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Introduction

A strong state can defend its citizens while maintaining order among various levels of government. By this standard, Afghanistan has been a very weak state throughout most of its history. The central government has never extended its reach far into the countryside. By the time NATO wrapped up nearly fifteen years of combat operations in Afghanistan in 2014, the government was neither able to defend its citizens nor extend its writ to much of the countryside. Rather, government authority stopped – as it has for most of modern history – at the district or county level.

Despite state weakness, this book shows that there is governance in rural Afghanistan, although its origins lie outside of the formal apparatus of the state. Most order in rural Afghanistan arises within the confines of customary organizations at the village level. This book seeks to understand these self-governing organizations. Empirically, it uses fieldwork to show both the capacity and limitations of these self-governing organizations in rural Afghanistan. Theoretically, this book speaks to three general questions of comparative politics and political economy: To what extent, and under what conditions, can self-governing organizations provide public goods at the village level? Under what conditions can neighboring communities work together to provide public goods that transcend the boundaries of a community without external assistance? To what extent and under what conditions are customary and formal state representatives able to govern together?

From a theoretical perspective, the goal of this book is to bring the study of self-governance into the fold of the state-building literature. In this regard, it speaks to issues confronted by European colonial powers contemplating the merits of direct rule, which replaced customary authority with new bureaucracies, to indirect rule, whereby colonial rulers relied on customary actors such as traditional chiefs and tribal organizations to extend colonial authority. As colonies in Asia and Africa gained independence, it seemed as if

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customary governance would wither away as the scope of the post-colonial state expanded. Yet customary order remained strong in many states. Issues of tribalism, insurgency, and state fragility in places as diverse as Iraq, Pakistan, Yemen, Somalia, and Libya serve as constant reminders of the importance of traditional authority in modern politics.

The relationship between self-governing organizations and the state was a central question for policymakers confronting the challenges of institutional reform in post-2001 Afghanistan. Although Afghanistan was never formally colonized by a European power, it has been the site of a longstanding, ongoing debate concerning the role customary authority should play in a "modern" state. Popular accounts of Afghanistan portray fiercely independent tribal elders and deeply entrenched customary law as obstacles to the extension of government capacity, modernization, and economic development. Afghan history is rife with examples of various state-backed modernization campaigns that faced substantial resistance and rebellion led by customary authority.

Rather than accept the presumption that customary and state-backed orders are irreconcilable in Afghanistan, this book explores this issue analytically, drawing on social science theory, hundreds of interviews conducted in over thirty villages, and quantitative analysis of two nationally representative surveys. It shows that village-based customary authority can serve as an effective source of governance, defined as a public organization's "ability to make and enforce rules, and to deliver services" regardless of whether such organizations are democratic or even formally part of a state.[1] The most important local public goods in rural Afghanistan are things like basic law and order, dispute resolution, and small-scale infrastructure. Despite chaos in Kabul, these goods are often provided through customary channels at the village level. Furthermore, communities governed by such organizations routinely work together to provide public goods and services that benefit an even broader audience such as inter-communal justice and systems of water management.

This book makes an empirical contribution by illustrating the continuities of self-governance across the country despite decades of conflict. Fieldwork in rural Afghanistan revealed surprising similarity in the organization of village governance across a diverse ethnic, religious, and tribal landscape. This similarity is the consequence of a common set of norms and expectations about village politics that has been shaped by history and residues of previous government intervention. I refer to this common set of expectations as the "informal constitution" of village governance whereby village authority is separated among three distinct bodies: customary leaders or representatives, deliberative bodies, and religious arbiters. Each of these organizations derives its legitimacy from a unique source in the community.

[1] Francis Fukuyama, "What Is Governance?" *Governance* 26, no. 3 (2013): 4.

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Variation in the performance of customary organizations is explained not only by the capacity of these three organizations, but by their ability to constrain one another. In addition to separating authority, the informal constitution dictates that customary organizations should be subject to a set of checks and balances that allow them to intrude on each other's power in the case of predation or general transgression of individual or community rights. For example, elders retain enormous status, as do collective decision-making bodies, typically known as shuras or jirgas, in nearly all Afghan villages. Most villages also have community-appointed leaders (variously titled as malik, qaryadar, arbab, or wakil) that represent the interests of the community to the state. Finally, most villages have one or more religious leaders, usually a mullah, who serves as another source of order.

