

John Braithwaite and Ali Wardak: Crime and War in Afghanistan

This article views Afghanistan less as a war, and more as a contest of criminalized justice systems. Part I ("The Hobbesian Solution") begins by looking back to the Taliban who came to power because they were able to restore order to spaces terrorized by armed gangs and Mujahideen factions. After the Taliban's 'defeat' in 2001, their resurgence was invited by the failure of state justice and security institutions. The Taliban returned with a parallel court system that most Afghans viewed as more effective and fair than the state system. Polls suggest judges were perceived as among the most corrupt elements of a corrupt state. Police were widely perceived as thieves of ordinary people's property, not protectors of it. While the US diagnosis of anomie in Afghanistan up to 2009 was aptly Hobbesian, its remedy of supporting President Hamid Karzai as a Leviathan was hardly apt. The West failed to ask in 2001 'What is working around here to provide people security?'. One answer to that question would have been jirga/shura. A more Jeffersonian rural republicanism that learnt from local traditions of dispute resolution defines a path not taken. Part II of the article ("A Jeffersonian Alternative?") discusses the idea that a more Jeffersonian architecture of rural republicanism in tune with Afghan traditions is a remedy to limits of the Hobbesian view on Afghanistan. Anomic spaces where policing and justice do not work are vacuums that can attract tyrannical forms of law and order, such as the rule of the Taliban. Peace with justice cannot prevail in the aftermath of such an occupation without a reliance on both local community justice and state justice that are mutually constitutive. Supporting checks on abuse of power through balancing local and national institutions that deliver justice is a more sustainable peace-building project than regime change and top-down re-engineering of successor regimes.