Informal Order and the State in Afghanistan

Despite vast efforts to build the state, profound political order in rural Afghanistan is maintained by self-governing, customary organizations. Informal Order and the State in Afghanistan explores the rules governing these organizations to explain why they can provide public goods. Instead of withering during decades of conflict, customary authority adapted to become more responsive and deliberative. Drawing on hundreds of interviews and observations from dozens of villages across Afghanistan and statistical analysis of nationally representative surveys, Jennifer Murtazashvili demonstrates that such authority enhances citizen support for democracy, enabling the rule of law by providing citizens a bulwark of defence against predatory state officials. Contrary to conventional wisdom, it shows that "traditional" order does not impede the development of the state because even the most independent minded communities see a need for a central government—but question its effectiveness when it attempts to rule them directly and without substantive consultation.

JENNIFER BRICK MURTAZASHVILI is an Assistant Professor at the Graduate School of Public and International Affairs at the University of Pittsburgh. She earned her PhD in Political Science from the University of Wisconsin-Madison.

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JENNIFER BRICK MURTAZASHVILI
University of Pittsburgh

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For my loves: Ilia, Leo, Zoe, and Eve

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Glossary

Many of the terms below are common among all languages spoken in Afghanistan. Some of the terms have their origin in a specific language, but are used by multiple groups in the country. Because the materials in the book are based primarily on vernacular sources, the spellings reflect such uses rather than standardized transliterations.

adat	Customary law
alaqadari	Sub-district
amir	Leader or Commander. Some Afghan monarchs used this title in lieu of *Shah*.
amir al-mominin	Lit. Commander of the Faithful (Arabic). A ruler who claims legitimacy to rule from divine authority.
arbab	Customary village leader
aylaq	Pasture land used during spring/summer (lit. 'summer settlement')
Bibi haji	Female who has completed pilgrimage to Mecca
deh	Village
gozar	Neighborhood or settlement
Haji	Muslim who has completed pilgrimage to Mecca
hambastagi	Solidarity
Harakat (Harakat-e Islami-yi Afghanistan)	A Shia political party aligned with the Northern Alliance (Dari, lit. 'Islamic Movement of Afghanistan)
hashar/ashar	Collective, voluntary community labor

Hezb-e Islami	Islamist party in Afghanistan led by Gulbuddin Hekmatyar. Active in anti-Soviet, anti-Communist resistance (Dari, lit. 'Islamic Party')
imam	Formally trained religious leader
jalasa	Meeting
Jamiat-e Islami	Political party that fought the Soviets during the anti-Soviet jihad, part of the Northern Alliance. Led by Burhanuddin Rabbani (Dari., lit. 'Islamic Society.')
jerib	Islamic measure of land used in Afghanistan
jihadi	A person who fought against the Soviet invasion of Afghanistan
jirga	Customary village council, tribal council (Pashto, lit. 'circle')
jizya	Tax assessed on non-Muslims living under Muslim rule
kalantar	Customary village leader, elder (lit. 'the biggest')
Karbalayi	Shia who has completed pilgrimage to Shia holy city of Karbala, Iraq
karez	Customary irrigation system
kelay	Village (Pashto)
Khalq	Faction of the People's Democratic Party of Afghanistan (lit. 'people' or 'masses')
Khalqi	Follower of the *Khalq* faction
khan	Historically a large landowner or tribal leader. In some contemporary contexts, a khan is simply a village leader rather than a large landowner or tribal leader.
Loya Jirga	National-level council of customary leaders (Pashto, lit. grand council)
madhab	School of Islamic religious interpretation
madrasa	Religious school
mahalla	Neighborhood
mahram	Title given to male escort (a relative) who accompanies a female in public. Taliban required that all women leaving their homes be accompanied by a mahram.
majlis	Council
malang	Wandering mystical Islamic preacher
malik	Customary village leader; sometimes Pashtun clan leader
maliya-ye mutaraqi	Tax enforced by Daud in 1970s (Dari, lit. 'progressive tax')
manteqa	Region or collection of villages (Dari)

