

LONGING FOR JUSTICE?

AN ANALYSIS OF THE AFGHAN-DUTCH DIASPORA ENGAGEMENT
WITH TRANSITIONAL JUSTICE PROCESSES IN AFGHANISTAN

Khatera Shaghasi
5757967
Utrecht University
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1. INTRODUCTION

In times of political transition from illiberal to liberal rule, states are often confronted with how they should face human rights violations committed in the past. These confrontations are dealt with in the Transitional Justice (TJ).¹ Traditionally, the primary holder of responsibility to administer justice within the confines of the territory belongs to the state in question. However, over the course of the twentieth century, international law recognized the responsibility of the international community², usually under the guidance of the United Nations (UN), in the administration and prosecution of criminal justice concerning crimes associated with the protection of life human dignity, including genocide, crimes against humanity, war crimes, and the crime of aggression.³ The UN defines transitional justice as all processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses to ensure accountability, serve justice, and achieve reconciliation.⁴ These efforts can consist of both judicial and non-judicial processes and mechanisms⁵ and are associated with political change.⁶

One of the guiding principles accentuated by the UN argues for victims' centrality and special status in TJ processes.⁷ However, violent conflict is one of the leading causes of forced migration and creating diasporas. Therefore, it is likely that potential victims of crimes that the transitional justice mechanisms seek to address are part of diaspora communities.⁸ Despite this, scholarship on the engagement of diasporas with TJ processes in their original home countries is limited.

I explored one case of diaspora engagement with TJ processes in their original country that is unique in many ways, namely the engagement of the Afghan diaspora with TJ processes in Afghanistan. In March 2020, the International Criminal Court (ICC) approved the

¹ ICTJ, *Factsheet Transitional Justice 2008*, p. 1.

² While fully conscious of the complexity of this term, I define "international community" as a collection of actors, mostly states, acting within multilateral organizations. unified society. For this thesis, the international community is represented by the United Nations, North Atlantic Treaty Organization, and the European Union. I am however fully aware that there are strong disagreements within different bodies and that they do not always represent the positions of each state equally.

³ Schabas, W. "Transitional justice and the norms of international law." (2011): 6

⁴ United Nations. "Guidance note of the Secretary-General, United Nations approach to transitional justice." (2010): 2

⁵ Ibid.

⁶ Ruti G. Teitel, "Transitional Justice Genealogy," *Harvard Human Rights Journal* 16 (2003): 69

⁷ United Nations. "Guidance note of the Secretary-General, United Nations approach to transitional justice." (2010): 6

⁸ Haider, "Transnational transitional justice," (2014): 215

investigation into alleged war crimes committed on Afghan territory since May 2003 by the US, the Taliban, and the Afghan government.⁹ The ICC will investigate crimes committed in Afghanistan since May 2003, after Afghanistan became a member and ratified the Rome Statute two months earlier. Unlike many cases relating to other TJ mechanisms, which occur when violence in the state has ended, the investigations of the ICC into war crimes in Afghanistan occur while violence in the country is rising. This in itself makes the TJ process more complex. The engagement of the Afghan diaspora with TJ processes is also more complicated because of the longevity, the different phases, and many actors in the conflict.

For feasibility reasons, I have focused on the Afghan diaspora in the Netherlands consisting of approximately 50.000 individuals¹⁰, making the Netherlands Europe's second-largest host country for the Afghan diaspora (Germany is the first). The research question in this thesis is:

“How do different mechanisms and opportunity structures influence the way the Afghan-Dutch diaspora engage with TJ processes in Afghanistan from within the Netherlands?”

While the origins of modern-day TJ can be traced back to World War I, it is understood to have taken off after the Second World War in 1945.¹¹ Traditionally, TJ had an exceptional character. However, throughout the years, the scope of TJ has enlarged beyond its historical reach. Today, it deals no longer just with international conflict but intrastate conflict and peacetime relations.¹² In this way, TJ has evolved from being exceptional to being implemented more commonly. The International Criminal Court (ICC) noticeably symbolizes the normalization of TJ as an international responsibility.¹³ The ICC was established in 1998 under the Statute of Rome that entered into force in 2002.¹⁴ It is a permanent autonomous court that tries individuals. As such, it differs from the International Court of Justice (ICJ) that handles disputes between states.

Additionally, the ICJ is a UN court while the ICC is not. Under the Statute, every state must exercise criminal jurisdiction over those responsible for international crimes committed in their territories or by their nationals. These crimes include genocide, crimes against

⁹ “ICC Greenlights Afghanistan Investigation.” 2020. Human Rights Watch. March 5, 2020. <https://www.hrw.org/news/2020/03/05/icc-greenlights-afghanistan-investigation>.

¹⁰ Caitlin Masilover and Bob van Dillen, *Diaspora Engagement in Afghanistan: a policy agenda for sustainable development*. The Hague: Cordaid (2021), <https://www.cordaid.org/en/publications/afghan-diaspora>

¹¹ Ruti G. Teitel, "Transitional Justice Genealogy," *Harvard Human Rights Journal* 16 (2003): 70

¹² *Ibid*: 74

¹³ *Ibid*: 90

¹⁴ *Understanding the International Criminal Court*. n.p.: International Criminal Court, 2011: 1

humanity, war crimes, and the crime of aggression.¹⁵ However, if a state is unable or unwilling to do so, the ICC can intervene.

