 2004 when AIHRC conducted their research and 2010 when AREU's was carried out.

While formal punishment might help ease victims' pain, limit their desire to take revenge and build respect for the rule of law, people also questioned whether this was enough to prevent increasing hatred and animosity in the country. Since many leaders were perceived to possess considerable support among parts of the population, it was feared that any attempt to bring them to justice could cause their followers to react violently.

Mosa's words in Box 9 sum up the frequent suggestion from men and women in both research communities that Afghanistan should wait until security is achieved before holding people to account, essentially putting peace before justice. It should be acknowledged that this argument is in contradiction to people's understanding in both communities that implementing justice was crucial to securing peace and further reflects the challenge that the Afghan environment presents.

Ultimately, the vast majority of people could not envisage how it would be possible to implement retributive justice for wartime crimes in Afghanistan, especially while war still raged in other parts of the country. Combined with the fact that the key perpetrators were no longer present in the community or in power in Afghanistan, this created a certain sense of despondency and apathy among a proportion of respondents. Maintaining security in Bamiyan was the key concern for all those interviewed, and since the province was currently secure, there was very little desire among the communities to shake this fragile peace. If peace could be guaranteed, there would be strong support for dealing with the perpetrators of crimes. If not, it was largely felt that it was better to forget the past conflicts.

Box 9: Forget the past because punishment can provoke hatred

If we take one another to court, another vicious cycle will begin. So we must forget all that happened, whether it was warlordism or commanders or whatever abuses.

<div align="right">Monisa, middle-aged female FGD participant, Dara-i-Ali</div>

I don't know about the impact. If we punish them maybe the security will become worse like in the past. I am sure their family members will resume fighting and will kill many other people, so because people feel tired and we don't want more fighting we leave things to God.

<div align="right">Fakhria, older female respondent, Sayed Abad</div>

Those who committed war crimes now have positions and authority; if they are prosecuted Afghanistan will be involved in anarchy. For example, if some people want to prosecute Khalili some other people will demonstrate because they believe Khalili should be in government to support them. So anarchy will increase even more than at the time of jihad. There is another way: if the UN dismisses all the criminals from the government and the government does not support any criminals from any ethnicities and groups. When an impartial government has authority and the UN gives support, it will be possible to prosecute all the criminals.

<div align="right">Mosa, middle-aged male FGD participant, Dara-i-Ali</div>

5.4 Developing support for forgiveness

Given that the key goal was peace, in some cases people argued that under certain conditions they would find it easier to not only forget but to forgive past violations. Firstly, it was widely argued that the victims themselves should be granted the power to decide whether to forgive or not. Secondly, the role of repentance and regret, largely demonstrated through apologies, was seen as a central component.

As a group, men in the Dara-i-Ali community appeared most willing to forgive if these conditions could be met, while women in the area were the most resistant to forgiveness under any circumstances. In contrast, a small proportion of men and women in Sayed Abad claimed they were potentially able to forgive. Consequently, while the main body of this section explores the conditions and processes involved in fostering a willingness to forgive, the final part presents opinions from those people who were unable to forgive.

Who has the right to grant amnesty?

In passing the *National Reconciliation, General Amnesty and National Stability Law*, the Afghan government effectively granted amnesty to all parties currently or previously involved in Afghanistan's wars.[82] This contravened Afghanistan's international legal obligations to pursue accountability for serious human rights abuses, as well as people's own perceptions of their rights guaranteed under Islam and by God.[83]

Even if victims were willing to forget the past, it did not mean they would accept the government forgiving the perpetrators without consultation. It was widely considered that forgiveness for serious crimes required the consent of the victims, and that the government thus did not have the "right" to forgive the blood of people. In essence, the right to forgive was perceived to lie with the victims only. Many respondents, largely men, based this claim on their understanding of Islamic law, which (according to them) outlines that in serious crimes *huqooq-ul-ibad* or the "rights of God's servants" (the individual) take precedence. As Alidad, an older male FGD participant from Sayed Abad, succinctly put it, "even God cannot forgive the right of his slave."

Knowledge of the amnesty law was not widespread in either community. Only a couple of younger, educated, male respondents from Dara-i-Ali mentioned the law, but even they had only a vague idea of what it entailed. However, the general rejection of the government's right to forgive by the majority of people interviewed seems to cast some doubt on the legitimacy of the law itself.

In fact, discussions about the amnesty law at times triggered disbelief among the majority of respondents that the government would deprive people of their rights in this way without consulting the victims of conflict. The doubt expressed by Fakhria, an older female respondent from Sayed Abad, is fairly typical:

> I don't think the government would forgive everyone without asking people because those who lost their family members won't forgive. So, I think the government should ask people. Then, if people say yes, the government can forgive.

Only a handful of respondents, largely older women in both research sites, argued that the government possessed the right to grant amnesty to those guilty of serious crimes. In their opinion the government was trusted to make decisions in the best interests of the people and for peace and security in the country.

Ensuring peace and security: the power of apologies

For a limited number of community members—men in Dara-i-Ali and fewer men and women in Sayed Abad—apologies were a key component of building peace. This was

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82   For a further discussion on the Amnesty Law see Winterbotham, "The State of Transitional Justice in Afghanistan."

83   Winterbotham, "The State of Transitional Justice in Afghanistan."

based on two understandings: firstly, apologies could persuade more Afghans to forgive the perpetrators and to forget desires for revenge; secondly, by the act of apologising the perpetrator would demonstrate their renewed humanity and willingness to change.

This group argued that genuine apologies from the perpetrators of wartime crimes might be sufficient compensation for their losses and could assist their ability to forgive. In this sense, apologies were largely perceived as presenting an alternative to retributive justice. Genuine apologies in this context were seen to involve three distinct processes: confessions, repentance and demonstration of change. Perpetrators' confessions could contribute towards wider demands for truth-seeking and healing processes. In the case of South Africa's Truth and Reconciliation Commission, confessions were believed to play a crucial part in victim healing because they allowed a fuller picture of an event to emerge, relieving a victim from distress caused by previous official denials, for example, or allowing families to bury and honour their relatives by revealing the location of human remains.[84]

Repentance was intrinsically linked with the understanding that the perpetrator had changed and would not repeat their past crimes. Without a demonstration that the criminal had changed, the notion of repentance was largely devoid of any meaning. It was largely felt therefore that apologies should be accompanied by a concrete commitment to peace, demonstrated by laying down arms, accepting Afghanistan's laws and, perhaps, providing a letter of commitment. This widely accepted idea is summed up by Rasool, an older male respondent from Dara-i-Ali:

> I already said that Mullah Omar is sinful, his crimes have been proved...But the Mullah does not apologise to the people of Afghanistan. If he accepts the law of Afghanistan and puts down his weapons and gives his weapons to the government then I will forgive him, even if he has killed my brother.