maraka	Meeting
mardomi shura	Community council (Dari, lit. 'People's council)
mardikar	Day laborer
mashran	Elders (Pashto)
mawlawi	Religious teacher or scholar
mehmankhana	A receiving room for guests
Meshrano Jirga	Upper house of Afghan National Assembly, also name for council of elders in a village (Pashto, lit. Council of Elders)
moween	Deputy leader
mir	Leader (equivalent to malik)
mirab	Customary manager of water resources
mujahid	A *jihadi*. A person who fought against the Soviet invasion of Afghanistan
mujahideen	Plural of *mujahid*
mullah	Village religious leader
musaseh	Organization; Term used to describe non-governmental organizations (NGOs) (lit. organization/institution)
muslehin	Local third-party negotiator
mu-ye safidan	Elders (lit. white hairs)
nahia	Neighborhood
namayenda	Customary village leader (lit. representative)
oq soqol	Elder (Uzbek) (lit. 'white beard')
padshah	King
Parcham	Faction of People's Democratic Party of Afghanistan (lit. 'flag' or 'banner')
Parchami	Member of *Parcham* faction of PDPA
Pashtunwali	Pashtun tribal law
pir	Sufi religious leader
qarya	Village
qaryadar	Customary village leader
qawm	Tribe, clan, or ethnic group. Could also mean area of geographic origin. Most important signifier of social identity in Afghanistan; has flexible meaning. In some context means ethnic group (between two people of different groups); among people of same ethnic group, but two different tribes, signifies tribe; among people of the same tribe, signifies sub-tribe.
qawmi qhura	Village or tribal council
qazi	Islamic judge (can also be state judge)
qishlaq	Village (lit. 'winter settlement')
rais	Leader
rawaj	Customary law

rish safidan	Elders (Dari, lit. 'white beards')
sadaqa	Charitable contribution as prescribed by Islam
sayed	Individual claiming relations to the Prophet Muhammad
shariat	Islamic law
shaykh	Man respected for religious training or knowledge, Sufi leader
shura	Council
Shura-ye Enkeshafi Mahalli	Community Development Council (CDC) (Dari)
shura-ye mahal	Council of neighborhoods (Dari)
Shura-ye Nazar	Title given to coalition of anti-Soviet commanders, mostly from Northern, Central, and Western Afghanistan, led by field commander Ahmad Shah Masoud. In English, commonly referred to as the Northern Alliance (Dari, lit. 'Supervisory Council').
shura-ye rish safidan/ shura-ye mu-ye safidan	Council of elders (Dari)
shura-ye ulama	Council of religious scholars, leaders (Dari)
spinzheri/spingeri	Elders (Pashto, lit. 'white beards')
tanzim	Refers to one of the seven Afghan political parties (mujahideen factions) that received funding from the United States through Pakistani intermediaries to fight the Soviet Union in the 1980s (lit. 'organization').
tazkera	Government issued identification card
ulama	Religious scholars
Wahdat (Hezb-e Wahdat-e Islami Afghanistan)	Political party and anti-Soviet mujahideen faction that represents Hazaras
wak	Oath
wakil	Customary village leader (lit. 'representative')
Wahhabi	Individual who ascribes to the conservative Wahhabi Islamic madhab, which has its origins in Saudi Arabia
wali	Provincial governor (in some instances a village leader)
waqf	Islamic endowment
wilayat	Province
Wolesi Jirga	Lower house of Afghan National Assembly (lit. 'House of the People')
woluswal	District governor
woluswali	District government administration
zamindar	Land owner

Acronyms

ANDS	Afghan National Development Strategy
CDC	Community Development Council
CSO	Central Statistics Office
DCC	District Coordinating Council
DDA	District Development Assembly
GIRoA	Government of the Islamic Republic of Afghanistan
I-ANDS	Interim Afghanistan National Development Strategy
IDLG	Independent Directorate of Local Governance
INGO	International NGO
MAIL	Ministry of Agriculture, Irrigation, and Livestock
MoI	Ministry of Interior
MRRD	Ministry of Rural Rehabilitation and Development
NATO	North Atlantic Treaty Organization
NGO	Non-Governmental Organization
NRVA	National Rural Vulnerability Assessment
PDPA	People's Democratic Party of Afghanistan
PRT	Provincial Reconstruction Team
NSP	National Solidarity Program
UN	United Nations
UNDP	United Nations Development Program
USAID	United States Agency for International Development