Studying diaspora engagement with TJ is beneficial because of the prospect of greater access to (international) recourses that diasporas may have. This access can enable raising global awareness for the cause of TJ.¹⁶ Furthermore, involving the diaspora results in broader perspectives and more comprehensive truth gathering.¹⁷ A last potential benefit is that those remaining in the original homeland are more accepting and willing to listen to the advice of diasporas than to foreigners.¹⁸

Despite these acknowledged benefits, scholarship on the relationship between diasporas and TJ processes remains limited. When the engagement is studied, the focus is often on the mobilization of the diaspora with TJ.¹⁹ While some examples in the academic literature show diversity in diaspora engagement with TJ depending on historical context, level of abuse, and technical and material resources,²⁰ most of the existing academic research on diaspora engagement with TJ processes concerns cases of TJ processes after the ending of a violent conflict. Additionally, most of the studied cases discuss TJ processes to address past crimes carried out by a specific group or organization within a particular timeframe.

The Afghan diaspora is divergent from cases studied thus far because of the corresponding diversity of the diaspora reflecting the different phases of the conflict. Indeed, Afghans have suffered significant consequences of the four decades of conflict. As a result, there are reportedly around 2.5 million Afghan refugees, making the Afghan refugee population the second largest globally, after Syrians.²¹ Among the Afghan diaspora are individuals who have fled the violence of the communist regime in the early 80s and more recent arrivals who have fled due to the violence between the Taliban, the Afghan government, and other international pro-government forces. On this ground, this thesis is academically relevant because it adds to

¹⁵ Ibid: 3

¹⁶ Wiebelhaus-Brahm, E. "Exploring variation in Diasporas' engagement with transitional justice processes." *Journal of Peacebuilding & Development* 11 (2016): 25

¹⁷ Wiebelhaus-Brahm, "Exploring variation," (2016): 25; Haider, "Transnational transitional justice," (2014): 215

¹⁸ Bercovitch, J. "A neglected relationship: Diasporas and conflict resolution." In *Diasporas in conflict: Peacemakers or peace-wreckers* 35. (United Nations University Press, 2007)

¹⁹ For example, see Wiebelhaus-Brahm for examples of diaspora mobilization amongst different diasporas.

²⁰ Wiebelhaus-Brahm, "Exploring variation," 26

²¹ "Afghanistan" United Nations High Commissioner for Refugees, accessed April 27, 2021, <https://www.unhcr.org/afghanistan.html>

our understanding of diaspora engagement with TJ processes by exploring a case that is more complex and divergent from the studied cases thus far.

Additionally, since it is possible, even likely, that amongst the Afghan-Dutch diaspora there are potential victims of crimes committed in the past, exploring their engagement with TJ processes in their country of origin has societal relevance because of the normative argument that these individuals have just as much right to have their suffering acknowledged as those residing in the country of origin.²²

Lastly, studying the Afghan diaspora is academically and socially relevant because of the worsening situation that their country of origin faces. Since the peace deal between the Taliban and the U.S., violence in Afghanistan is increasing.²³ Moreover, since the announcement of the unconditional withdrawal of all foreign troops by September 11th 2021, the Taliban and the Afghan government are in a constant battle over control of territory. The United Nations High Council for Refugees has warned of a humanitarian crisis in Afghanistan due to the increase in violence.²⁴ As a member of the Afghan diaspora, I know that these are painful and frustrating times. It is a difficult time for Afghanistan. If studying diaspora engagement with TJ processes is important and relevant, considering the rapidly changing developments in Afghanistan, studying it now is remarkably crucial.

This thesis contains 8 chapters. It starts with a brief history of the Afghan case in chapter 2. In chapter 3, I provide a literature review of existing knowledge of diaspora engagement with TJ processes. After the literature review, I give an elaboration on the research design in chapter 4. In chapter 5, I analyze the results of the conducted survey amongst Afghan-Dutch diaspora members. In chapter 6, I analyze the eight conducted interviews. Chapter 5 and 6 both aim to explore the underlying rationales of the different categories of mechanisms that are link diaspora to TJ processes in their country of origin. In chapter 7, I explore the political and legal opportunity structures by answering in what political climate the Afghan-Dutch diaspora engages in and how Afghan-Dutch diaspora members can access justice in the Netherlands. I end the thesis with the conclusion in chapter 8.

²² Wiebelhaus-Brahm, E. "Exploring variation in Diasporas' engagement with transitional justice processes." *Journal of Peacebuilding & Development* 11 (2016): 25

²³ "Top Conflicts to Watch in 2021: Increasing Violence in Afghanistan." Council on Foreign Relations, accessed July 24, 2021, <https://www.cfr.org/blog/top-conflicts-watch-2021-increasing-violence-afghanistan>.

²⁴ "UNHCR Warns of IMMINENT Humanitarian Crisis in Afghanistan," UNHCR, accessed July 27, 2021, <https://www.unhcr.org/news/briefing/2021/7/60ed3ba34/unhcr-warns-imminent-humanitarian-crisis-afghanistan.html>.

Before continuing to the rest of the thesis, I want to acknowledge the ethical risks of researching justice issues within a conflict-generated diaspora. During all of my engagements with individual diaspora members, I have emphasized that all of the gathered data will be anonymized and that some of the questions are very personal and that they are not obliged to answer any of the questions. I have also emphasized to the respondents that they may stop their participation at any given moment.