What processes are appropriate?

The research revealed that in administering justice for serious crimes, respondents felt that the state, or in certain cases the international community, bore the primary responsibility. In contrast, when discussing organising forgiveness, they largely saw a greater role for the community. In this context, processes of forgiveness were widely seen as rooted in the Islamic notion of *islah*—the pursuit of peace and social cohesion through a process of negotiation and reconciliation.

As respected community figures already active in CBDR processes, elders or mullahs were largely seen to possess the legitimate moral authority to act in this field. This is in accordance with CBDR practice, which is frequently rooted in the Islamic notion of *islah*, in which peace and social cohesion are pursued through a process of negotiation and reconciliation. In some cases, this recognition that elders would be the most suitable actors in forgiveness processes was based on the fact they had already played some role in calming wartime tensions. Qambar, a middle-aged male respondent from Sayed Abad, described this:

> The people who lost some members of their family in the conflicts, they have hostility with those that they blame for this. Here in Bamiyan, we elders have tried to solve these problems.

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84   Moon, "Healing Past Violence."

Their involvement was seen in several ways. Firstly, community elders were seen as to have the access to people. People accepted that it was difficult for the government to consult with all victims on the issue of amnesty, but felt it should at least consult with the elders as representatives of the community. Secondly, this group felt that if perpetrators wanted to ask for forgiveness or apologise to their victims, they should first approach the elders of the community to ensure mediation was implemented in the best interests of that specific community. Finally, if people had decided to forgive, the elders should hold *jalasas* to facilitate this process.

Is there any value in forgiveness processes and apologies?

It should be recognised that a proportion of those who supported forgiveness processes were merely prepared to accept apologies as compensation for their suffering in the absence of anything else. For some, apologies were perceived as a bare minimum rather than a substitute for other forms of justice. Many more, particularly women and younger men from Sayed Abad, questioned the value of such processes altogether.

In general, respondents saw apologies as insufficient compensation. Indeed, many people argued that if apologies were to have any meaning they should be pursued in conjunction with processes aimed at dealing with the legacies of conflicts along with their perpetrators. In fact, even as men from the rural site placed apologies strongly at the centre of forgiveness processes, a significant proportion of them still wanted crimes to be investigated, compensation paid and perpetrators prosecuted before they could be forgiven. In the view of this group, blanket amnesty would not serve the interests of peace and security. Hamed, a younger male FGD participant from Dara-i-Ali was one man who voiced this opinion:

> *I am not in favour of a general amnesty. I think it is better to investigate and then forgive the violators so that people do not have conflicts with each other. Moreover, I believe it is not enough. They should pay compensation to people as well.*

Moreover, placing apologies at the centre of people's ability to forgive was problematic for most people since they doubted whether the criminals would actually ever apologise. There was a general feeling that perpetrators were not sorry for their crimes and even if they were, they would be unlikely to admit their guilt for fear of the consequences. For example, younger male FGD participants in Sayed Abad questioned whether it was realistic to consider that Sayyaf would apologise to the Shia community or whether Khalili and Mohaqiq would do the same for Pashtuns and Tajiks. One middle-aged male respondent from Sayed Abad, Murtaza, even explained how several leaders had previously apologised for their crimes, only to carry on regardless. Consequently, in his mind, and in the minds of many others, apologies were meaningless:

> *The leaders apologised several times. Once during the mujahiddin time Khalili came and apologised after some people had been killed. Once, a mullah also apologised to the people when their houses were burned. However, in this way, the complexes of people will not be removed if on the one hand you kill people and on the other hand you apologise.*

On a practical level, since it was difficult to identify perpetrators to prosecute for the reasons listed previously, the same challenges were involved in deciding who to forgive. Consequently, it was difficult to envisage how this type of process might be implemented. As Qadir, a younger male FGD participant from Sayed Abad, pointed out, "All thirty five million people are connected with each other and are involved in violations, so who should apologise to whom?"

Even if people apologised, many respondents, particularly women, argued that they would never forgive in any event. In their minds, apologies could not right past wrongs and would not compensate them for what they had lost. This group still very strongly wanted to see punishment of perpetrators. If this could not happen, then people could "forget" but still wanted God to administer harsh punishment. The bitter feelings of this group are reflected in the words of Nadira, a younger female FGD participant from Sayed Abad, who said, "If they come and apologise to us, I will laugh at them and tell them that they took our women, killed our youth, and destroyed our houses, so how do they have the courage now to apologise to us?"

This suggests that the reconciliation model involving amnesties and individual acts of confession, apologies and forgiveness may have less value for the people of Bamiyan, where the notion of forgiving Taliban perpetrators is inherently abhorrent to a substantial majority. Moreover, it should be noted that concepts of *islah* and forgiveness in Afghanistan largely focus on maintaining peace and social cohesion at the community level. This approach could be one way of addressing the issue of local wartime perpetrators and resolving cycles of violations in a specific community or area, for example between the Tajik and Hazara communities in Sayed Abad. However, these processes and concepts might lose some of their value and meaning when applied nationally. Significantly, the value of these processes is derived from both the perpetrator and the victim being present. In the case of both communities in Bamiyan, the Taliban were perceived as most culpable, but were no longer in the area and were not even present in government. This reality presented fundamental obstacles in the path not only of justice, but of forgiveness.