This constellation of organizations is present in most communities. During my fieldwork, I found them in Pashtun, Tajik, Uzbek, Turkmen, and Aimaq villages in Afghanistan. At the same time, there are important sources of variation in such factors as tribal and ethnic affiliation, as well as region and geography. Customary governance is not always and everywhere the same.[2] Ethnic and regional differences account for divergence in rules applied by these organizations across communities. For example, Pashtun villages are more likely to apply norms of Pashtunwali (Pashtun tribal code) that may differ from customary law (rawaj or adat) used in non-Pashtun areas. The structure of village governance is remarkably similar across communities despite differences in substantive norms applied in day-to-day governance.

Although this informal constitution is a source of continuity, it is not static. As a result of the enormous hardships deriving from war, mass migration, and a series of governments bent on tearing society apart in order to transform it in the name of modernization or religion, customary organizations have been forced to adapt to changing circumstances. In certain periods during the past forty years, they seemed to disappear during the fog of intense conflict, only to regenerate, albeit in somewhat different forms after fighting died down or once communities returned from exile. Customary governance in rural Afghanistan after 2001 is different than it was decades ago. Many changes are for the better, as most informants reported local leaders to be more responsive to citizen demands.

As a study of local governance, this book makes several contributions. First, it explains why customary governance in Afghanistan is generally less feudal and autocratic than "polycentric." Polycentric governance, which refers to situations in which centers of decision-making are independent yet overlapping, is a remarkably useful concept for describing political relations in Afghanistan because in most communities, there is not one individual or organization who

[2] Noah Coburn, *Bazaar Politics: Power and Pottery in an Afghan Market Town* (Stanford University Press, 2011); Conrad Schetter, ed., *Local Politics in Afghanistan: A Century of Intervention in Social Order* (New York: Columbia University Press, 2013).

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rules authoritatively over others.[3] Instead, there are multiple power sources whose convergence significantly constrains the reach of individual customary leaders. These constraints naturally limit the authority of such leaders, while at the same time empower them by conferring upon them legitimacy and authority. When these constraints are not present in a community, customary authority does not produce public goods but instead likely yields predation.

Second, the findings clarify both the capacity and limitations of customary governance. As James Scott noted, scholars should take anarchy seriously as an organizing principle by seeking to understand how and why communities organize affairs without the state.[4] Yet Scott asseverates that there is always a role for the state, and so the analytical challenge is to explain precisely the legitimate political boundaries of the state – where it should intervene, and where it should allow for self-governance. This book explores those boundaries and in the process clarifies more precisely where citizens demand a stronger state.

Third, this book elucidates the complicated interrelationship between customary governance and the state. Some Afghan policymakers and many in the international donor community justified efforts to create new governance structures in Afghan villages immediately after 2001 on the presumption that traditional order was fundamentally incompatible with the precepts of a modern state. The reasoning echoes Max Weber, who in *Politics as a Vocation* posited an irreconcilability of "traditional" order with that of a modern state based on laws.[5] While recognizing that there are often frictions between "traditional" and "modern" orders, this book finds that the presence of customary governance actually improves support for democracy and the central government. It also explores the conditions under which customary and formal state representatives govern together even though such collaboration is facilitated entirely by informal norms.

Finally, this study departs from previous studies of non-state actors and local governance in states emerging from conflict that focus primarily on the role of warlords.[6] Understanding the dynamics of warlord governance is clearly

[3] For an overview of the politics of polycentricism see: Michael Dean McGinnis, ed., *Polycentric Governance and Development: Readings from the Workshop in Political Theory and Policy Analysis* (Ann Arbor, MI: University of Michigan Press, 1999); Elinor Ostrom, *Understanding Institutional Diversity* (Princeton, NJ: Princeton University Press, 2005); Michael D. McGinnis and Elinor Ostrom, "Reflections on Vincent Ostrom, Public Administration, and Polycentricity," *Public Administration Review* 72, no. 1 (2012): 15–25.

[4] *Two Cheers for Anarchism: Six Easy Pieces on Autonomy, Dignity, and Meaningful Work and Play* (Princeton, NJ: Princeton University Press, 2012).