2. BRIEF HISTORY OF VIOLENCE IN AFGHANISTAN SINCE 1978

The longevity and complexity of the conflict naturally causes diversity in the backgrounds of the Afghan diaspora. Despite this, it is essential to understand the complicated security situation and threats to lives and livelihoods, which displaced many Afghans. Hence, what follows is a brief, non-exhaustive introduction to violence in the country since the military coup of 1978.

The communist *coup d'état* of 1978 has caused the people of Afghanistan to witness a level of intensity and scope of violence that the country had not seen before. This coup is also known as the *Saur-Revolution*²⁵ and was essentially a military coup carried out by left-wing officers of the armed forces under the direction of the People's Democratic Party of Afghanistan (PDPA).²⁶ During the Revolution, Nur Mohammed Taraki of the PDPA seized power. Taraki and his communist government had little support and as a result, various religious insurgencies, known as the Mujahideen, rose against the government. The communist party not only had to deal with resistance from the Mujahideen but also internal antagonism. Taraki was removed from power by his right hand Hafizullah Amin.

As a result of the unrest in Afghanistan, in 1979, the Soviet Union invaded the country. Ascribed arguments for this invasion differ from the Soviet Union trying to maintain its influence in Afghanistan for geopolitical reasons (access to natural sources) to being scared of a spill-over effect from the 1979 Islamic Revolution of neighboring Iran. Nonetheless, Amin was removed from power and replaced with Babrak Karmal.

The direct involvement of the Soviet Union only increased resistance from the Mujahideen and led to even more violence. The Mujahideen came to be known as different (loosely united) guerilla groups who were fighting what they considered to be a foreign occupation. Scholars have argued that this period in the history of the conflict includes the most atrocities such as forced disappearances, mass killings, and forced displacement of ordinary civilians and political opponents.²⁷ It is estimated that hundreds of thousands of civilians were killed and millions were expelled.

²⁵ The Revolution is called "Saur" revolution because it took place during the month Saur which is the second month in the Hijri Solar calander used in Afghanistan.

²⁶ Rasanayagam, A and A Afghanistan. A Modern History. London: IB Tauris, 33, 2003: 67

²⁷ Nadery, A N. "2007." Peace or justice? Transitional justice in Afghanistan. The International Journal of Transitional Justice 1 (n.d.): 173

Former U.S. President Jimmy Carter reacted to the Soviet invasion in Afghanistan with diplomatic pressure: canceling trade agreements and boycotting the 1980s Moscow Olympics. More discretely, the presidents tasked the CIA to aid, including arms and military support, to the Mujahideen.²⁸ With the help of the CIA and other regional powers, including Pakistan and Saudi-Arabia, the Mujahideen could defeat the Soviets. The decision of the Soviet Union to withdraw from Afghanistan was taken in November 1986 and manifested in the exit plan consisting of two essential components: firstly, the U.S. and Pakistan signed a non-intervention agreement – known as the Geneva Accord; secondly, at the Afghan level the agreement aimed at widening political legitimacy until a settlement with the Mujahideen was reached.²⁹ Najibullah adopted a policy to reach out to different segments of Afghan society and diaspora to broaden the governments' legitimacy. This policy was called the National Reconciliation Policy (NRP).³⁰ However, because the Mujahideen were not present at the negotiations, they dismissed both the outcome of the Geneva Accords as well as the NRP efforts of the new President, Dr. Najibullah. Consequently, the conflict between the Mujahideen and the government of Najibullah, as well as fighting amongst the different Mujahideen fractions, continued. In this period, an estimated 1,5 million Afghans had died, 1,5 million were injured, and six million were driven into exile due to the violence between the Soviet-backed communist regime and the Mujahideen.³¹

The different factions of the Mujahideen found regional powers to provide them with money and weapons.³² The regime under Najibullah equally continued to get support in the form of financial aid from the Soviet-Union.³³ Eventually however, the government of President Najibullah fell in 1992. With the fall of the regime of Najibullah, the different Mujahideen fractions got stuck in a struggle for power that led Afghanistan to fall into a period of anarchy. This period is known as the civil war during which tens of thousands of people were killed and cities, including the capital Kabul, were destroyed.³⁴ However, after the communist regime fell

²⁸ Bearden, M. Afghanistan, graveyard of empires. n.p.: Foreign Aff., 80, 17, 2001: 18

²⁹ Ibid.

³⁰ Ibid.