Recognition of these obstacles was the cause of significant apathy among respondents. While this was largely based on acknowledgement of the challenging environment in Afghanistan, to some degree it was also an indication that these issues were of limited significance to people in Bamiyan. Since they were not confronted daily with those they held responsible and the province was peaceful, people were more ready to "forget" the past and forgo either the right to punishment or the need to forgive. While questions of justice and forgiveness were relevant in Bamiyan, in some way the issue of how to deal with wartime perpetrators has been solved, if not resolved: The Taliban have disappeared from the community and are still suffering in their fight against the government and international forces. In a sense, people have been able to move on with their lives and are now concerned with more pressing concerns, such as the lack of development. The words of one, elderly female respondent from Dara-i-Ali illustrate this analysis: "Even if the elders and whitebeards want to organise forgiveness, it will not be possible because everyone is busy with their lives and people don't have the time." This is worth bearing in mind as discussions turn to the wider goal of achieving peace and reconciliation in Afghanistan.

6. Achieving Reconciliation and Peace

This final section looks at demands, desires and perceptions surrounding peace and reconciliation. Since reconciliation was largely perceived as essential to peace and vice versa, the two concepts are addressed side by side. Section 6.1 explores the current state of peace and reconciliation within the study communities and more widely across Afghanistan. Section 6.2 addresses respondent perceptions about how to achieve reconciliation from the bottom up and from the top down, and Section 6.3 focuses on specific perceptions of reintegration and reconciliation with the Taliban.

6.1 Current state of peace and reconciliation

What do people need to feel "peace" and has this been achieved?

While respondents widely felt that security had been achieved in Bamiyan Province, this did not mean that "peace" had been reached. Instead, peace clearly encompassed reaching a state of security and justice in their specific communities and across Afghanistan. Achieving durable security and long-lasting calm for all of the country was one of the most basic demands shared by all respondents. Violence in other parts of Afghanistan was widely discussed. Consequently, while a small number of respondents argued that peace had been achieved—largely women from the rural site—the vast majority clearly questioned this.

Security was strongly linked in both communities with people's ability to deal with the past. Reports of the conflict in other parts of the country triggered memories of past atrocities and serve as a reminder of the possibility of future violence. Ending the Taliban insurgency was consequently a key demand, though how to do so elicited various responses (see Section 6.3). It was widely acknowledged that it was difficult for the government to deliver people's economic, social and justice-based demands as long as its attention was focused on combating the insurgency instead of delivering people's rights.

One of the most pressing demands was for legitimate government that would implement justice and think in the best interests of the Afghan people. Respondents frequently framed their answers to questions about peace in terms of whether justice had been attained. While a substantial majority clearly indicated that the situation was vastly improved under Karzai's government, a good number of male and female respondents still felt justice was lacking. Achieving "justice" in the eyes of many in both communities included: upholding the rule of law, the punishment of wartime violators, tackling corruption, and implementing distributive justice.[85] Male and female respondents frequently perceived legitimate governance in different ways. For many men interviewed, this involved an accountable, honest government that was able to uphold the rule of law. For women, the demand was for a government that "cared about the people"—intrinsically linked with its ability to address the past and investigate the material, economic and emotional damage that people had suffered and were continuing to face as a result of the conflicts. As Karima, a middle-aged respondent from Sayed Abad, put it, "If people have a good life and the government cares about the people, this could be justice for those who were victimised, who suffered bad days and have pain in their hearts."

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85   Distributive justice is conceived as economic, social and political redistribution.

In both communities one responsibility of a legitimate government was to implement justice for wartime violations. Although the vast majority interviewed argued they could "forget" wartime crimes for fear of stoking insecurity, many also argued that formal punishments were ultimately necessary to maintain the country's stability in the long run. Significantly, when specific questions were asked about how to achieve peace and what people themselves would do if they were in power, a significant proportion of respondents in communities were in favour of implementing retributive justice first, and then working towards peace and reconciliation. Zainab, an older female respondent from Dara-i-Ali, supported this approach, saying, "If I was in power, I would hang the Taliban. Then I would bring all the different ethnicities together and make them united. I would make peace between them."

Both communities also emphasised that improving people's physical conditions—providing jobs and food, for example—would enable them to better deal with their mental complexes as a result of war. As Sajida, a younger female respondent from Sayed Abad, succinctly put it, "When people are not hungry, they will not think too much about their past." Common demands heard were for more jobs, schools and clinics, particularly in Dara-i-Ali, which is a considerable distance from these amenities. People there frequently complained about the difficulty in transporting sick people to hospitals and clinics, the fact that students of all ages spend several hours a day walking to school and the lack of clean drinking water. Anger toward the government in this area was thus, in part, the result of the failure to tackle these issues.

In contrast, however, older women in Dara-i-Ali pointed to improvements in the situation of women in the current period, highlighting the absence of violence and access to education. Not only could girls attend school, but these older women praised the literacy course that was provided in the community. In Sayed Abad, complaints were also tempered by the perspectives of a few younger men who emphasised some of the positive developments that had occurred in the province, including greater access to education, road-building and improvements in communication. The sentiments of this group are summed up by Qadir:

> If we compare these ten years to the previous thirty years, it is good and there is peace. I feel proud. Because of peace I was able to attend university entrance exams. When our elders talked about asphalting roads in the province it seemed like a fiction to us. But now you see Bamiyan road is about to be asphalted.

Current relations inside and outside the community

Afghanistan's conflicts had a fundamental impact on the bonds that exist between people. At various phases, the population was divided into ideological, factional and religious groups, often pitted against each other in the role of victims or perpetrators. Indeed, the identification of the Taliban as largely Pashtun, and the specific belief of Hazara victimisation at their hands, is still relevant to many of those interviewed. While it is critical to understand that Afghanistan's conflicts were largely not the result of ethnic competition, it is also important to recognise that the instrumentalisation of ethnic identity that resulted from them has proved highly effective in mobilising support and resources.

Decades of conflicts in Afghanistan have politicised ethnicity, forcing many Afghans to seek refuge with their respective groups and isolating them from other communities. Heightened insecurity often reinforces narrower forms of identity along tribal, ethnic,

and kinship lines.[86] At the same time, however, the experience of thirty years of war and displacement has simultaneously disrupted old identities, changed assumptions about the traditional and the modern, and reinforced the idea of an Afghan national identity.[87] This section aims to explore how people view the state of current relations within their respective communities and their perceptions of other ethnic groups and relations between them in other parts of Afghanistan.

