

An Overview of Political Suppression of Legal Political Parties in Afghanistan: 1940-2010

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Abstract:

While Afghanistan has made progress towards democratic governance, there are still challenges to be addressed in terms of creating a fair and inclusive political system that represents all Afghans. Among these challenges, one is the development of political parties in Afghanistan. The article provides an overview of the history of political parties in Afghanistan, from 1940 to 2010. It highlights the suppression faced by political movements and political parties under various regimes, and the failure to establish a modern democratic state in Afghanistan. This article attempts to explore the reasons of the suppression of political parties in Afghanistan. It also outlines the legal recognition and restrictions placed on political parties under the constitution of 2004 and the Political Parties law of 2003, as well as the flawed electoral laws adopted in 2004.

Key Words: Afghanistan, Political Parties, Electoral Politics, Constitutional History, Registration of Political parties.

Introduction

This research article explore and explain the cost of suppression of political parties, resulted in a spiral of violence that engulf the whole country. Political parties articulate the demands of public, it is a source of legitimacy and political stability in democracies including Afghanistan. The political system under Nadir Khan Dynasty, more identified with king Zahir Shah, son of Nadir Khan, acquired power through British support in order to fail the reformist and pro-Russian King Amanullah Khan, created a façade of democracy, in fake democratic manner since political parties were either suppressed or eliminated. Following death of Nadir Khan in 1933, brother of late Nadir Khan, Prime Minister, Hashim Khan (1933-1946) actually wield government power, to steer the Afghan nation. During his rule (1933-1946) elections for *Ulas Jirga* were regularly engineered, held in name only, every third years, only pro-ruling dynasty candidates could win election.

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By 1940s the first generation of educated class, the graduates of the schools established by ex-king Amanullah Khan in 1920s, could asserts its presence in national life. During the King Amanullah Khan reign the number of primary schools have increased to 322 (Khwajamir, 2016:2) Many members of the new educated class joined the literary association, the *Weikh Zalmyan*. Later the association took a political form especially after resignation of Hashim Khan in 1946.

In 40s and 50s, first proto political parties were appearing, on the political scene of Afghanistan. The only impartial election to the *Ulas Jirga*, the 7th Ulas Jirga, held in 1949, under the new Prime Minister of Shah Mehmud Khan (Shafi, 2015: 2). The election led to return of a group of educated members to the Jirga (Assembly). First time, in history of Afghanistan, the assembly, introduced many new laws. The new educated group inside the assembly debated government policies and decisions regarding mega projects. First time, national budget was department wise discussed. The assembly passed the new law of Publication Act, granting freedom of publication and idea. A number of political publications, journals, as organ of various political groups appeared. Around these journals also emerged political groups. In a way these journals provided platform to these proto political parties. The emergence of new political groups, a part of political circumstance, of the country, was not mad part of the political system. The system theory argue that an open system has a positive communication with its circumstance. However, he cannot be absolved from charge, as an adult mature, effective king, The uncivilized direction fixed by the dynasty continued by various Afghan regimes. The dynasty to the political parties, neither provided legal mechanism for their survival nor allowed them to work. They opted for a socialist coup, on April 27, 1978. The trend of suppression did not end but continued and trickled down to the current post-9/11 liberal political order, in Afghanistan. Today, on ground, there are political parties in Afghanistan but actually play very little and marginal role.

In Afghanistan from 1950 to1970, the two decades during which the struggle for political change, was mainly carried out by a new educated class, the product of schools established by King Amanullah Khan during 1920s (Khwajamir, 2016: 2).