³¹ Bearden, M. Afghanistan, graveyard of empires. n.p.: Foreign Aff., 80, 17, 2001: 21 & Nadery, A N. "2007." Peace or justice? Transitional justice in Afghanistan. The International Journal of Transitional Justice 1 (n.d.): 174

³² Rubin, B R., A Ghani, W Maley, A Rashid and O Roy. Afghanistan: Reconstruction and peacebuilding in a regional framework. 2001: 569

³³ Ewans, M. Afghanistan: A short history of its people and politics. n.p.: Harper Collins, 2002: 238

³⁴ Rubin, B R., A Ghani, W Maley, A Rashid and O Roy. Afghanistan: Reconstruction and peacebuilding in a regional framework. 2001: 568

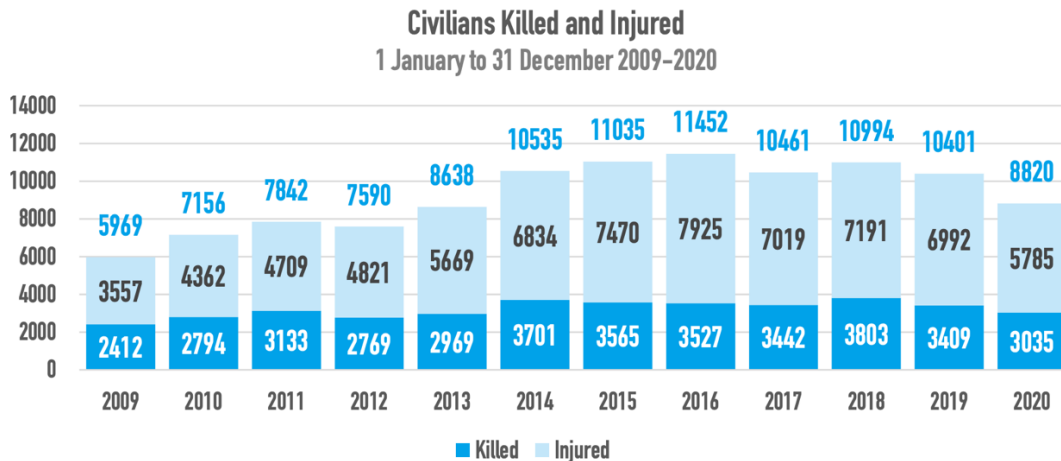
in 1992, the U.S. having achieved its goal of diminishing communism, had lost interest in Afghanistan. The former Special Representative of the United Nations Secretary General for Afghanistan Lakhdar Brahimi had warned the Security Council that disengaging from Afghanistan was a mistake because conflict in the country will have a spill-over effect.³⁵ His point was proven by the terrorist attacks on September, 2001.

For the Afghans however, the chaos of the civil war meant that they would enter a new phase in the war. This is because of the civil war a new group that called themselves the Taliban arose. Their name, meaning “the students,” referred to the religious education they had received in Pakistan. Taking off from Kandahar, this group fought their way to the capital Kabul and eventually called out their Islamic Emirate. Despite taking the capital, the Taliban never managed to impose their rule on the whole country. Especially in the northern part of the country, former Mujahideen fractions came together, forming the Northern Alliance, to fight the Taliban.

Taliban rule ended in 2001 after the U.S. and its NATO allies launched a military campaign called “Operation Enduring Freedom.” The military campaign was launched because the Taliban had refused to hand over Al-Qaeda leader Osama bin Laden who was being sought for his alleged role in the 9/11 attacks on several targets in the U.S. The end of the Taliban rule in no way meant the end of violence in Afghanistan. Instead, the killings of innocent civilians continued under the presence of the U.S. and NATO troops in the past 20+ years. The graph shows the increase in the number of civilians casualties in Afghanistan as documented in the Annual Report on Protection of Civilians in Armed Conflict by the United Nations Assistance Mission in Afghanistan.³⁶ The civilian casualties are ascribed to both the acting of the Taliban and pro-government forces.

³⁵ Lakhdar Brahimi, “Afghanistan's Quest for Peace: What to Learn from the Past?,” in *In Search of Peace for Afghanistan* (Kabul, Afghanistan: Kakar History Foundation Press, 2021): Foreword xi

³⁶ Deborah Lyons, and Michelle Bachelet. (In cursief) AFGHANISTAN ANNUAL REPORT ON PROTECTION OF CIVILIANS IN ARMED CONFLICT: 2020. Kabul: UNAMA
https://unama.unmissions.org/sites/default/files/afghanistan_protection_of_civilians_report_2020_revs3.pdf



Graph from UNAMA report 2020

The Bonn Conference in 2002 was perhaps the best opportunity that Afghanistan had to address these violations and abuses. However, the agreement reached at this conference did not address TJ, and no mechanism was established to deal with the past.³⁷ Instead, the new Afghan authorities and the international community promoted a “peace now, justice later” approach. The argument put forward was that accountability and justice processes would have disrupted peace efforts.³⁸ Such an approach encouraged more violence by local warlords and promoted impunity. Furthermore, this policy affected the credibility and legitimacy of the newly established government.³⁹ Hence, since the establishment of the transitional government, calls to deal with past abuses have been mostly ignored.⁴⁰

However, the Bonn agreement, the Afghan Independent Human Rights Commission was established and mandated to initiate national consultation and propose a national strategy for TJ and addressing the past abuses.⁴¹ This commission published the “A Call for Justice” report. But this report was met with resistance from former Mujahideen fighters who were mentioned as the faces behind the human rights atrocities.⁴²

The former president Hamidullah Karzai accepted the report in January 2005. President Karzai tasked a three-member panel to collaborate with the AIHCR and the United Nations Mission in Afghanistan (UNAMA) to develop a national strategy for peace, reconciliation and

³⁷ Nadery, A N. "2007." Peace or justice? Transitional justice in Afghanistan. *The International Journal of Transitional Justice* 1 (n.d.): 174

³⁸ Ibid: 175

³⁹ Ibid: 175

⁴⁰ Ibid: 173

⁴¹ Ibid: 176

⁴² Ibid: 178

justice. As a result, a plan titled “Action Plan of the Islamic Republic of Afghanistan for peace, justice, and reconciliation” was developed and adopted by Karzai in December 2005.