As has been described elsewhere in the paper, the civil war triggered divisions along factional lines in both communities. In Sayed Abad, older male respondents frequently commented on the prevailing loyalties toward either Harakat or Wahdat that still exist. Safdar, an older male respondent from the area, described this division:

> God forbid, if any other conflict happens, again the Harakat people would be Harakat, and Wahdat people would be Wahdat. Indeed, even if 50 years passed, everyone would support their parties.

During the different conflicts, divisions often took an ethnic or *qawm* dimension as the various communities supported different parties or regimes (see Section 3). Civil war loyalties and tensions carried into the Taliban era, and the legacy of support to the Taliban provided by Tajiks in Sayed Abad and Sayeds in Dara-i-Ali still lingered in both communities. Overall, however, the ongoing impact of this was more obvious in the urban rather than the rural community. There are several possible reasons for this. Firstly, in Dara-i-Ali there was the recognition that the Sayed community had also suffered since a large number of Sayed men who had surrendered to the Taliban in Dara-i-Ali were subsequently killed. Secondly, the team felt that the community was reluctant to talk formally about tensions between Hazara and Sayed communities. Only a very few younger, male respondents openly criticised the state of relations between Hazaras and Sayeds. For example, in Hamed's words:

> When the civil war started ethnic discrimination and bias also started. Changes started and people started taking revenge against each other. At the end of the Taliban period people did not think that the Sayeds were good and there is still bias and discrimination among us. Indeed, we are blaming Sayeds and they are blaming us.

Thirdly, according to two male respondents, Sayed elders came to the community and apologised when the Taliban regime collapsed. This allowed the community to forgive them and went some way to repairing the relations between the two groups. Abbas, an old man, explained this event, saying, "Relations are good. Sayed elders came to us after the war and said to us that the Taliban did massacres and we regret this. So, we ignored their oppression and now we are living as we lived before." He continued to explain that if they had not apologised in this way, "maybe we would fight them."

In contrast, the experience of Tajik collaboration with the Taliban was keenly felt by the vast majority of the inhabitants of Sayed Abad. While many expressed their sorrow at instances of collaboration, they were divided over the state of current relations with Tajik communities nearby. A few men who discussed relations between the two ethnic communities in positive terms had more positive wartime experiences. Stories of people from different ethnic groups helping each other at different phases of the war reflected that the politicisation of ethnic divides could not always defeat existing relations of communal loyalty. Others pointed to inter-ethnic marriage and mutual attendance of

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86 Theros and Kaldor, "Building Afghan Peace from the Ground Up."

87 Theros and Kaldor, "Building Afghan Peace from the Ground Up."

wedding and funeral ceremonies as examples of the good state of relations between Hazaras and Tajiks. In the opinion of this group, the past was over and people should forgive. Violations had been committed on both sides and rather than tarring entire groups, individuals who had committed violations should be singled out. They were thus more likely to blame the leaders—whether Taliban or mujahiddin—for inciting divisions between them. As Noriya, a middle-aged female respondent from the area, explained: "Tajik people destroyed and looted Hazara people and Hazara did the same to them. Not only did one side do something to the other; both sides did bad things to each other. But now relations with Tajik people are good."

In contrast, a few men and greater numbers of women argued that relations between the two groups were not good, and discussed the hostilities lingering beneath the surface. For example, Kobra, an older female respondent, commented that, "If any of our relatives and people from the community have relations with Tajik people then Hazaras will end our relations with them." In fact, a substantial proportion of the Tajik community in Sayed Abad had left the area when the Taliban regime collapsed and had largely not returned. It was widely felt that this was largely due to the fear of retaliation by the Hazara community. Some stories of collaboration by members of this Hazara community during the Taliban period were also heard. In these cases, the majority of respondents explained that they had largely forgiven or at least forgotten these events. This was described by Fida, an older male respondent: "There is one person who worked with the Taliban...People do not like him, but they do not have anything against him now and have forgiven him. He is now a government employee." It thus appears that people have made the political decision to forget due to a lack of power and a desire to maintain the fragile status quo.

In discussions concerning ethnic relations in the rest of the country, the focus of both communities was largely on current relations between Hazara and Pashtun communities. This is not surprising given the frequent identification of the Taliban as composed of Pashtuns. Perceptions can be divided into two groups: those that felt tensions existed as a result of the war, and those who argued relations had improved and greater understanding had been built.

Demonstration of ongoing hostility between these communities was reflected in the statements of some female respondents from both areas who expressed feelings of hatred towards the whole ethnic group, blaming them for their suffering under the Taliban. One possible reason that women were more vehement in their criticism could be their lack of education and socialisation outside their own community. In contrast, a number of men interviewed in both areas had received university education and expressed the benefits of this in terms of the awareness it raised about other ethnicities. Moreover, men in general are more likely to travel and so interact more frequently with people outside their ethnic groups.

However, it should be noted that a majority of respondents were keen to express positive opinions of other ethnicities, stressing that specific individuals were to blame for violations rather than entire groups, and blaming foreign countries, particularly Pakistan and Iran, for inciting divisions between the ethnicities. They pointed to an improvement in relations now that the negative influence of foreign countries was more apparent. This growing awareness was summed up by Qaiyum, a middle-aged male respondent from Sayed Abad:

> I think all the qawms of Afghanistan are good but the hands of strangers
> do not allow them to have good relations with each other. Now people have

understood that the hands of Iran and Pakistan are involved in this regard. All Afghans are good, but the interference of others makes the relations between them worse.

6.2   Achieving reconciliation and building peace

While many respondents were keen to demonstrate to researchers their positive views of other ethnic groups, there was also recognition in both communities that the war had negatively affected relations between people in Afghanistan. Consequently, there was an acknowledgement that reconciliation between the Afghan people and between the leaders of the conflicts was required. The analysis in this section explores perceptions about how to reconcile people from the bottom up and how conditions for reconciliation can be created from the top down. It should be recognised that while both processes were perceived as key to building peace in Afghanistan, negotiating an end to the war and bringing peace to the country was largely perceived as a top-down process between the leaders of the country and the leaders of the insurgency.