I do not wish to trouble my readers with too much detail, but the book would be incomplete if I omitted any information as to the many ways in which progress has been made during my reign. The fact is, that so little really accurate information about Afghanistan is possessed by the world generally, that very much that I shall tell them will be perfectly new, and heard of for the first time. It is plain to me that some foreigners who have visited Kabul from time to time have given the world false impressions, by posing as great authorities on Afghan affairs, internal and external. I am very often amused by reading articles written by them, because it is quite evident that they have never approached the borders of Afghanistan nearer than 500 miles. It is therefore necessary that I should give true information, if not in detail, yet as much and as varied as possible. My time is very fully occupied, but I will spare a little for this purpose from my numerous duties and engagements.

– Abdur Rahman Khan, Afghanistan's king from 1880 to 1901, in his autobiography *The Life of Abdur Rahman, Amir of Afghanistan*

The small-holding peasants form an enormous mass whose members live in similar conditions but without entering into manifold relations with each other. Their mode of production isolates them from one another instead of bringing them into mutual intercourse. The isolation is furthered by France's poor means of communication and the poverty of the peasants. Their field of production, the small holding, permits no division of labor in its cultivation, no application of science, and therefore no multifariousness of development, no diversity of talent, no wealth of social relationships. Each individual peasant family is almost self-sufficient, directly produces most of its consumer needs, and thus acquires its means of life more through an exchange with nature than in intercourse with society. A small holding, the peasant and his family; beside it another small holding, another peasant and another family. A few score of these constitute a village, and a few score villages constitute a department. Thus the great mass of the French nation is formed by the simple addition of homonymous magnitudes, much as potatoes in a sack form a sack of potatoes . . . Insofar as there is merely a local interconnection among these small-holding peasants, and the identity of their interests forms no community, no national bond, and no political organization among them, they do not constitute a class. They are therefore incapable of asserting their class interest in their own name, whether through a parliament or a convention. They cannot represent themselves, they must be represented.

– Karl Marx, *The Eighteenth Brumaire of Louis Napoleon*

Acknowledgments

This was never supposed to be a book solely on Afghanistan. As someone who had spent many years in former Soviet Central Asia, I began exploring the possibilities of doing research in Afghanistan because I was interested in placing Central Asia back into comparative context with its neighbors. As the post-2001 Government of Afghanistan began to take shape, its approach to local and community governance – from the second-hand accounts I had read – appeared to be innovative. Political events in the region moved faster than the flexibility of my research design and the comparative project, which was to look at Afghanistan, Uzbekistan, and Tajikistan, never came to fruition. Visa problems resulting from political events in Uzbekistan stymied these efforts. Once-eager funders pulled the plug on research in Afghanistan just weeks before my intended departure, unwilling to accept liability for the risk such research entails. The obstacles I encountered quickly translated into possibilities. These opportunities would never have happened without the support and assistance of so many people all over the globe.

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This project was the product of the outstanding training I received at the Department of Political Science at the University of Wisconsin–Madison where the dissertation upon which this book developed. My dissertation chair, Melanie Manion showed me the enormous power in applying the insights of

formal institutional analysis to informal institutions. She has also served as a role model and friend. I am eternally grateful for her wisdom and the endless time she put into shaping this project. Scott Gehlbach provided patient but rigorous guidance and always found new insights hidden in my own evidence that I had not considered. Ed Friedman, Dave Weimer, Tamir Moutafa, and Dan Bromley made enormous contributions to shaping the argument. Mitra Sharafi and Marc Galanter shared insight into customary law in South Asia. Asifa Quraishi guided me through the intricacies of Islamic Law. Fellow grad students Marc Ratkovic and Meina Cai also read drafts and provided feedback on my empirical models. Donald Downs served as an unfailing mentor during my years in Madison. Without him, Madison would have been a far less interesting place to call home.

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In the short time between the completion of the dissertation and its transformation into a book manuscript, we were blessed to welcome our three beautiful children into this world: Leo, Zoe, and Eve. This book is dedicated to my family. I hope that one day my children will be able to visit Afghanistan as a country in peace and experience the enormous kindness shared with me by countless strangers who were so willing to share with me their hopes for the future.