However, in 2007 Karzai put a complete stop on this process.⁴³ Ever since, no domestic efforts have been made to address the legacies of the past. The ICC process confronts Afghans with the crimes committed in the past. But it leaves out more than 20 years of a violent history.

The ICC authorized the Prosecutor to investigate alleged crimes under the jurisdiction of the Court committed on Afghan territory since 1 May 2003, as well as other alleged crimes as well as other crimes linked to the conflict in Afghanistan and were committed on the territory of other States Parties to the Rome Statute since 1 July 2002.⁴⁴ Interestingly, after the ICC announced its investigations, the Afghan government stated that it is committed to prosecute crimes committed on its territory and asked the Court postpone its investigations.⁴⁵ The U.S. (under the Trump administration) reacted to the ICC investigations by announcing sanctions against ICC officials.⁴⁶ These sanctions were later revoked by the Biden administration.⁴⁷

⁴³ <https://www.afghanistan-analysts.org/en/reports/rights-freedom/peace-in-the-air-but-where-is-justice-efforts-to-get-transitional-justice-on-the-table/>

⁴⁴ “Afghanistan: ICC Appeals Chamber Authorises the Opening of an Investigation,” International Criminal Court, March 5, 2020, <https://www.icc-cpi.int/Pages/item.aspx?name=pr1516>.

⁴⁵ “Afghan Foreign Minister Meets Icc Prosecutors to Discuss War Crimes Investigation,” Reuters (Thomson Reuters, May 9, 2021), <https://www.reuters.com/world/asia-pacific/afghan-foreign-minister-meets-icc-prosecutors-discuss-war-crimes-investigation-2021-05-09/>.

⁴⁶ “Factsheet: U.S. Sanctions on the International Criminal Court,” Center for Constitutional Rights, April 2, 2021, <https://ccrjustice.org/factsheet-us-sanctions-international-criminal-court>.

⁴⁷ Ibid.

3. existing literature on diaspora engagement with transitional justice mechanisms

Diasporas have long been neglected by International Relations scholars. However, the active agency of diasporas is now increasingly being recognized in scholarly works. One critical explanatory factor for this change is globalization. Bercovitch argues that globalization increases the influence of diasporas as political agents because political, economic, and cultural developments are happening outside of the state's sovereign territory.⁴⁸ This increase in agency results from the significant shift in international relations in the past two decades wherein conflicts are rarely only between two states or communal groups. Instead, outside agents such as international organizations, refugees, non-governmental organizations (NGOs), and diasporas are increasingly becoming influential in different phases of conflict. Similarly, Koinova emphasizes that it is no longer possible to ignore the agency of diaspora communities as transnational actors.⁴⁹

Globalization has three main effects on diaspora communities. Firstly, it allows for advancement in communications, transport, and financial means, resulting in diaspora communities acting internationally without restraints from their home country.⁵⁰ Communities can maintain ties with members of the diaspora residing in different parts of the world. Secondly, these same advancements allow for the preservation of interest in political matters of their original homelands.⁵¹ Lastly, diaspora communities can make use of advancements resulting from globalization to mobilize themselves for different matters.⁵²

The interest in the engagement of diasporas in (post-)conflict situations can mainly be traced back to the early 2000s.⁵³ The numerous terrorist attacks during this period on different cities in Europe and the United States sparked an interest in individuals' role in diaspora communities

⁴⁸ Bercovitch, J. "A neglected relationship: Diasporas and conflict resolution." *Diasporas in conflict: Peace-makers or peace-wreckers* (2007): 18

⁴⁹ Koinova, M. "Diaspora mobilisation for conflict and post-conflict reconstruction: Contextual and comparative dimensions." (2018): 1263

⁵⁰ Bercovitch, J. "A neglected relationship: Diasporas and conflict resolution." In *Diasporas in conflict: Peace-makers or peace-wreckers* 35. (United Nations University Press, 2007): 20

⁵¹ *Ibid*:20

⁵² *Ibid*:20

⁵³ Koinova, M. "Diaspora mobilisation for conflict and post-conflict reconstruction: Contextual and comparative dimensions." (2018): 1252

in transnational terrorist activities.⁵⁴ Early scholarship on diaspora engagement in conflicts highlighted the role of diasporas as conflict promoters.⁵⁵ The dominant narrative was the viewpoint of diasporas as fuelers of conflict, spoilers of peace, or financial funders of rebel organizations.⁵⁶

While scholarship has now expanded to show that diasporas can also be engaged in peace processes⁵⁷, the engagement of the diaspora in TJ and reconciliation processes remains underexplored.⁵⁸ Some attempts have however been made to explore this gap. Wiebelhaus-Brahm, for example, offers insight into four factors that influence the willingness and ability of diaspora communities to shape TJ politics in the countries of origin. Firstly, the nature of the violence that needs to be addressed is essential because it determines who the perpetrators and victims of the conflict are. If perpetrators exist on both sides, demands for transitional justice will likely be muted or self-serving by one side emphasizing the crimes of its opponents. The second important factor is the outcome of the conflict and how some form of political transition emerges. The author finds that when diaspora communities express a preference for transitional justice, they usually “lost” the conflict and consider themselves victims. Thirdly, the characteristics of the members of the diaspora are essential to understand. Highly educated individuals who have experiences with activism will be better at promoting its TJ agenda. Lastly, the period in which the TJ discussion takes place is an essential factor that influences the willingness and ability of the diaspora to engage with TJ processes. If the discussion aligns with the agenda of their newly adopted countries’ actors and the international community, that will positively affect how the transitional justice claims of the diaspora community are received.