Reconciliation among ordinary Afghans

In both research sites, there was strong support for building reconciliation in Afghanistan, underpinned by the understanding that security in the country depended on the success of these processes. Women, in particular from Dara-i-Ali, were perhaps less enthusiastic about reconciliation, reflected on this subject least frequently and were less willing to discuss this type of process. On one hand this reflects the argument made in the theoretical section that in these types of environments support for reconciling with "the enemy" is often rare, while on the other it relates to the issues of female education and exposure to other groups discussed above. Much of the information presented below therefore came from male respondents.

As a concept, respondents perceived reconciliation as a process of people coming together, building mutual trust and respect through collaboration and cooperation and creating unity ("*etifaq*"). To do so, the creation of a shared national identity that would take precedence over *qawm* identities was emphasised. Resolving differences and building understanding and trust between people was also seen as playing a fundamental role in helping people deal with the legacies of the past—this was partially due to a sense that misconceptions about different groups were at least partially responsible for the conflicts. These sentiments are reflected by the words of an older male respondent from Dara-i-Ali, Abbas, who argued, "If all people are unified and the divisions between Hazara, Tajik and Pashtuns decrease, the government will grow calm and the past events will be somehow forgotten."

How to address the legacies of the past conflicts was frequently discussed in relation to reconciling people. Generally it was considered that people should forget and forgive the losses they had experienced in the interests of healing relationships. However, as discussed above, men argued that truth about the past still had to be uncovered as part of the wider process of learning that was needed for Afghanistan's communities to forgive each other. In order to create honest relations between people, the past had to be investigated and misconceptions laid to rest. Demands for truth-seeking processes in this sense were aimed at the goals of reconciliation rather than retribution and on the whole there was little demand in either community for "ordinary" people to face punishment.

A process of apologies could also form part of the truth-seeking process, again fostering trust and relationship building. As discussed above, the apology of the Sayed community in Dara-i-Ali represents one significant, tangible example of this. Even though the perceived significance of apologies was limited in both research sites, it is possible that such a process conducted in conjunction with truth-seeking could have a beneficial impact on relations between different ethnic groups and between enemies.

Men in particular argued that another way to support learning and trust-building processes between communities was to increase the opportunities for personal interaction between Afghans through meetings, travel and inter-ethnic or inter-*qawm* marriage (this latter idea was not discussed by women, perhaps reflecting their lack of agency in this area). Some men felt that marriage would not only improve understanding and awareness, but would create unity through the combining of ethnic groups into a single family or generation. This idea was summed up by Delawar, a younger male FGD participant from Sayed Abad:

> It is good that Tajiks marry with Hazaras and Hazaras marry with Pashtuns to create a new generation for Afghanistan. In my mind it can be a solution...This way they can create common families, common villages, common provinces and a common country.

In some cases, this reasoning was based on people's personal experiences. For example, one younger man at an FGD in Dara-i-Ali described meeting people from other parts of Afghanistan at university and the positive relationships that developed between them. Many respondents also remarked that watching the multi-ethnic AREU research team work together was a positive experience for their communities, while the opportunity to get to know AREU's Pashtun researcher had helped dispel some negative impressions of Pashtuns that had been created by the Taliban.

Emphasis was placed on the role of education, the media and community elders in propagating messages of unity and creating an Afghan national identity. Younger men were most likely to expound the merits of education and the media, feeling that this had the potential to bring change over time. A significant proportion of older male respondents and some female respondents believed that messages of reconciliation and unity were best delivered through community elders, heads of *shuras* and *kalanha*. In particular, religious elders—mullahs or the *ulema* (groups of religious scholars)—were felt to possess the necessary moral authority and practical power in the community to ensure that such messages were accepted. It was strongly argued that if the *ulema* or mullahs showed people the "right path," they would follow it. In this respect, many felt that mosques were an appropriate site for delivering these messages.

However, younger men in both the urban and rural sites questioned the involvement of religious figures. They raised concerns that rather than being a unifying force, some mullahs actually fostered religious discrimination and divisions by acting in their own private interests or those of political leaders and party factions. As Salim, a younger male FGD participant in Sayed Abad, explained:

> There are two types of mullahs with two different perspectives: A number of them want people to be unified; they are real mullahs, they act according to Islamic teaching. But a great number of them do not want this; they want disunity and anarchy. Some of them are dependent on political parties and they act in their personal and their party's interest and benefit, not for the people.

These younger men, and a few younger women from the rural area, also questioned whether the actions of mullahs and elders would be sufficient to solve the differences between Afghanistan's ethnic groups. Since this was a problem related to the whole country it was questioned whether these people would be able to resolve differences outside of their area or between ethnicities. One younger male FGD participant, Karim, summed up these concerns:

> Mullahs can be effective in the community and solve the problems of a family, but they cannot solve the problems among ethnicities. Because every ethnicity has their own elders and leaders, and those elders and leaders of ethnicities have hostility among them already. For example, Sayyaf and Mohaqiq have hostility and hatred between them and this creates difficulties for mullahs.

Instead, these respondents often felt that wider initiatives would have to be pursued, perhaps through national-level *shuras* bringing together the top political and ideological leaders of the different ethnic groups in Afghanistan to try to resolve issues between them. To many, this required the involvement of the government, which is discussed in more detail below.

Peacebuilding and reconciliation at higher levels

As introduced above, the involvement of the Afghan government was believed to be required to ensure reconciliation between the country's communities. People felt the government was primarily responsible for creating the environment in which reconciliation could take place, bringing the necessary people together and, ultimately, the successful negotiation of peace. While fostering reconciliation from the ground up was seen as a key component of creating peace in Afghanistan, peace building was largely felt to work from the top down.

Afghanistan's conflicts were generally perceived as triggered and prolonged by the various leaders. Consequently, the leaders were perceived to be responsible for resolving them. Both communities emphasised that if leaders stopped employing divisive politics and were reconciled, their followers across Afghanistan would follow suit. The tendency of leaders in government to work to fulfil the interests of their own *qawms* was also singled out for criticism by male respondents, who highlighted the need for government employees that would work for the development of the entire country.