Going back in history, in the time of King Zahir Shah, the new political currents appeared in 1950s were nipped in the bud, when it was acutely needed to capitalize on the newly emerged educated class. After allowing one impartial election in 1940, that led to return of many enlighten mummies to Ulas Jirga, the practice was stopped. The new class of legislators enacted new laws that could restrict the power of the ruing dynasty. They debated the national budget, question certain national projects and first time integrated budget was replaced by department wise budget. So what was the problem for discouraging such legislators? Next elections in 1952 were rigged. A general crack down on all political groups and their organs was carried out. The culture of political intolerance was introduced by Nadir Khan (1929-1978), father of king Zahir Shah (r. 1933-1973), when he killed expected foes, such as, Charkhi brothers (Sufi, 2015:9). His brother Hashim Khan (r.1933-1946), the Prime

Minister, followed the practice of ruthlessly suppressing political leaders. It was only after death of Hashim Khan in 1946, and during the short democratic interlude of Shah Mehmud Khan (1946-1953) that a fresh breeze of freedom could come. He held impartial elections and the new Ulasi Jirga went for a record legislation on many national issues including the right of association and freedom of expression. It was during this time that first time proto political parties emerged on the political horizon of Afghanistan.

History

First organized attempt for introduction of constitutional government was made as early as the first decade of twentieth century in name of *Mushroota Khawahn* (Movement for constitutional government) (Arjomand, 2005:945). The advocates of constitutionalism in Afghanistan had requested the implementation of a system that included a democratically-elected assembly (Milli Shura), representative government, as well as social justice and equality (Adalat-e-Ijtimai). One of the members of this movement, Muhammad Hussain Khan was arrested and remained in prison for eleven years (Dinakhel, 2022:56).

Afghan constitutional movement, shaped by a wider political struggle going on across the region, mainly for the introduction of constitutional government, in various states. In last decades of nineteenth century, successful constitutional revolutions occurred in Russia in 1905, Persia in 1906 and Ottomans in 1909. The political and cultural contexts of these individual movements was different from each other. However, these movements shared certain common goals, such as, end to political absolutism, ameliorating poor governance and modernizing justice system etc. In Russia the peasants were demanding concessions from Tzar In Persia, the Shah, was pushing the country into a burgeoning external debts. In Afghanistan, there was resentment among the educated class against Amir Habibullah, for being very subservient to British Indian government and his failure to introduce constitutional monarchy.

In Afghanistan, by forties, the first generation of educated class emerged as the number of student and teachers multiplied and swelled. Afraid of harsh policies of Prime Minister Hashim Khan, the new class confined its contributions to nonpolitical subjects, such as, literary society of Weikh Zalmyan. It was from the womb of Weikh Zalmyan that first proto political parties emerged, in name of Khalq and Watan. Weikh Zalmyan later on turned into a political movement confined to a small educated class. This was the formative phase of democratic culture and modern electoral politics. The new educated class was not accommodated and was suppressed whenever it tried to political parties, the case studies of 1953 and 1973 onward political suppression by Mohammad Daud. Saikal Amin refers to Zahir Shah rule (1933-1973) as an ideal as Afghanistan remained peaceful (Saikal, 2014: 19-21). However, the peaceful period was not utilized for laying the foundation of a modern democratic state, especially regarding introduction of political parties. King Zahir Shah contributed for introduction of modern democratic constitution of 1964 but did not ratify the article, related to political parties. Main characters of the ruling family,

except Shah Mahmud Khan (r. 1946-1953) who was pliant and soft on political leaders, the rest of the family members of the dynasty such as King Zahir Shah (1933-1973) and Sardar Daud, the Prime Minister (1953-1963), prioritized maintenance of order rather than rights of association of individuals. Ironically, they were strong on selective schemes for modernization, such as gradual expansion of the modern education, were undertaken during these rulers. (Dupree, 1980:465-98, Gregorian, 1969: 342-74).

During the long monarchy under Zahir Shah (1933-1973) suppression of political parties continued. Whatever, modest political socialization was started in 1950s was cut in the root by the king. By 1953 all the opposition was scattered, some imprisoned, other exiled and some flee the country. Elections did not hold and a decade of darkness ruled the country under Sardar Daud with active connivance of king Zahir Shah. The ruling monarch was not ready to share power and empower others or set a normal political course in the country. Thus, right from 1953 up to 1978 the suppression continued.