Interestingly, Haider remarks on the differences between diaspora communities and those in the countries of origin. According to the author, the attitudes of the diaspora community

⁵⁴ Ibid: 1252

⁵⁵ Wiebelhaus-Brahm, E. "Exploring variation in Diasporas’ engagement with transitional justice processes." *Journal of Peacebuilding & Development* 11 (2016): 24

⁵⁶ Idem; Haider, H. "Transnational transitional justice and reconciliation: The participation of conflict-generated diasporas in addressing the legacies of mass violence." *Journal of Refugee Studies* 27 (2014): 209

⁵⁷ Koinova, M. "Diaspora mobilisation for conflict and post-conflict reconstruction: Contextual and comparative dimensions." (2018): 1253

⁵⁸ Wiebelhaus-Brahm, E. "Exploring variation in Diasporas’ engagement with transitional justice processes." *Journal of Peacebuilding & Development* 11 (2016): 25; Haider, H. "Transnational transitional justice and reconciliation: The participation of conflict-generated diasporas in addressing the legacies of mass violence." *Journal of Refugee Studies* 27 (2014): 209

members may be more divisive and hardened than those in the homeland.⁵⁹ However, in some cases, diaspora communities are exposed to different norms and perspectives, which may cause them to develop more reconciliatory views.⁶⁰ The new environment in which diaspora communities find themselves and how well they are integrated into those new environments seems essential for shaping their engagement with and views on TJ processes. When diaspora communities are well integrated into their new societies, they are more likely to hold more moderate and reconciliatory views.⁶¹ These reconciliatory views can encourage the willingness to engage in transnational activities and build peaceful relations in the home country. However, successful integration can also have the reverse effect because diaspora communities can become assimilated in the host land to the extent that they feel disengaged from political matters in their homeland.⁶² There has not yet been enough research done to say anything meaningful about what causes successful integration to lead to positive engagement in some cases, while in other cases having the reverse effect.

⁵⁹ Haider, H. "Transnational transitional justice and reconciliation: The participation of conflict-generated diasporas in addressing the legacies of mass violence." *Journal of Refugee Studies* 27 (2014): 213

⁶⁰ *Ibid*: 214

⁶¹ *Ibid*: 222

⁶² *Ibid*: 223

4. Research Design

4.1 Operationalization

To construct an analytic frame that enables understanding of the link between actors and processes, I have combined different aspects of existing literature on the topic to form the analytic framework of this research. A significant part of the analytic frame draws on the article written by Koinova and Karabegović.⁶³ These authors have constructed a framework around the causal mechanisms that link diasporas to TJ processes in their countries of origin. In total, the authors have identified five categories of mechanisms.⁶⁴ Despite constructing the framework around these causal mechanisms, the framework is not primarily interested in causality. Instead, the framework aims to uncover the underlying rationales of these mechanisms. This unraveling enhances the ability to understand how diasporas engage with TJ processes in their countries of origin.⁶⁵ I use three of these categories as a guideline to understand the engagement of the Afghan-Dutch diaspora in the Netherlands with TJ processes in Afghanistan. To do so, I operationalize the mechanisms under the categories as indicators. The two categories of mechanisms I don't use, are replaced with an analysis of political and legal opportunity structures. I will elaborate on this later.

The mechanisms under the first category of emotional mechanisms build on insights that are not always directly obtained from researching diasporas.⁶⁶ This is because there is limited understanding on how emotions affect diaspora engagement with TJ processes. Sporadic evidence shows diaspora members engage violent activities, memorialize their experiences, or forget about the issues of their country of origin.⁶⁷ Building on this sporadic evidence and insights obtained from other studies, the first category of emotional mechanisms distinguishes “negative” and “positive” emotional mechanisms.⁶⁸ This distinction draws mainly on the survey research conducted by Barceló⁶⁹, which shows that emotional mechanisms underlie individual and contextual factors that potentially lead to a preference for TJ mechanisms. Negative

⁶³ Koinova, M., & Karabegović, D. "Causal mechanisms in diaspora mobilizations for transitional justice." *Ethnic and Racial Studies* 42 (2019): 1809-1829.

⁶⁴ *Ibid*: 1812

⁶⁵ *Ibid*: 1812

⁶⁶ *Ibid*: 1817

⁶⁷ *Ibid*: 1817

⁶⁸ *Ibid*.

⁶⁹ Barceló, J. "The emotional underpinnings of attitudes toward transitional justice." *Political Studies* 66 (2018): 480

emotions, especially fear and anger, significantly influence more robust support for TJ measures.⁷⁰ Likewise, positive emotions consisting of pride, patriotism, and nostalgia have been found to not necessarily activate diasporas to adopt a preference for transitional justice.⁷¹ I use these five emotions as indicators to research their presence within the Afghan-Dutch diaspora. Because context is vital for understanding emotional mechanisms,⁷² I analyze the present emotional mechanism while considering for the context in which they occur.