Men and women in both communities, particularly those in Sayed Abad, argued strongly that equality of all ethnic groups in all positions of power and authority had to be implemented in order to guarantee unity between Afghanistan's different communities. This, they reasoned, would resolve tensions since if all ethnic groups were equal they would have little reason to fight. It should also be acknowledged that one group of women, as previously discussed, did not support equality in power and argued the Pashtuns had no right to rule.

Another component identified as vital to the reconciliation and peace process was an honest, credible and able government that could set an example to the rest of the country. However, many also acknowledged the gulf that existed between this ideal and the actual situation. As one older male FGD participant from Sayed Abad put it, "Instead of throwing bottles at each other, they should be our representatives. They should be able to talk logically with each other. What can we learn from them?"

Some respondents, in particular men in both areas, therefore questioned whether the government should be trusted since it was not an impartial arbiter, suffered from

endemic corruption and lacked legitimacy among the people. This led to the suggestion that reconciliation processes be led by the UN or AIHRC. However, when discussions turned to peace negotiations the government was still perceived as primarily responsible, particularly for leading talks with the Taliban.

6.3 Specific perceptions about peace and reconciliation with the Taliban

This section explores perceptions concerning the need for talks with the Taliban and what peace with the Taliban entails, and concludes by presenting expectations that peace with the Taliban will be achieved in Afghanistan. It should be noted that as an exploration of community perceptions, this paper avoids a direct critique or analysis of national-level programmes such as the Afghanistan Peace and Reintegration Programme launched by the government and the international community in 2010, which will instead be addressed in a forthcoming paper synthesising findings across all study communities in this project.

Talking to the Taliban?

The need for negotiation between Afghanistan's different leaders and with the Taliban was widely recognised by respondents. The general sense was that the Taliban presented the most serious obstacle to peace and that ending their insurgency was the only way to bring security. However, while the community in rural Dara-i-Ali came out overwhelmingly in favour of government-led peace talks, the urban community was slightly more cautious, with a smaller proportion of women in particular expressing opposition to negotiations.

Those who opposed the notion of even negotiating with the Taliban emphasised the extent of violations they had suffered at their hands. For these respondents, the only solution to Afghanistan's insecurity was if the Taliban "vanished" or were "removed" from Afghanistan. Rather than reconciliation with the Taliban, the key goal of this group was retribution. In contrast, respondents' primary reason for supporting negotiation processes was to achieve peace in Afghanistan. It was felt that peace should be negotiated at the highest echelons of government through collaborative discussions, consultations and *jalasas*. This would enable the government to find out what the Taliban wanted in order to bring an end to the conflict. In the process, these negotiations were also seen to promote the goals of trust and relationship building between the government and the insurgency. A number of largely older women from both communities also framed discussions with the Taliban in terms of fulfilling wider demands for truth-seeking. As Roqiya, an older female respondent in Dara-i-Ali, put it, "It is good if the government negotiates with them and asks them why they were responsible for such cruelty and why they killed people. They have to know what goals the Taliban have."

What does peace with the Taliban look like?

> We feel very afraid when we hear about these talks. It is good to bring peace, but it should be in people's benefit also.

> Nibakht, younger female respondent, Dara-i-Ali

The quote above reflects the widespread concern about what negotiations with the Taliban would entail. The overwhelming fear expressed by the majority of respondents was that the Taliban would return to positions of power. While acknowledging the need to talk and bring an end to the conflict, they categorically rejected the prospect of any authority for the Taliban in Afghanistan. It should be noted that practically every woman interviewed opposed this prospect.

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The major concern was that allowing the Taliban back into power would trigger further violence and insecurity. Vivid memories of the Taliban's violent behaviour existed in both communities and people feared a repeat of these experiences. Moreover, the extent of the violations committed against both communities made the prospect of giving positions of power to the Taliban morally repugnant.[88] It was also widely felt they should demonstrate this intention by laying down their arms and apologising to the people of Afghanistan. According to Safora, a middle-aged female respondent from Dara-i-Ali, "We don't want them to be in government, but if they want to come and admit their crimes, feel guilty, give their weapons to the government and apologise, it would be very good." As discussed in Section 5.4, apologies held little real significance for many people and this demand perhaps largely stemmed from a desire to see evidence of the Taliban's change of heart. Even if this did little to enhance people's ability to forgive, it might perhaps increase their willingness to forget. Other conditions placed on negotiations with the Taliban were that they promise to renounce violence (demonstrated by laying down arms) and committed to peace and the Afghan state and its laws.

The final condition voiced by a proportion of men in the rural community was to emphasise that justice still needed to form a component of peace negotiations. In fact, while not necessarily demanding punishment for the population at large, a significant proportion of respondents emphasised the role of holding the leaders of the conflicts to account. This group therefore argued that there were some members of the Taliban who could not be negotiated with because they had committed such heinous atrocities, and that prosecution of these individuals should be a requirement of the peace process. In fact, it was felt that their inclusion would potentially derail the peace process and threaten the long-term stability of Afghanistan. Hakim, an older respondent from Dara-i-Ali, was one man who shared this view:

> When they sit together they should reveal who was bad and who was good. The bad ones should not protest in the face of these accusations...The effect of this will be that the Taliban who committed atrocities will not be able to participate in discussions and not be allowed to return.

In contrast to the opinions voiced above, a few respondents recognised that, in practice, prosecutions could prove an obstacle for negotiations and reconciliation processes. As Mosa put it, "If, for example, Mullah Omar is arrested and prosecuted while he has been invited for negotiation, no one else will accept to come for negotiations."

Reaching peace with the Taliban

The analysis has shown that a majority of respondents, although not all, accept the idea of negotiating for peace with the Taliban, albeit under certain conditions. However, respondents did not necessarily believe that such negotiations would prove fruitful, and in fact the vast majority felt that the Taliban actually had little desire to negotiate and had grown accustomed to using violence to achieve their ends. The words of one younger female respondent from Sayed Abad sum up this general pessimism:

> I don't think that the Taliban will accept to sit. Which of them should the government gather? They told them many times to sit and solve everything, but they didn't accept. They don't want things to be calm, they just want to fight.

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88   In contrast to this prevailing sentiment, a tiny minority of respondents from Dara-i-Ali felt that the Taliban should be given positions of power, both on the grounds that were Afghan, and that ultimately security would be achieved if the Taliban were incorporated into government.