Even kids and women of the opponents were sent to prisons and forced for deportation to Herat, such as, Mir Zaman Khan Family of Kunar province in 1960s. Amir Khyber was assassinated. The suppression was taking place in various forms, legal restraints and crackdowns. During the so called 'democratic era' (1964-1973), though a liberal modern constitution was enacted but its articles related to freedom of political parties was not ratified by king Zahir Shah. Permission might have created a mechanism of countering extreme of Islamism and socialism but monarch was fearful of losing his power. Space was refused to the new educated class to have a say in the decision-making, leading to polarization of society. The suppressive practices stunted political parties, and tilted the balance of power towards nonpolitical, unrepresentative groups, such as warlords, regional groups, ethnic politics and religious parties.

Daud Era

Monarchy as form of government, established in Afghanistan since 1748, was concluded by Sardar Daud in 1973. He deposed the ruling monarch king Zahir Shah (Youngs, 2005:8, Dupree, 1980, pp. 559-658). He was more a king than republican politician. He introduced a new constitution, formed a presidential form of government under his Revolutionary National Party, *Hezb-e-Enqelabee-e-milli*. Daoud suppressed the political class ruthlessly. President Daud's attempts to decrease Afghanistan's dependence on the Soviet Union in 1978 were met with a coup by leftist military officials, resulting in his overthrow.

The Socialist Rule:

On April 27, 1978, few afghan army officers affiliated with People's Democratic Party, a leftist party, of Afghanistan (PDPA), ousted President Daud Khan and grabbed power. The leader of the group Nur Muhammad Taraki, named the coup a short cut to the destiny of the people of Afghanistan. The party took coercive measures to impose socialist ideology and those who were opposing the ruling party were killed

in thousands as enemies of the new dispensation. The policy of repression resulted in popular uprisings and mutinies in army garrisons. Twenty months after the issue arose, international intervention was prompted as a result. This included countries such as the Soviet Union, United States, Pakistan, Saudi Arabia, among others, who provided funding and weaponry to the resistance, which later came together to form different factions of the mujahedin. Since then, Afghanistan has faced multiple cycles of conflict.

Islamic Government 1992-1996: A War For Power

When the Soviet Union withdrew from Afghanistan in February 1989, the nation was left in ruins. Approximately 1.3 million Afghan individuals were reported to have lost their lives, and another 4.5 million were forced to flee the country. It was estimated that the Soviet Union had suffered 15,000 losses and 50,000 injuries. (Youngs, 2005). Subsequent to soviet withdrawal from Afghanistan civil war stated among the different groups. Before the incident of 9/11 the political parties were mainly consisted on the Mujahidin groups fought against soviet. These political parties used to change their alliances on the basis of benefits that could be extracted from any side.

Taliban regime 1996-2001

Taliban, who take a puritanical version of religion, had no concept of political parties and political opposition. Dr. Najibullah, a former president who had sought refuge in the UN compound in Kabul, was brutally executed by the same individuals who were known for their harsh interpretation of Islam and their atrocious human rights record. Those who defied their decrees were often subjected to punishments such as lashings, mutilation of the body, and even execution (Youngs, 2005).

Following the terrorist attacks that occurred on September 11, 2001, a military operation was launched by the United States and its coalition partners on October 7, 2001. In early November, US Special Forces worked in collaboration with the Northern Alliance to carry out extensive airstrikes against Taliban strongholds, which enabled the Alliance to make significant progress in areas like Mazar-e-Sharif and Kabul. The capital was taken on November 13th, and Kandahar surrendered on December 7, 2001 (Youngs, 2005)

Bonn Agreement (December 2001)

After the Taliban's powerbase crumbled, the focus shifted towards establishing a representative and democratically elected government that could govern Afghanistan. In this context, the term 'broad-based government' gained attraction, emphasizing the importance of reflecting Afghanistan's diverse ethnic, political, and religious landscape, as well as its extensive exile community. The UN organized a meeting of Afghan political leaders in Bonn in November 2001, which resulted in the signing of an agreement on December 5th. This agreement outlined a step-by-step transition towards legitimate power structures, ultimately leading to the establishment of a fully representative and freely elected government. The UN Security Council endorsed this outcome the following day in Resolution 1383 (2001) (Youngs, 2005). In 2003,

Afghanistan passed Political Parties law under which many groups registered as political parties.