The second category of mechanisms is cognitive mechanisms. This category has at its core the understanding of perceptions held by diaspora members, including the place of the “other” in those perceptions.⁷³ Conflict-generated diasporas tend to hold more categorical perceptions of the conflict in their original homelands.⁷⁴ The Afghan-diaspora fits the category of conflict-generated diasporas. Therefore, cognitive mechanisms that potentially form barriers to adopting supportive attitudes for reconciliation amongst the diaspora are crucial to understand.

The most notable mechanism under this category that influences the perception and images of the “other” is framing. In the context of the prolonged conflict in Afghanistan, I do not expect the diaspora to have homogeneous ideas on who the “other” is. Besides, framing as a concept is extensively and widely studied. However, I take a more straightforward approach and operationalize the mechanism by assessing whether individuals within the Afghan-Dutch diaspora believe another group, those who they consider to have committed the wrongdoings, to be the obstacles to reconciliation. In such cases, “reframing” this incompatibility is necessary for leading to more reconcilable attitudes amongst the diaspora. While different mechanisms are essential to understand how reframing leads to diaspora mobilization for transitional justice, I adopt the mechanism of “thin sympathy” to study potential reframing processes. Thin sympathy refers to the awareness of what happened to the “other” and recognizing the humanity and needs of that “other”.⁷⁵ This mechanism is essential because without its presence mobilization will never occur.⁷⁶

⁷⁰ Ibid: 480

⁷¹ Ibid: 1817

⁷² Koinova, M., & Karabegović, D. "Causal mechanisms in diaspora mobilizations for transitional justice." *Ethnic and Racial Studies* 42 (2019): 1818.

⁷³ Ibid:1818

⁷⁴ Ibid: 1818

⁷⁵ Quinn, J R.. "Diaspora influence on the thin sympathetic response in transitional justice." *Ethnic and Racial Studies* 42 (2019): 1835

⁷⁶ Ibid.

The last mechanism I consider under this category is “contact”. This mechanism is known to lead to the reduction of prejudice and deconstructing negative stereotypes⁷⁷. I am mainly interested in whether members within the diaspora are in contact with other members that they consider to be different from themselves. Contact can manifest itself through having friendships and acquaintances but also attending the same social events.

The third category is symbolic/value-based mechanisms. The underlying rationale in this category is the centrality of attaining and conserving specific ideas, values, and symbols⁷⁸. Two mechanisms under this category are closely related—namely, learning and socialization. While learning refers to acquiring knowledge, socialization refers to the act of spreading that knowledge.⁷⁹ I am interested in learning and socialization regarding conflict and conflict transformative topics such as the history of the conflict and political ideas passed down from predecessors or adopted in the new homeland through self-education. A third mechanism I consider under this category is “chosen trauma”. This mechanism refers to the deliberate act of sharing a mental representation of trauma suffered due to acts of violence at the enemy’s hands.⁸⁰ The presence of chosen trauma manifests itself in commemorations on specific days and narratives used by the diaspora.⁸¹

The framework of Koinova and Karabegović considers two more categories. Firstly, the category of strategic mechanisms, which has as its underlying rationale the conscious deployment of symbolic material and organizational resources to meet specific goals.⁸² Secondly, network-based mechanisms, which compasses causal mechanisms that assume the connectivity of actors and that information sharing and mobilization happen within these networks.⁸³ So, both these categories are concerned with the emergence or presence of organized diaspora action for transitional justice. While all five of the different categories of mechanisms can provide interesting and valuable insights into Afghan-Dutch diaspora

⁷⁷ Koinova, M., & Karabegović, D. "Causal mechanisms in diaspora mobilizations for transitional justice." *Ethnic and Racial Studies* 42 (2019): 1819

⁷⁸ *Ibid*: 1819

⁷⁹ Koinova and Karabegovic, blz 1814.

⁸⁰ *Idem*, blz 1820

⁸¹ *Ibid*.

⁸² *Ibid*: 1820

⁸³ *Idem*: 1822

mobilization, it is beyond the scope of my thesis to research and say something meaningful about all of these categories.

I replace the categories of strategic mechanisms and network-based mechanisms with two concepts from the analytic framework provided by Orjuela. This framework analyzes the different mechanisms and norms as a set of opportunity structures – political, legal, and discursive – that shape diaspora mobilization.⁸⁴ Political opportunity structures draw attention to external factors such as the openness of the political system, elite allies and state repression in effecting the mobilization of social groups.⁸⁵ The question here is how the political structures in the Netherlands allow the Afghan-Dutch diaspora to engage with transitional justice processes in Afghanistan. To answer this question, I looked at using two indicators⁸⁶: firstly, democracy. Dealing with not just the occurrence of free and fair elections, but also the enforcement of the rule of law and respect for human rights.⁸⁷ Secondly, the ability to circulate information and people in and out of the country. This ability is considered vital for developing and maintaining a network.

Legal opportunity structures refer to the legal claims-making opportunities that movements have in the state.⁸⁸ Does the Afghan-Dutch diaspora have access to judicial institutions where crimes committed in Afghanistan can be addressed? To answer this question, I looked at the access to domestic courts, however, because supra-national courts may provide other openings than the state wherein the diaspora resides for the prosecution of war crimes, crimes against humanity, and genocide⁸⁹, I looked at these as well.