In fact, a couple of younger men in both communities argued that opposition to the government was one reason for the growing strength of the Taliban insurgency. Salim, a younger male respondent from Sayed Abad, succinctly represented this view, saying, "Because the people hate the government they then join the Taliban."

Moreover, there was an acknowledgment of the presence of certain intractable issues on which neither side was likely to find an agreement. Firstly, it was widely questioned whether the Taliban would come to the negotiating table unless they were promised positions of authority (although this remained non-negotiable for the overwhelming majority of respondents). Secondly, an issue voiced by one man from the rural community was that the Taliban would not contemplate peace while international forces remained in Afghanistan. Since it was widely felt that the "*kafirs*" (non-believers) were unlikely to leave in the immediate future, the prospect of peace was bleak.

However, a small group of largely older men from Dara-i-Ali felt that the Taliban would eventually negotiate. Reflecting perhaps on their own experiences as mujahiddin, they argued that it was difficult for these men to live away from their families, and that the lengthy and tiring nature of the conflict might ultimately force them into making a deal with the government.

People also saw the government's questionable ability to negotiate as limiting future prospects for peace. A number of male FGD participants in Sayed Abad referred to previous government failures to bring the Taliban to the negotiating table, mentioning the Peace Jirga of June 2010 and pointing to the weakness of the government in the face of the strong insurgency. They also criticised the composition of the government-appointed High Peace Council (the body in charge of pursuing talks with the Taliban) for not representing the victims of Afghanistan's conflicts. Alidad, an older male FGD participant, made this complaint, arguing, "In the peace commission there should be people who have experienced pains and have faced pains. And they should be smart enough not to be tricked by foreigners."

Moreover, several male and female respondents questioned the intentions of the government and pointed to possible links between the government and the Taliban. They found evidence for this accusation in the failure of the government to end the Taliban insurgency, their inability to punish and prosecute those who had committed crimes and even in local conflicts between Kuchi and Hazara communities.[89] According to Hosay, a younger female FGD participant in Sayed Abad:

> *The government has lost the people's trust. When the Kuchis came to Behsud [District in Wardak Province], they came with full preparation, with weapons and everything. They were the Taliban. So, it makes people think that the government is with the Taliban—if they are not brothers, then at least they are cousins.*

While the veracity of these claims can be challenged, it is the perception of these links that could prove most dangerous to government legitimacy. In fact, Kaldor and Theros discovered that many Afghans believe that they are pawns in yet another "great game."[90]

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89   The Kuchis are a largely Pashtun nomadic people who settle in different parts of Afghanistan during different seasons. Hazaras interviewed had the perception that the Kuchis have adopted a more political angle to their migration patterns. There was the widespread belief that they have been receiving Taliban support in choosing to migrate to Hazara areas and grazing their livestock on their land. Clashes in 2010 between the Kuchis and Hazaras largely in Behsud and Daymerdad of Wardak province caused concern among Hazara populations in Bamiyan.

90   Theros and Kaldor, "Building Afghan Peace from the Ground Up."

As a result, many of those interviewed were skeptical about the success of top-down reconciliation and peace building, despite acknowledging that this was the only way to achieve peace.

One alternative discussed by younger female FGD members in Sayed Abad was for the international community, in particular the United States, to negotiate for peace since they were perceived to have the necessary power. However, while the international community's ability to bring peace was generally accepted, men attending FGDs in both sites questioned its will to do so. It was felt that the US had no desire to bring peace because it was profiting from the conflict through activities such as corruption and mine exploitation. A middle-aged male respondent from Sayed Abad, Poya, summed up some of these concerns:

> The security of Afghanistan is in the hands of Americans. If they want, security will soon come, but then they will have to leave Afghanistan. We do not believe that they have come here to provide services and development since no major change has happened. Further, if the United States implements the rule of law they then won't have any space here. So they are supporting both the government and the opposition so they can still have a role here.

As the quote above suggests, a number of male respondents believed that the United States was providing assistance to the government with one hand while funding the insurgency with the other in order to prolong staying in Afghanistan, reflecting widespread conspiracy theories about the true intentions of the international community in the country. If the United States desired to bring peace then, in the words of Zahir, a male FGD participant from Dara-i Ali, "they can do it in a month." Consequently, these men argued that foreign influence had to be removed from the country in order to bring peace. Not only did they want the US and international forces to leave, but they argued that Pakistan, Iran and, in some cases, Saudi Arabia needed to stay out of Afghanistan's internal affairs. These countries were singled out as responsible for arming the Taliban and for causing divisions between the different ethnicities. Mosa, a middle-aged FGD participant, summed up the feelings of these men:

> Afghanistan now is like a field for Buzkashi [an Afghan sport played on horseback] for the world and everybody plays a role here. If Iran, Pakistan and Saudi Arabia do not interfere in Afghanistan's affairs there will be security. Now you see that the Taliban has weapons, no doubt they receive the weapons from countries outside Afghanistan. Until the hands of foreigners are cut there will be no security.

As a result of the sentiments above, both study communities saw little prospect for an end to conflict in Afghanistan. Instead, a more tangible goal for the vast majority of respondents was the maintenance of the status quo, which at least guarantees the people of Bamiyan a modicum of peace.

7.   Conclusion

This is the second case study written in a series of three exploring the legacies of conflict in different parts of Afghanistan. The conflicts have affected and are continuing to affect different parts of the country in a variety of ways and each community and the individuals within it have their own stories and experiences to tell. These varied histories result in a wide variety of perceptions and opinions about how to deal with the past and the overall research has demonstrated that there is no one way to deal with either the legacies of wartime violations or those held responsible for them. Different opinions of how to achieve justice in the aftermath of conflict were collected from the different groups participating in each research community. Since the project deals with perceptions and opinions, it has produced fluctuating and contradictory data rather than fixed information, in many cases reflecting the thinking of respondents as they grapple with the challenges they face.

However, it should be noted that in Bamiyan the common points of experience of both research sites, the overwhelming identification of the Taliban as the key perpetrators and the fact that the research encompassed a single ethnic group resulted in fewer distinctions of opinion when compared to research in Kabul Province. While the challenges of analysing and drawing reliable conclusions from this type of data have been discussed throughout this paper, it is possible at this stage to reflect on the original research questions and identify some key lessons.