Political Parties under Political Parties Law 2003

The Political Parties Law promulgated in 2003 was in fact mainly an adoption of Article 32 of the constitution of 1964. The Article 4 of new 2003 Law deals a variety of subjects pertaining to political parties their rights and their obligations mentioned. Any Afghan citizen who is eligible to vote has the freedom to create a political party, regardless of their ethnicity, race, language, tribe, gender, religion, education, occupation, lineage, assets, or place of residence as stated in article 4 of the said law (Political Parties Law, 2003). Similarly, Article 5 of the law guaranteed equal rights to all citizens of Afghanistan. The law also constrained political parties, such as, that no party shall be registered unless have a seven hundred (700) registered members and under Article 6 political parties shall not indulge in any activity against Islam, nor shall they use force against state and its inhabitants. The law further provides that the each party shall be register according to the provision of the law as mentioned in the article 16 of the said law. Article six states that Political party shall not indulged in any activity that creates danger to the rights and freedom of other. Political parties shall not have any affiliation with armed forces nor shall it receive any funding from foreign sources. Law bound members of political parties to declare their assets and that they shall not receive any funding for the party's affairs from outside of Afghanistan. The law also provide rules for dissolution of political parties if any of the party violate the law of the land or became in contrast with the prescribed rule by this special law the party will be subject to dissolution according to the rules of this law. Nonetheless, the law also protects the rights of members of political party by giving them hearing right to plead against the order of dissolution of the party as mentioned in article 21 of the said law.

Political Parties Under 2004 Constitution

Under the constitution the legal status of parties recognized under Article 35 that the citizens of Afghanistan have the right to form political parties subject to certain restrictions. Parties must not in contravention of Islam or against the value of constitution of Afghanistan. All the parties shall declare in public their structure and its financial sources. None of the party should have any affiliation with the militant nor should it have any military aims. These parties should have no affiliation with foreign political parties; its formation should not be based on ethnic, religious, sect or on the basis of region. Subsequently the Article states that if the party complies all of the rules prescribed under this Article it cannot be disbanded except by the explicit order of an authorized court of law as mentioned in article 35.

Thus, under political parties' law of 2003 and under the constitution of 2004, there is a comprehensive detail of duties and obligations of political parties. The procedure and numbers of members required for a political party as 700 been denied. However, the 2003 law was not let remain in its original form.

Legal and electoral Limitation (2004-2005)

The law of 2003 recognized political party's as legal entity. However, the law does not provide a concrete mechanism for election. In May 2004 flawed electoral laws was adopted by President Karzai, prescribed a voting model named Single Non-Transferable Vote (SNTV). The political system suffered and contributed to a legislature that has largely not representing those who cast vote (Saikal, 2014:37). Under STNV the candidates are not required to have affiliation with a political party. Most probably, SNTV was a temporary mechanism adopted for war turn country as the members of political parties were mostly belong to the militant groups. However, after 2004-05 presidential election and Ulasi Jirga election, political groups made several efforts to reform the electoral system. However, President Karzai strongly opposed such moves and proposals by civil society and Cooperation Council of Political Parties (Larson, 2021). The purpose behind the adoption of SNTV, system for election was to marginalize the political parties. Under this system the candidates were not required to be member of any political party for participating in election. Thus, it can be concluded that President Karzai introduced this principle of SNTV or others whoever formulated it that greatly harmed growth of political parties. Under this principle a nonpolitical culture is promoted.

Side Effects of SNTV

Under election of 2005 and 2010 the lower and most powerful chamber's member were elected on the basis of non-party elections. In result the Members of Parliament indulged in ad-hoc alliances for their personal benefits rather for the state's benefits. In this regards the picture of Afghan society and Karzai strong opposition to the party politics becomes clearer. The adopted election pattern in Afghanistan resulted into an incapacitate parliament as he made it as his tool to implement his choices, rather than to build a strong parliament that could keep genuine check on the executive (Larson, 2021).