[5] *The Vocation Lectures: Science as a Vocation, Politics as a Vocation*, ed. David S. Owen and Tracy B. Strong, trans. Rodney Livingstone (Indianapolis, IN: Hackett, 2004) [1919].

[6] Antonio Giustozzi, *Empires of Mud: War and Warlords of Afghanistan* (New York: Columbia University Press, 2009); Jackson, Paul, "Warlords as Alternative Forms of Governance," *Small Wars & Insurgencies* 14, no. 2 (2003): 131–50; Mampilly, Zachariah Cherian, *Rebel*

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important in such contexts, but these are not the only players at the subnational level. Nor should warlords be conflated with customary leaders, although as we will see, these groups often interact. I found warlord politics usually occurs at a higher level of aggregation than the village.

As a study of state-society relations, this book joins a growing literature that questions the assumption that traditional authority is necessarily a tyrannical or feudal form of governance.[7] Like others, it shows that under some conditions such authority can enhance public goods provision[8] and may even improve political participation.[9] Such findings stand in stark contrast to those who have analyzed traditional authority as village level despots whose primary interest is protecting privileges arising from ties to the state.[10]

This book also complements works that have called into question efforts by international donors to foster new democratic institutions to replace existing social institutions.[11] Although customary governance may not be an optimal solution, under conditions of state weakness creating new, donor-supported – and frequently ephemeral – village governance structures in the same communities can at best lead to wasted resources and at worst lead to unnecessary competition and rivalry at a time of enormous political fragility. Similarly, efforts to strengthen traditional leaders and support them financially can also yield substantial distortions that threaten their legitimacy. Historically, this was

Rulers: Insurgent Governance and Civilian Life during War (Ithaca, NY: Cornell University Press, 2011); Marten, Kimberly Zisk, *Warlords: Strong-Arm Brokers in Weak States* (Ithaca: Cornell University Press, 2012); Dipali Mukhopadhyay, *Warlords, Strongman Governors, and the State in Afghanistan* (New York: Cambridge University Press, 2014). Reno, William, *Warlord Politics and African States* (Boulder, CO: Lynne Rienner Publishers, 1999);

[7] Carolyn Logan, “Selected Chiefs, Elected Councillors and Hybrid Democrats: Popular Perspectives on the Co-Existence of Democracy and Traditional Authority,” *The Journal of Modern African Studies* 47, no. 1 (2009): 101–28; Carolyn Logan, “The Roots of Resilience: Exploring Popular Support for African Traditional Authorities,” *African Affairs* 112, no. 448 (2013): 353–76.

[8] Kate Baldwin, “Why Vote with the Chief? Political Connections and Public Goods Provision in Zambia,” *American Journal of Political Science* 57, no. 4 (2013): 794–809; Patrick M. Kyamusugulwa and Dorothea Hilhorst, “Power Holders and Social Dynamics of Participatory Development and Reconstruction: Cases from the Democratic Republic of Congo,” *World Development* 70 (2015): 249–59.

[9] Alberto Díaz-Cayeros, Beatriz Magaloni, and Alexander Ruiz-Euler, “Traditional Governance, Citizen Engagement, and Local Public Goods: Evidence from Mexico,” *World Development* 53 (2014): 80–93.

[10] Daron Acemoglu, Tristan Reed, and James A. Robinson, “Chiefs: Economic Development and Elite Control of Civil Society in Sierra Leone,” *Journal of Political Economy* 122, no. 2 (2014): 319–68; Mahmood Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism* (Princeton, NJ: Princeton University Press, 1996).

[11] Humphreys, Macartan, Raul de la Sierra, and Peter Van der Windt, “Social Engineering in the Tropics: Case Study Evidence from East Congo” (Unpublished Manuscript, 2014); Ghazala Mansuri and Vijayendra Rao, “Community-Based and-Driven Development: A Critical Review,” *The World Bank Research Observer* 19, no. 1 (2004); Ghazala Mansuri and Vijayendra Rao, *Localizing Development* (Washington, DC: World Bank, 2013).

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the case of colonial rule and was particularly true of NATO counterinsurgency efforts in Afghanistan.