Preface

On Saturday mornings in a district in northern Afghanistan the district governor meets with customary representatives from villages in his district. At such meetings these representatives, called *qaryadars* in this region, bring up issues of community concern. They discuss needs for public goods and services, such as clinics and teachers, and talk about conflicts boiling in their communities that beg for outside mediation. Some of them discuss threats from the Taliban insurgency. The district governor, or *woluswal* in the local language, listens to these concerns and informs the qaryadars, who are appointed by their communities to represent interests of villagers to the state, of visits by NATO officials or about aid projects that are scheduled to commence. The most pressing concern of the woluswal is security. To survive, both politically and physically, he requires information from the qaryadars about events in their communities. Are the Taliban traveling through the area? Are villagers harboring insurgents? Are there community conflicts that may spill over and threaten district stability?

As one such meeting ended on a hot Saturday morning in June, the qaryadars poured out of a room in the district administration building. Among them was a middle-aged woman who was deeply engaged in conversation with the men. She introduced herself as Fatima.[1] It turns out that she was the qaryadar of her community.

Fatima invited me to visit her village. She wanted to show me what she had been able to accomplish in the past few years. Although her community only recently selected her to be its "official" representative she had been very active in local affairs for years. In her position, she was responsible for resolving

[1] This is a pseudonym used to protect her anonymity. All identities in this book – of both research sites and individuals interviewed with the exception of some public officials – are similarly concealed.

community disputes, handling small bureaucratic issues that involve the state, and representing community interests to the woluswal.

Upon visiting her home it was clear Fatima was not wealthy, although she was not among the poorest in her community. There was nothing remarkable about her home, except for one thing: her bright pink *mehmankhana,* the room used to receive guests. In this room, she greeted men and women from her community who approached her with problems. On the day I visited with her I saw mostly men visit her home. Some sought her assistance so that they could receive their government-issued *tazkera* (identification cards). Others had questions about how to register their customary land titles with district authorities. Her husband, who was always close by, appeared to be a bit older than Fatima. She was assertive and strong, while her husband was far more soft-spoken.

When I told Fatima that I was there to do research, she could not quite process my request. Like many others I had interviewed over the past several months, Fatima assumed that I was an aid worker conducting an assessment for a new project for her village. Regardless of attempts to explain that my research would not result in material rewards or projects for her community, she took the occasion of my visit to show me all the important unresolved infrastructure issues in her village. She also sought to show off her achievements.

Her most pressing concern was the construction of asphalt roads. At one point, she jumped up on a rusty Soviet-era tractor and showed me how she had flattened mud paths in the community to prepare them for paving. It was beyond the financial means of the community to afford the asphalt, but she said everyone could help with construction.

After the village tour, I spent several hours in her mehmankhana learning about her family history and how she came to be the qaryadar. She said that her husband had once held the position and was a "respected" person in the community. The community held her family in high regard as fair brokers, a reputation largely gained by virtue of the fact that her deceased father was a revered religious leader who had counseled almost every family in the village. After her father's death, both men and women began approaching her to resolve the kinds of issues her father once handled. As she was able to mediate conflicts and organize to achieve small things, it became increasingly clear to the community that Fatima was a doer. Eventually, the community suggested that Fatima serve as the qaryadar and move out of her husband's shadow. I sensed that she had been serving in this position behind her husband's name for many years.

As qaryadar, her time was spent resolving domestic and other community disputes, working alongside village mullahs to resolve inheritance disputes and other issues. She also spoke about her relationship with local elders, called *shura-ye rish safidan* ("council of white beards"), that met on occasion to resolve more tenuous issues requiring broader community consensus. Her proudest accomplishment, she said, was convincing the government to connect an electricity line into the community off a nearby power grid. Gaining access

to the grid required more substantial capital investment than anything her community could afford on its own.

Fatima said that her work in the community did not begin when her neighbors selected her to be the qaryadar. She had been active in the community for the past twenty-five years. Unlike many of her neighbors who had fled to Kabul or neighboring Pakistan or Iran after the Soviet invasion or during Taliban rule in the 1990s, Fatima stayed in her village. When the Taliban controlled the government in Kabul, they did not allow women to leave their homes without accompaniment of a male relative or *mahram*. During this period, she taught women how to embroider as a way to keep their minds occupied away from thinking of the pains and loss of war. After the fall of the Taliban government, she ran for a seat in the new National Assembly in 2005 but lost to another female candidate (there is a 25 percent female quota in the National Assembly). According to Fatima, a wealthy man "bought" votes in the area for his own wife. During our conversations, she cast suspicion on the country's new class of female politicians who she felt represented a new urban elite. This emergent class often spoke English and knew how to handle themselves in donor-sponsored soirees in Kabul or in her provincial capital, but they often had difficulty relating to rural women. Fatima lost the election but was not discouraged.