Strong Presidential Powers

The same old pattern of suppression political parties used way back in 1960s is once again invoked in the 2004 constitution. The current 2004 constitution reinstates the strong presidential power that was present in the past 1964 constitution, which was actually designed to counter party politics during that era. Similar to the 1964 constitution, article 60 of the 2004 constitution declares that "the president is the head of the Islamic Republic of Afghanistan and wields executive, legislative, and judicial authority in accordance with the provisions of this constitution (Da Afghanistan Asasi Qanun, 2004). The article is blindly adopted without thinking about the political ramification and reality of the current context. Without any separation of powers arrangement and system of check and balance, the resident is a monarch in modern form.

It was this strategic mistake of conferring overriding powers over one man like president Karzai that posed threat to the growth of modern political parties as no one could question the wide range of presidential power. Using unbridled power under Article 60 of the constitution president Karzai introduced the political party's law in

2009 through a presidential decree. The law restricts development in party politics, the great obstacle being the registration procedure of the political parties. Under the new law the political party could be registered if it provided the document of 10000 members (Barfield, 2010: 3).

In February 2010, Karzai managed to remove UNAMA power to appoint three of the five members of the Electoral Complaint Commission (ECC), empowering himself in the process (Saikal, 2014: 33).

Karzai opposition to party politics, reflected election to Ulasi Jirga in 2005-2010 on non-party bases resulting in a parliament far from perfect. It was represented by regional strong men, war lords who were bent on protecting themselves from public scrutiny and accountability for their crimes against humanity (Saikal, 2014: 37)

Political Party law: 2009

President Karzai replaced the political party's law of 2003 by a new one in 2009 as Political Party Law 2009. Under the old 2003 Political Party Law, 700 members were required for registration of a new political party. The new law of 2009 required ten thousand members for registration of a new political party. Furthermore, under the new law, documents of all members have to be submitted by the party to the registration office in the Ministry of Justice (Larson, 2015:5). When the new law was approved in September 2009, the time left for re-registration of political party was six months which was too short. Furthermore, the rules were not available for the public within specified time of re-registration. The rules regulation under 2009 law published in official gazette in June 2010, after a lapse of almost 14 months.

Due to the rapid changes in political party's law, only few parties got registration. In short, political parties are openly allowed in the Afghan constitution, on conditional basis that these political parties should not have any affiliation with ethnic agenda. The current law had made it tough for most of the people to be part of the political party. As well the procedure got harder for registration (Birkle, 2011: 5).

Thus, it may be concluded that president Karzai making use of his extraordinary power conferred upon him twisted the laws related to political parties especially by enhancing the membership requirement from 700 to 10000 under the new law under the presidential decree in 2009.

Impact of legal and electoral limitations on political parties

The constitution of 2004 and its strong Presidential form had its political consequences on politics and suppression of political parties. The presidential system adopted under the American influence and pressure. According to most of the scholars the American proposed system will be more dangerous for a war-torn country. Instead of tackling the problem of the state it will multiply the miseries (Saikal, 2014:36).

In 2004 the constitutional Loya Jirga, was not elected through popular vote but were the choice of the victors. Most of them were pro-Karzai factions, with the US support they won the day. As in the new constitution introduced the strong presidential form of government. Under Article 60 of constitution president is

entrusted with the strong executive command with full power to sideline the legislative and judicial branches whenever it is desired (Saikal, 2014:36). Strong presidential system on American pattern posed serious danger to the Afghan political development. The arbitrary law of political parties of 2009 is one of the examples. As there is less harmony between executive and legislative branches which results into such illogical legislation.

