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Introduction

1. The significance of public procurement as a tool of state-building

An effective, efficient and transparent system of public procurement plays an important role in the functioning of a state. As stated by the Organisation for Economic Cooperation and Development, public procurement accounts for 12–20% of total expenditure globally.¹ For non-OECD countries, including those classified as developing and post-conflict, public procurement is valued at approximately 4.5% of total Gross Domestic Product.² Consequently, spending public resources through procurement impacts both the economic and social functioning of any state.

Public procurement is relevant to economic sectors managed through public finance and, in the case of developing states, is used to distribute development assistance. The moment that a given state accepts a certain legal model for the system of public procurement, the entities of public finance are bound by the legal provisions therein if they purchase supplies, construction³, and services using public resources. This obligation is relevant both to developed and developing states, regardless of their level of development. In developing states, ‘international actors’ (a term discussed in depth in point 10 of the introduction) apply their own regulations to the process of procurement and in this way disburse development aid, while the recipient has its own domestic regulatory system at its disposal.

The complexity of the world today, characterised by interconnectivity of political, economic, and social interests, as well as security priorities, demands analysis of the situation of a given state within a web of interdependence which becomes ever more challenging and requires the inclusion of various elements. Prioritising the interests of international actors may lead to conflicts of an inter-

¹ OECD, Why is procurement important?, *Factsheet*, Paris: OECD 2006, p. 2.

² *Ibid.*

³ It shall be noted that in this publication the word ‘construction’ is used interchangeably with the word ‘work’ in the discussion about public procurement in Afghanistan. The original version of the unofficial and official translation of the Afghan documents on procurement includes the word ‘works’ (in place of ‘construction’). In order to preserve originality of the documents, the word has not been modified.

or intrastate character. This may result in the weakening or disintegration of state institutions.

The concept of a security-development nexus has its supporters and opponents. The supporters, led by the World Bank, argue that a threat to personal and institutional security constitutes a challenge to economic development and may become the source of an intrastate conflict.⁴ In order to prevent cycles of instability and violence, it is important to strengthen institutions and good governance, ultimately leading to security, justice, and employment.⁵ As pointed by the World Bank, there is a need for a new social contract based on institutions and good governance with the participation of citizens.⁶ The supporters of this approach underline that, so far, none of the conflict or post-conflict states has achieved the Millennium Development Goals drafted by the United Nations.⁷ At the same time, opponents argue that focussing on such concepts contributes to the postponement of further work on adequate development policies corresponding to the needs of recipients. Furthermore, it results in redirecting all attention to the political interests of those providing the assistance.⁸ Mixing security and development may cause more harm than good.⁹ In their opinion, promoting such an approach contributes to a sudden burst of development industry as a way of remodelling the mandate of the international actors in the name of innovative policies.¹⁰ Moreover, the concept of a security-development nexus is not derived from any lessons learnt in the area of international intervention, nor does it originate from an academic consensus or from proof that it constitutes an effective tool of international engagement in building security and peace in the world.¹¹

Considering the arguments of either side, it is worth pointing out that hitherto there have been no indicators to measure the effectiveness of the actions of international actors with regard to state-building. On one hand, this

⁴ World Bank, *World Development Report 2011. Conflict, Security and Development*, Washington DC: World Bank http://siteresources.worldbank.org/INTWDRS/Resources/WDR2011_Full_Text.pdf [accessed: 2 February 2014].

⁵ R.B. Zoellick, *The Middle East and North Africa: A new social contract for development*, speech presented in Peterson Institute, USA, 6 April 2011, <http://www.worldbank.org/en/news/speech/2011/04/06/middle-east-north-africa-new-social-contract-development> [accessed: 12 October 2013].

⁶ *Ibid.*

⁷ *Ibid.*

⁸ D. Chandler, *The security-development nexus and the rise of 'anti-foreign policy'*, "Journal of International Relations and Development", no. 10, 2007, p. 364, <http://www.palgrave-journals.com/jird/journal/v10/n4/abs/1800135a.html> [accessed: 17 October 2013].

⁹ *Ibid.*

¹⁰ M. Duffield, *The liberal way of development and the development-security impasse: Exploring the global life-chance divide*, "Security Dialogue", vol. 41, no. 1, 2010, pp. 53–76, <http://sdi.sagepub.com/content/41/1/53.abstract> [accessed: 17 October 2013].

¹¹ D. Chandler, *The security-development...*, *op. cit.*

The country's geographical location has always influenced the development of Afghanistan.¹⁷ The state possesses extensive natural resources, especially copper, iron, and precious and semi-precious gems. It remains a considerable supplier of water to neighbouring countries, although it uses only 10% of its supplies to irrigate its land and as a source of renewable energy.¹⁸

2.3. Population

The first and, to this point in time (considering period of research), last public population census took place in 1979.¹⁹ In line with the data available at the time, there were 14.1 million people living in Afghanistan.²⁰ Up to the year 2001, as a result of conflict, over 1.5 million Afghans were killed and over 8 million displaced.²¹ The Afghan Central Statistical Office (CSO) estimated that annual population growth was 2.03%,²² which could lead one to the assumption that in 2001 there were 20.4 million people living in Afghanistan,²³ of which a considerable majority were illiterate.²⁴ In 2012, only 5.8% of women and 34% of men had acquired even basic education.²⁵ In 2011, only 4.2% of the population used the Internet.²⁶ According to the World Bank and the Afghan

¹⁷ M.M. Stanekzai, *Building a viable state*, in: *Challenges and Dilemmas of State-Building in Afghanistan*. Development Outreach. World Bank Institute, 2008, p. 34, <http://siteresources.worldbank.org/WBI/Resources/Afghanistan-All-Articles-Oc09.pdf> [accessed: 13 December 2013].