Experience of conflict

- How an individual experienced each conflict was largely determined by where they were living at a specific period in time. Both research communities experienced the conflicts largely as a community and so their perceptions were framed at the community level rather than the individual.

- As a community, Sayed Abad faced far greater direct violence during each of the first three conflicts. In comparison, the community in Dara-i-Ali experienced some suffering during the communist era, largely escaped violence during the civil war, but was significantly affected during the Taliban era.

- Respondents in each community and across both research sites generally identified leaders, in particular the Taliban, as responsible for the conflicts and for their wartime suffering, identifying ordinary people as victims.

- During every conflict, competition for power was perceived to play a key role in triggering and prolonging the violence while people's illiteracy and personal loyalties are perceived to have been manipulated and abused.

Dealing with the legacies of conflict

- The impact of the past conflicts was felt to have an ongoing impact on people's current emotional, and in some cases, physical "well-being." This was most frequently discussed by women, but was also most apparent among those who had witnessed shocking scenes of violence or who had experienced the disappearance of loved ones.

- As a community, the experience of conflict appears to have left a greater impact on the residents of Sayed Abad than Dara-i-Ali. This is not surprising given the greater experience of suffering the urban site faced during each conflict.

- Processes aimed at addressing people's ongoing suffering received varying degrees of support. Truth-seeking was widely supported by both communities, but recording processes were more divisive. While recognising the intrinsic link between documentation and criminal proceedings, many respondents raised security concerns about documenting past violations.

- Memorialisation was the least supported process and the key demand was instead for greater development. Moreover, some informal memorialisation and commemoration of each community's victims has already occurred.

- Financial and material compensation for physical wartime damage was the most popular approach in both communities. Reparations were most widely supported if they were forward-thinking and could improve people's futures. However, reparations were only perceived as sufficient for economic and material loss, not for the loss of a loved one. Additionally, respondents frequently confused reparations with general development and since the key demand was that lives be improved it is possible that a forward-thinking economic and social development strategy as opposed to a backward-looking reparative approach would be sufficient.

- The government was perceived as primarily responsible for implementing these processes. Government action in any one of these areas was seen as key in creating government legitimacy. For many, specific government policies were less important than a general acknowledgement of victims' suffering.

Dealing with the perpetrators of war crimes

- Both communities widely supported the punishment of those guilty of wartime crimes. However, both research communities were prone to change their mind frequently and the vast majority also decided they should forget the past based on a consideration of current contextual challenges.

- Criminal justice processes implemented by the state were strongly supported by all interviewees. Criminal justice was seen to be in accordance with Islam, play a role in healing processes, fulfil desires for formal documentation and vital for developing respect for the rule of law, security and government legitimacy. The government's failure to implement criminal justice was also blamed for the current Taliban insurgency, since it had allowed them to regroup.

- Only a few individuals genuinely wanted to forgive past crimes and the vast majority people instead said they could "forget" because they recognised expectations of achieving criminal justice were unrealistic and possibly had dangerous implications for security.

- Moreover, the Taliban were identified to be the primary group requiring punishment. Since the Taliban were no longer in either area or in government and were waging a war in which they were already suffering, the issue had in one sense been solved (if not resolved). This led to a certain level of apathy among many respondents about their desires for retributive justice and prompted people to suggest they could forget and concentrate on more pressing demands, such as development.

- However, older women from the rural area most strongly emphasised the healing potential of retributive justice and argued for a need to see punishment regardless of the context.

- The government was seen as primarily responsible for administering retributive justice, in some cases with international support. Considerable objection to international involvement was registered in Sayed Abad based on the demand that

criminal trials be according to Islamic law and Muslims be punished by Muslims. Respected community actors and community-level processes were also perceived to play a small role in determining how to deal with perpetrators, particularly by elder male respondents.

Achieving reconciliation and peace

- Achieving security in Afghanistan was the key concern of all respondents and all policies were measured against their ability to contribute to this goal.

- Peace was perceived to entail more than security and was strongly linked with justice, development and government legitimacy.

- While obvious tensions existed between Hazaras and other ethnic groups—in particular between Hazaras and Tajiks in Bamiyan City—the residents of both research sites downplayed these differences and argued that such issues were largely resolved. However, they emphasised the need to build unity and understanding between different groups, in particular between Hazaras and Pashtuns, and to allow more chances for interaction to enhance trust-building.

- Since leaders were perceived as primarily responsible for driving the conflict, peace was perceived generally as resting on their ability to cooperate and build trust. Reconciliation from the top down was perceived as essential to creating peace in Afghanistan.

- The government was primarily responsible for leading peace processes, but there was a strong emphasis on their cooperating with local community structures.

- The Taliban was perceived as presenting the most serious obstacle to peace, and the vast majority of respondents accepted the need for negotiations. However, there was no desire for the Taliban return to any position of authority, coupled with a very genuine fear that they would do so.

- Other perceived obstacles to peace included the continued presence of international forces in the country, along with the perceived collusion between the government or the international community—particularly the US—and the Taliban.

- As a result, the prospects for peace in Afghanistan looked bleak to both communities. Instead, a more tangible goal for the vast majority of people interviewed was maintaining the status quo, which guaranteed the people of Bamiyan a modicum of peace.

Appendix: Interview and FGD details

Age Group	Number of interviews				Number of FGDs			
	1st round	2nd round	1st round	2nd round	1st round	2nd round	1st round	2nd round
	Women		Men		Women		Men	
Urban Area								
Younger (18-29 years old)	4	4	4	4	1	1	1	1
Middle-aged (29-48 years old)	4	3	4	3	1	1	1	1
Older (49-75 years old)	4	4	4	4				
Subtotal urban	12	11	12	11	2	2	2	2
Rural Area								
Younger (18-29 years old)	4	4	4	4	1	1	1	1
Middle-aged (29-48 years old)	4	3	4	4	1	1	1	1
Older (49-75 years old)	5	5	4	4				
Subtotal rural	13	12	12	12	2	2	2	2
Grand Total	48		47		8		8	

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