The law of political parties of 2009 requires that, they must have the membership of at least 10,000 people. In the previous law of 2003 the require number for registration of political party was 700. Under the new law for the registration of party the applicant have to submit the document of membership of 10,000 people. According to Anna Larson the researcher of United States Institute of Peace, the new law created hurdles for the member of political parties in the process of registration. According to her until 2011, only 38 political parties were registered (Larson, 2015:1).

Accordingly, the National Democratic for International Affairs (NDI) is of the opinion that the law had made it difficult for common people to get register their parties. The institute has conducted several interview of Afghan national regarding the impact of law on development of party politics. Law is arbitrary in nature, which is promoting corruption as a number of political parties got registration by bribing the Afghan Ministry of Justice (AMJ) per law the political parties have to be registered with the AMJ (Political Parties in Afghanistan 2011:37).

Conclusion

This research article explores the cost of political partis' suppression in Afghanistan, which resulted in a spiral of violence that engulfed the entire country. The article examines the political history of Afghanistan, particularly during the Nadir Khan Dynasty, which acquired power through British support and created a façade of democracy by suppressing or eliminating political parties. The article discusses the emergence of the first proto political parties in the 1940s and 1950s, the only impartial election to the Ulasi Jirga in 1949, and the subsequent crack down on all political groups and their organs. The article argues that the culture of political intolerance was introduced by Nadir Khan and continued by various Afghan regimes, ultimately leading to a socialist coup in 1978 and the current marginal role of political parties in Afghanistan. The article emphasizes the importance of political parties as a source of legitimacy and political stability in democracies and highlights the need for an open political system that has a positive communication with its circumstance.

The article provides a historical account of the struggle for democracy and constitutional government in Afghanistan. It highlights the role of various political movements and the suppression faced by them, starting from the Mashroota Khawahan movement in the early twentieth century to the emergence of the first proto-political parties in the 1940s, and the suppression of political parties during the monarchy under Zahir Shah (1933-1973). The article also discusses the suppression of the political class during Sardar Daud's presidency, who overthrew King Zahir Shah and established a presidential form of government. The article emphasizes the role of

monarchs and rulers in suppressing political parties and the failure to lay a foundation for a modern democratic state in Afghanistan. It sheds light on the polarization of society and the emergence of unrepresentative groups such as warlords, regional groups, ethnic politics, and religious parties due to the suppressive practices of the ruling class.

The history of political parties in Afghanistan has been a tumultuous one. Before 2001, the Taliban had no concept of political parties or political opposition, and those who defied their decrees were often punished severely. However, after the Taliban's powerbase crumbled, the focus shifted towards establishing a representative and democratically elected government that could govern Afghanistan. The Bonn Agreement was signed in December 2001, which outlined a step-by-step transition towards legitimate power structures, ultimately leading to the establishment of a fully representative and freely elected government.

In 2003, Afghanistan passed Political Parties law under which many groups registered as political parties. The law granted Afghan citizens the freedom to create a political party, regardless of their ethnicity, race, language, tribe, gender, religion, education, occupation, lineage, assets, or place of residence. However, political parties were constrained by certain obligations and restrictions, such as not being allowed to engage in any activity against Islam or use force against the state and its inhabitants. Political parties were also prohibited from having any affiliation with armed forces or receiving funding from foreign sources.

Under the constitution of 2004, the legal status of political parties was recognized, subject to certain restrictions. Political parties were not allowed to be in contravention of Islam or against the values of the constitution of Afghanistan. They were required to declare in public their structure and financial sources and were prohibited from having any affiliation with militant groups. The formation of political parties could not be based on ethnic, religious, sect or on the basis of region. However, the law did not provide a concrete mechanism for election. In May 2004, flawed electoral laws were adopted by President Karzai, which prescribed a voting model named Single Non-Transferable Vote (SNTV). This contributed to a legislature that did not largely represent those who cast their vote. Under the SNTV system, candidates were not required to have an affiliation with a political party. In conclusion, Afghanistan has a history of political instability, and the establishment of political parties has been a gradual process. The country has made progress towards democratic governance, but there are still challenges to be addressed in terms of creating a fair and inclusive political system that represents all Afghans.

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