From spending just a couple of days with Fatima, it was clear why her community selected her to lead and represent them to the outside world. Her joyous energy was infections. Fatima believed that by changing her community she could change the country. Her politics were not ideological, but instead based on a conviction that her community work could inspire others in her district – and eventually the country as a whole. She did not think of herself as a female leader. In her eyes, she was just a qaryadar.

Fatima was a paradox: a female who climbed the ranks of "traditional" authority.

A few years later, I returned to her district to catch up. The security situation in the area had deteriorated significantly, so I was not able to travel to her home. The woluswal of her district arranged for Fatima to visit his office, at my request, so that we could have a safe place to meet. I was excited to learn about all that Fatima had achieved during the couple of years since we had first met.

As I was discussing local affairs with the woluswal, Fatima entered the office. Her smile remained unchanged, but the spirit behind it seemed different. After exchanging greetings, the woluswal brusquely excused himself. He said he had another meeting to attend. As soon as he left the room, tears began to swell in her eyes. She said that I would not believe what had happened to her since we last met. She was right.

Several months before this meeting, she was traveling from her village in the north of Afghanistan and over the Hindu Kush into Kabul – an eight-hour drive in good weather. She had hired a driver from her village (a distant relative) that was to take her. Immediately before entering the Salang Tunnel that connects

the north of the country to the rest of Afghanistan, Fatima and her driver stopped to have lunch at a famous restaurant that is well known for serving kebab with a wonderful mountain view.

After they had eaten, Fatima and her driver returned to their car. At that point, she said, two men who were hanging out inside the restaurant approached them as they were leaving. They forcibly separated Fatima from her driver. She said she was "beaten" and "robbed." I did not ask about the details. I simply let Fatima tell her story, which gushed as swiftly as her tears.

After several hours of begging for her life, the assailants bound Fatima's hands and legs and threw her in the trunk of a car. They told her they were taking her to a safe house.

Instead, they threw Fatima into a nearby river.

After plunging into the water, Fatima believed death was imminent. She said, "I prayed to Allah. I asked, 'Why is this happening to me? I have worked all my life for others. I have taken my family inheritance and spent it on the people in my community. I have never asked for a single penny of help and have just given to others. Why is this happening to me?"

Miraculously, she said she was able to position her body so that she could float down the river. She floated until eventually her arms caught on a branch. As soon as she stopped, she said she began screaming for her life. Thankfully, there was a village nearby. Instead of saving her immediately, she said, the villagers called the Afghan National Police who patrolled this strategic area around the tunnel. She was shocked that the villagers had not immediately come to her aid upon hearing her pleas. She said they were afraid that she was with the Taliban or an insurgent group.

After an hour or so, the police rescued her. Exhausted and cold, they immediately took her to the famous mountaintop restaurant from where she was kidnapped. As she reentered the restaurant, she said, she found the assailants who looked as if they had just seen a ghost. They were shocked that she had survived. After she identified them, the police arrested her attackers.

A few moments later, Fatima learned the assailants had killed her driver. They confessed that they were motivated by an opportunity to steal his car. Upon returning to her village, Fatima incurred the wrath of her driver's family. They blamed her for what had happened. Her troubles, however, did not end on that day.

The criminals who assaulted her and killed her driver were allied with a criminal gang from the area around the Salang. Although they were in jail, Fatima received regular death threats from the criminals and their associates. They demanded she recant her story and pay a bribe to the police to ensure their release. If she did not heed their warnings, they wrote that they would kill her and her family. Not knowing what to do, Fatima used the opportunity of our meeting to ask for help. Feeling utterly helpless, I discussed her case with several policymakers in her region, including with a United Nations office and with

officials in Kabul. The only solution the international community could offer was an application for political asylum abroad.

Asylum was not a solution for Fatima. She had no desire to leave Afghanistan. She wanted to continue to serve the people in her village.