Finally, and perhaps most importantly for long-term state consolidation in Afghanistan, this book finds that customary governance in the post-2001 period served as an important bulwark against abusive behavior on the part of the state and as a source of defense against insurgents. Although self-organized communities have historically been in conflict with the state, it is also true that one of the fundamental challenges throughout Afghan history has been that the state has been just strong enough to make life very unpleasant for its citizens. Customary governance may actually improve long-term prospects for the rule of law because it serves as an obstacle for the state as it seeks to transgress citizens' rights. This political function of customary authority – defending communities from rapacious regimes – may be even more important than its role in providing public goods.

This book provides an alternative method to the study of post-conflict state building or liberal peacebuilding, which generally approaches such fragile states through theoretical prisms of international relations, international organizations, and conflict studies. Studies of places like Afghanistan most frequently analyze the effectiveness of foreign aid, humanitarian intervention, and military doctrine and strategy, viewing post-conflict states through a lens that privileges the role of external actors.[12] External actors are natural subjects of scholarly and policy inquiry in states wracked by conflict, if for no other reason than it is easier to gain access to such groups under the challenging circumstances of conflict. There are also serious drawbacks of this mode of approaching fragile states, as data sources for such endeavors tend to be expatriates who frequently have meager knowledge of how government works or how citizens cope in the context of state failure.[13] Talking to members of NGOs or international organizations (IOs) does not typically require learning local languages or require the researcher to engage citizens in their communities.[14] For this reason, government and aid agency bureaucrats, who

[12] Krasner and Weinstein believe that the vast majority of political science scholarship on governance focuses on domestic – not international – sources of governance. This may be true of most states in the world, but in states that are the site of international peacebuilding efforts, scholarly research focuses overwhelmingly on the success or failure of international efforts rather than on local political institutions. See Stephen D. Krasner and Jeremy M. Weinstein, "Improving Governance from the Outside In," *Annual Review of Political Science* 17, no. 1 (2014): 123–45.

[13] For example, Rajiv Chandrasekaran highlights the limited information available to expatriate policymakers in Kabul who were very rarely able to travel outside their compounds due to security considerations. He argues that poor policy choices were based on rumors and misinformation about what was really happening on the ground. The case of Afghanistan is not unique in this regard. See Rajiv Chandrasekaran, *Little America: The War within the War for Afghanistan* (New York: Knopf, 2012).

[14] Severine Autesserre, *Peaceland: Conflict Resolution and the Everyday Politics of International Intervention* (New York: Cambridge University Press, 2014).

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themselves rarely leave their well-armed compounds, receive a disproportionate amount of attention. This phenomena is not unexpected – security concerns in conflict-affected areas necessarily limit the access of outsiders to communities – but its cumulative effect means that public policies developed by many outsiders in this context are not fully utilizing local knowledge.[15] It also means that scholarship may disproportionately exaggerate the importance of external efforts.

As Michael Barnett and Christoph Zurcher argue, international NGOs (INGOs) in Afghanistan and other states emerging from conflict "build barriers between themselves and the local population, discouraging first-hand contact, which, in turn [leads] to a decline in the quality of their information and a dependence on locals and information brokers for news, second-hand reports, and secondary (and recycled) data. INGO management further retreat[s] into a comforting, hermetically-sealed illusion of emails, donor reports, 'performance appraisals' and day-to-day operational activity."[16] To avoid such challenges, the conclusions of this book are based upon evidence collected during more than twenty months of fieldwork in post-2001 Afghanistan. With the assistance of a remarkable group of six Afghan researchers, we together interviewed community-identified village leaders, local government officials, and randomly selected villagers (including an equal sample of both men and women) on issues related to local governance and the role of the state. This research was conducted in thirty-two villages in seventeen districts across six provinces of the country. All told, the original data consist of more than three hundred interviews and focus-group discussions and thousands of pages of interview transcripts. The fieldwork evidence, combined with use of nationally representative surveys, hopes to place this study on a firm empirical footing.

A more extensive discussion of the research design and data collection process are found in the Appendix A at the end of the book.

This book brings local politics back into the study of the state and state building. Comparative politics long ago brought the state back in.[17] However, the state in comparative politics and especially in fragile states focuses on national political dynamics, providing little insight into how legitimacy of the state is achieved or squandered by street-level bureaucrats, systems of public

[15] For a very important discussion on this point, see Autesserre, *The Trouble with the Congo: Local Violence and the Failure of International Peacebuilding* (New York: Cambridge University Press, 2010).