¹⁸ A. Ghani, *A Ten-Year Framework for Afghanistan. Executing the Obama Plan... and Beyond*. A report by the Atlantic Council. Washington: Atlantic Council of the United States, 2009, p. 8.

¹⁹ Afghan Central Statistics Office, <http://cso.gov.af/Content/files/Population.pdf> [accessed: 14 January 2014], <http://databank.worldbank.org/data/views/variableselection/selectvariables.aspx?source=world-development-indicators> [accessed: 14 January 2014].

²⁰ Afghan Central Statistics Office, <http://cso.gov.af/Content/files/Population.pdf> [accessed: 14 January 2014].

²¹ *Ibid.*

²² *Ibid.*

²³ According to IMF data, in 2002 there were 21.8 million people living in Afghanistan. See: IMF, *Islamic State of Afghanistan. Rebuilding a Macroeconomic Framework for Reconstruction and Growth*. Country Report, Washington, DC: International Monetary Fund 2003, no. 03/299, p. 15, <https://www.imf.org/external/pubs/ft/scr/2003/cr03299.pdf> [accessed: 10 April 2013].

²⁴ CIA World Factbook, <https://www.cia.gov/library/publications/the-world-factbook/geos/af.html> [accessed: 14 January 2014]. According to the IMF, in 2001 64% of the Afghan population was illiterate (49% of men and 79% of women). See: IMF, *Islamic State of Afghanistan...*, *op. cit.*

²⁵ UNDP, *Human Development Report*, 2013, <http://hdr.undp.org/sites/default/files/Country-Profiles/AFG.pdf> [accessed: 10 March 2014].

²⁶ Internet World Statistics: <http://www.internetworldstats.com/asia/af.htm> [accessed: 23 December 2014].

Ministry of Economy, approximately 36% of the people live in extreme poverty.²⁷ Furthermore, in 1979, 77% of the population lived in rural areas.²⁸

For centuries, Afghanistan has been inhabited by approximately 60 ethnic groups that differ with regard to their appearance, language, style of life, customs, and position in the social hierarchy. They consist of tribes and clans that communicate using nearly 50 languages and dialects.²⁹ They have never perceived themselves as being distinct nationalities, and thus do not feel the necessity to strive for their own separate states. They have common economic and political interests,³⁰ and a multi-ethnic state has been acceptable to them.³¹ 'If insurgencies topple established Afghan governments, their stable replacements emerge from the crucible of civil war'.³²

Local rebels have united in order to remove the government in Kabul from power, but tend to lack the requisite internal coherence which would constitute grounds for creating their own regime.³³ 'When faced with a common threat or united in a common goal, such groups readily set aside the disputes that ordinarily divide them, only to rediscover them once the goal has been achieved'.³⁴ Afghanistan is a weak state, but has a strong tribal society.³⁵

²⁷ World Bank, Ministry of Economy of the Islamic Republic of Afghanistan, *Poverty Status in Afghanistan. A profile based on the National Risk and Vulnerability Assessment (NRVA) 2007/08*, 2010, http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2011/07/12/000333037_20110712011847/Rendered/PDF/631800WP0Pover00Box0361508B0PUBLIC0.pdf [accessed: 23 December 2014].

²⁸ Afghan Central Office of Statistics, <http://cso.gov.af/Content/files/Population.pdf> [accessed: 14 January 2014].

²⁹ Pashtuns, Tajiks, Hazaras, Uzbeks, Aimaq, Turkmen, Baloch, Nuristani and others, *inter alia*: Taymen, Kyrgyz, Mongols, Pashai, Arabs, Qizilbash, Jews, Sikhs, Pamiri, Gujur, Farsiwan, Kurds, Brahui. As Modrzejewska-Leśniewska underlines: 'nowadays the *de facto* existence of these smaller groups remains unclear'. See: J. Modrzejewska-Leśniewska, *Afghanistan...*, *op. cit.*, p. 21.

³⁰ T. Barfield, *Afghanistan's ethnic puzzle*, "Foreign Affairs", vol. 90, no. 5, 2011, p. 55.

³¹ *Ibid.*, p. 56.

³² *Ibid.*, p. 57.

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ M. Fischer, B. Schmelzle, *Building Peace in the Absence of States: Challenging the Discourse on State failure. Berghof Handbook Dialogue Series*. Berlin: Berghof Research Centre for Constructive Conflict Management, 2009, p. 68; A. Ghani, *Islam and State-building in a Tribal Society, Afghanistan: 1880–1901*, "Modern Asian Studies", vol. 12, no. 2, 1978. In tribal society 'most of the customary sources of legitimacy are based on norms of trust and reciprocity. The core constitutive values that lie at the heart of traditional legitimacy are the values that enable kin groups, tribes and communities to exist, satisfy basic human needs and survive through time. Traditional legitimacy rests on complex patterns of power, responsibility and obligation, which enable social groups to exist and co-exist'. (Noted by Dupree in 1973, then Kevin Clements in 2009. See: L.M. Edwards, *State-building in Afghanistan: A case showing the limits?*, "International Review of the Red Cross", vol. 92, no. 880, 2010, p. 14).