The story of Fatima, the female qaryadar, on its face appears to be atypical of Afghan politics. A female village leader is almost unheard of in popular accounts of the country. In fieldwork I conducted across six provinces, she was the only female village leader I had heard about, although the provincial government official I spoke to in her province said there are at least seven that he worked with in that province alone.

Although female representatives may be uncommon, I found the legitimacy of customary authorities who lead communities to be almost ubiquitous. Like many other qaryadars – or *maliks*, *wakils, arbabs*, *namayendas*, as they are called in different parts of the country – Fatima was selected by her community through a more or less deliberative process to represent their interests to the government and the outside world. Her position is permanent as long as she is willing to respect the will of the people in her community. This means that she should not collude with the government against the interest of her constituents. She should not steal, cheat, or charge excessively for services she provides. If she comes from a wealthier family (as she does), then she should not charge villagers at all for the small services she provides liaising with the state. It is her responsibility to advocate on behalf of members of her community to neighboring villages and to outsiders.

Fatima did not come to power through the help of an international aid program or a non-governmental organization (NGO) seeking to promote "gender empowerment" in rural Afghanistan. She did not attain her reputation with the assistance of well-intentioned foreigners. Since 2001, it has proven almost impossible for outside actors such as NGOs, aid programs, or even the Afghan government to establish the sort of legitimacy Fatima clearly had among her constituents.[2]

Her story illustrates the evolution and persistence of customary governance in rural Afghanistan. Historically, customary governance was the exclusive purview of men. In some parts of the country, large landholders known as *khans* once dominated such authority. Although Afghanistan never had the scope of feudalism present in Europe or even neighboring states of Pakistan or Iran – landholdings have always been small and relatively equally distributed – in some instances, land and power were concentrated in villages. Yet as the patronage-based khan system declined in significance, it left village-based customary authority – which is not always based on patronage, but rather consent – as a main source of

[2] Julie Billaud, *Kabul Carnival: Gender Politics in Postwar Afghanistan* (Philadelphia:University of Pennsylvania Press, 2015).

governance in rural parts of the country. In my fieldwork, informants in rural areas described how customary governance had become far more participatory and inclusive than it had ever been, as Fatima's story vividly reminds us. Through oral histories, I understood that it had evolved during decades of war in most areas to become more responsive to the demands of the citizens it serves.

Although it had evolved to address the new demands of citizens who seemed no longer tolerant to be subjects to a distant monarch in Kabul, customary authority is neither a perfect system of governance, nor is it completely democratic. It is by no means an ideal form of social control. In several villages I visited people felt their current or recent customary leaders were ineffective, biased in the way they resolved disputes, or machinated with government officials or local commanders to steal international assistance planned for their communities. In most communities where representatives told of stories where customary leaders no longer worked on behalf of the community, citizens would eventually replace them with someone else. Sometimes, they had to wait to find the right opportunity to do this, mainly to avoid shaming the incumbent too badly. In some communities where local leadership was captured by such interests, customary leadership dissimulated and operated underground. Of course, women remain largely missing from such governance. From my research, I found that while these seemingly "old" organizations had remained in place (although sometimes their names had changed), citizen expectations about how these organizations were to perform had changed dramatically as a result of war.

Fatima's story illustrates the evolution of such authority, but also underscores its fundamental limitations. Although Fatima and others in her position were able to promote order and solve a wide range of problems within communities, there are many important issues that a single village leader – even with enormous constituent support – cannot solve alone. Large-scale security threats from neighboring provinces, like the criminal gangs tormenting Fatima, are the most common example. Similarly, provision of costly public goods, such as building and staffing clinics or constructing an electricity grid, are beyond the means of a single village. Such goods typically require cooperation of several communities or external intervention to produce. Finally, some customary leaders colluded with local warlords and commanders, extracting a heavy toll on citizens. Although customary organizations may govern a village effectively, they are not a panacea.

Yet the persistence and resilience of customary order might surprise some observers. In conducting fieldwork, I did not expect to find such broad effectiveness of customary organizations at the village level. Many scholars and journalists reporting on post-2001 Afghanistan described how "traditional" structures in rural Afghanistan had withered away during thirty years of war. Therefore, I was truly surprised to find them so active in village after village.