[16] "The Peacebuilder's Contract: How External Statebuilding Reinforces Weak Statehood," in *The Dilemmas of Statebuilding: Confronting the Contradictions of Postwar Peace Operations*, ed. Roland Paris and Timothy D. Sisk (New York: Routledge, 2009), 46.

[17] Peter Evans, Dietrich Rueschemeyer, and Theda Skocpol, *Bringing the State Back In* (New York: Cambridge University Press, 1985); Charles Tilly, *Coercion, Capital, and European States, AD 990–1992* (Cambridge: Blackwell, 1992); Hendrik Spruyt, *The Sovereign State and Its Competitors* (Princeton, NJ: Princeton University Press, 1996).

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management, or how informal norms shape attitudes toward the state.[18] It is now time to bring local politics back into forefront of comparative politics, complementing the now standard focus on national politics in weak states. On the other hand, a movement toward the study of international aid projects has returned scholars to villages to measure impact of external interventions. While laudable as a form or program evaluation, a focus on external intervention opens only a very narrow window into the political economy of development. Rather, improving state-building prospects requires a better understanding of local governance, not simply the impact of external projects implemented locally. Legitimacy of the state is shaped at the local level, through the ways individuals experience the exercise of state power. Politics at this level is seemingly mundane. It is where issues of administration and management shape citizens' view of the state.

The remaining parts of this chapter introduce the main questions; before doing so I define a few analytical concepts employed in the pages ahead.

FROM AREA STUDIES TO POLITICAL ECONOMY

This book considers local governance through the lens of political economy, which asks how institutions shape incentives of individuals and organizations and the consequences of institutions for key economic and political outcomes.[19] Before introducing my argument and evidence, it is important to clarify terminology that will serve as the foundation for the rest of the book.

Institutions are sets of rules or prescriptions that structure social interactions in particular ways.[20] These rules provide information about how people are expected to act in particular situations. They are recognized by members of the relevant group and so they influence the behavior of other members of the group.[21] These prescriptions, which are embodied in systems of beliefs and norms, generate regularities of social behavior.[22]

Formal institutions are those established by states, including laws and constitutions. Unlike their formal counterparts, which are codified in written laws,

[18] Of course, there are important exceptions to this generalization. See Lily Tsai, *Accountability Without Democracy: Solidary Groups and Public Goods Provision in Rural China* (New York: Cambridge University Press, 2007); Merilee S. Grindle, *Going Local: Decentralization and the Promise of Good Governance* (Princeton, NJ: Princeton University Press, 2007); Daniel Posner, *Institutions and Ethnic Politics in Africa* (New York: Cambridge University Press, 2005); Kathryn Firmin-Sellers, *The Transformation of Property Rights in the Gold Coast: An Empirical Study Applying Rational Choice Theory* (New York: Cambridge University Press, 1996); Lisa Wedeen, *Peripheral Visions: Publics, Power, and Performance in Yemen* (Chicago, IL: University of Chicago Press, 2008).

[19] Jeffrey S. Banks and Eric A. Hanushek, eds., *Modern Political Economy* (Cambridge: Cambridge University Press, 1995).

[20] Ostrom, *Understanding Institutional Diversity*.

[21] Jack Knight, Institutions and Social Conflict (New York: Cambridge University Press, 1992).

[22] Avner Greif, *Institutions and the Path to the Modern Economy: Lessons from Medieval Trade* (New York: Cambridge University Press, 2006), 30.

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informal institutions are the "socially shared rules, usually unwritten, that are created, communicated, and enforced outside of officially sanctioned channels."[23] Informal institutions include "traditions, customs, [and] moral beliefs" that are "part of a community's culture."[24] Informal institutions are not established by any single authority, but rather exist as norms within society. In countries that have lacked functioning governments for many decades, informal institutions govern many aspects of social, political, and economic life in the absence of effective formal rules.

Organizations, on the other hand, are "groups of individuals bound by some common purpose."[25] They are "collective actors that are subject to institutional constraints."[26] In this book, I define formal organizations as those deriving at least some of their authority from the state. Informal organizations are distinct from formal or "parchment" organizations because their authority and legitimacy derives from non-state sources.[27]

Like all societies, Afghanistan has a mix of formal and informal institutions. For example, formal rules are established by the Constitution and the Criminal Code. Informal institutions, in contrast, have origins that typically predate the state (such as customary law), but in some cases they emerge to help people get around inefficiencies in formal laws (such as bribery of government officials in return for services). Some of the most important informal institutions in Afghanistan include tribal codes such as Pashtunwali. In addition to tribal norms, non-tribal and religious norms routinely play an important role in rural society. For example, norms of village governance such as the expectation that every male in a community can participate in village governance, appear to have their origins in customary mores that transcend tribal and ethnic affiliations.

Defining precisely what constitutes "custom" has been a perennial challenge for law and social science.[28] Broadly, customary institutions refer to rules associated with long-standing social practice, religion, or tradition. I define customary organizations as collective decision-making bodies with authority

[23] Gretchen Helmke and Steven Levitsky, "Informal Institutions and Comparative Politics: A Research Agenda," *Perspectives on Politics* 2, no. 4 (2004): 727.
[24] Svetozar Pejovich, "The Effects of the Interaction of Formal and Informal Institutions on Social Stability and Economic Development," in *Institutions, Globalisation and Empowerment*, ed. Kartik Chandra Roy and Jörn Sideras (Northampton, MA: Edward Elgar Publishing, 2006), 58–59.
[25] Douglass C. North, *Institutions, Institutional Change, and Economic Performance* (New York: Cambridge University Press, 1990), 5.
[26] Knight, *Institutions and Social Conflict*, 3.
[27] John M. Carey, "Parchment, Equilibria, and Institutions," *Comparative Political Studies* 33, no. 6–7 (2000): 735–61.
[28] C. M. N. White, "African Customary Law: The Problem of Concept and Definition," *Journal of African Law* 9, no. 2 (1965): 86–89.

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relations defined by long-standing rules whose origins lie outside the formal authority of the state.

Although scholars describe customary organizations as falling under the Weberian rubric of traditional authority, I prefer to use the term *customary* rather than *traditional* to describe village-based informal governaning organizations common throughout much of the developing world, because the term "traditional" evokes images of extreme stasis. As Olivier Roy explained:

> By traditionalism we mean the desire to freeze society so that it conforms to the memory of what it once was; it is society as described by our grandfathers. In this vision history and tradition are merged; the historical development of society is effaced in favor of an imaginary timeless realm under attack from pernicious modernity. Traditionalism can never provide the basis for any coherent program; it is riddled with nostalgia and its politics naturally incline towards all that is conservative.[29]

Customary norms are not always "frozen." Instead, they are like the common law, a legal system based on local norms that evolved through a process of adaptation into its modern, codified form.[30] In Afghanistan, customary organizations and the institutions that govern them are similarly dynamic. As with almost everything in the country, local governance did not weather the turbulence of thirty years of war unscathed or untouched. Despite facing many challenges, these organizations have proven resilient and adaptive. Just as the confluence of both tradition and the state affected the development of common law in the United States, customary institutions and organizations in Afghanistan are not the product of "tradition" alone, but have been shaped by interactions with the state and other outside groups.

My primary concern is with three customary organizations that play very important roles in the politics of rural Afghanistan: village representatives (maliks), village councils (shuras or jirgas), and religious arbiters (mullahs).[31] Together, they constitute the fundamental political organizations in the Afghan countryside despite the fact that they have no formal status or standing with the state.

Although my primary focus is on these three customary organizations, they are not the only organizations vying for authority in the countryside. The state has some presence, especially the centrally appointed district governors (woluswal), as do formally elected members of government Provincial

[29] Roy, *Islam and Resistance in Afghanistan*, 3.

[30] Howard Schweber, *The Creation of American Common Law, 1850–1880: Technology, Politics, and the Construction of Citizenship* (New York: Cambridge University Press, 2004).

[31] There is linguistic diversity in how individuals throughout rural Afghanistan describe the organizations within their communities. To simplify matters, I classify the three most prominent village-based customary organization into three categories: the individuals chosen by communities to represent interests to the state generally are called maliks, village councils are called shuras (using the generic Arabic term), and village-based religious leaders are referred to generally as mullahs. See Chapter 3 for greater discussion of this point.

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