The discursive opportunity structures overlap with the category of cognitive mechanisms provided by Koinova and Karabegović. I therefore leave these opportunity structures out.

Combining the three categories of causal mechanisms with the political- and legal opportunity structures makes the approach of the research project unique. Firstly, the research adds

⁸⁴ Orjuela, C. "Mobilising diasporas for justice." *Opportunity structures and the presencing of a violent past.* *Journal of Ethnic and Migration Studies* 44 (2018): 1357-1373

⁸⁵ *Ibid*: 1360

⁸⁶ Caraway, T L.. "Political openness and transnational activism: Comparative insights from labor activism." *Politics & Society* 34 (2006): 280

⁸⁷ *Ibid*.

⁸⁸ Orjuela, C. "Mobilising diasporas for justice." *Opportunity structures and the presencing of a violent past.* *Journal of Ethnic and Migration Studies* 44 (2018):1360

⁸⁹ *Ibid*.

meaningful and more profound insights into the rationale underlying the causal mechanisms present within the Afghan-Dutch diaspora. Secondly, studying the opportunity structures provides an understanding of the external context in which the diaspora finds itself.

4.2 Research plan

I collected evidence in three steps. The first two steps concerned understanding the causal mechanisms that link diasporas to transitional justice processes in their original homelands. Firstly, I surveyed a small number of the Afghan-Dutch diaspora. The survey explores the presence of the mechanisms within the diaspora. The target of the survey is the Afghan-Dutch diaspora as defined in this research. In order to reach a broad audience amongst the diaspora, the survey is made available in four languages, including the two official languages of Afghanistan. The languages are Dutch, English, Pashto, and Farsi. The survey was distributed mainly via social media channels such as LinkedIn, Instagram, and Facebook from June 14th till June 22nd. The sample of the survey is thus randomly selected. The results are used as descriptive statistics that support the analysis.

Secondly, I gathered data through in-depth interviews with members of the Afghan Dutch diaspora. With these interviews, I aimed to detect the underlying rationales of the causal mechanisms and detect knowledge within the diaspora members on the political- and legal opportunity structures.

In the same way as with the surveys, the targeted audience for the interviews were members within the Afghan-Dutch diaspora. However, with the interviews I made a selection of the participants. Thus, the sample unit for the interviews are purposeful. In total, I interviewed eight individuals. I aimed to have a diverse sample of diaspora members. However, six of the participants were well educated Afghan-Dutch females who have been living in the Netherlands since before 2011. The two males who participated in the interviews both have lived in the Netherlands since after 2011. One of them is currently enrolled in a university MA program, the other is working. As a benefit of being a member of the Afghan-Dutch diaspora myself, most of the participants were from my own network. However, two of the participants I contacted after they were brought to my attention by others. Most of the interviews were conducted via Skype or Zoom in June 2021. Where possible, the interviews are conducted in person. The interview questions were semi-structured.

I have transcribed all interviews. These are not included in the thesis but are available upon request.

Finally, gathering evidence on the political- and legal opportunity structures, required consulting sources and finding information on the political and legal climate in the Netherlands. I have limited myself to consulting official government documents available on the internet and in academic sources.

5. survey results

5.1 Background Information and Demographics

By adding information in the social media posts that advertised the survey, I made clear that the purpose of the survey was to gather information for my thesis and that the survey was anonymous. To ensure that respondents meet the predetermined criteria, I included the following two questions “do you identify as Afghan?” and “do you live in the Netherlands.” Respondents that had answered either one of these questions negatively were deleted. In total, 202 respondents met the criteria. However, not all respondents have filled in all of the questions. Some questions have a little over 200 respondents, while others have less than 200 respondents. To get information about the demographics of the surveys’ participants, I first asked some general questions. 41,92% of the respondents answered the question “what is your gender?” with male, 56,89% of the respondents answered with female.

I divided the participants in three categories based on whatever they have lived more or less than 10 years in the Netherlands or were born here. The results show that 72,64% of the respondents have lived in the Netherlands since before 2011. 20,4% of the respondents were born in the Netherlands. The remaining 6,97% have lived in the Netherlands since later than 2011. As for the age of the respondents, I categorized the respondents into four age groups. Firstly, late teenage years (15 to 17). Secondly, young adulthood (18 to 35). Thirdly, middle-age (36 to 55). Lastly, older adulthood (56+). 0,5% of the respondents were late teenagers. 79,6% of the respondents are young adults. 13,48% of the respondents are middle-aged. 3,48% of the respondents are older adults. Regarding ethnic identification, two ethnicities are dominant in the survey results. The first being Tajik (56,22%) and the second being Pashtun (37,81%). These are the two dominant ethnicities in Afghanistan as well, however there the Pashtuns make up 42% of the population and the Tajiks make up 27%.⁹⁰ Unfortunately, other ethnic groups are underrepresented in the outcome of the survey. The Uzbeks are the third largest ethnicity in Afghanistan and make up 9% of the population, the Hazaras are the fourth largest ethnicity and make up 8%.⁹¹ in the survey, Uzbeks made up 3,98% and Hazaras made up 5,97%. However, in the survey respondents gave different answers under the category “other”. These answers included minorities such as the Qizilbash (2,99% of total and 15,79%

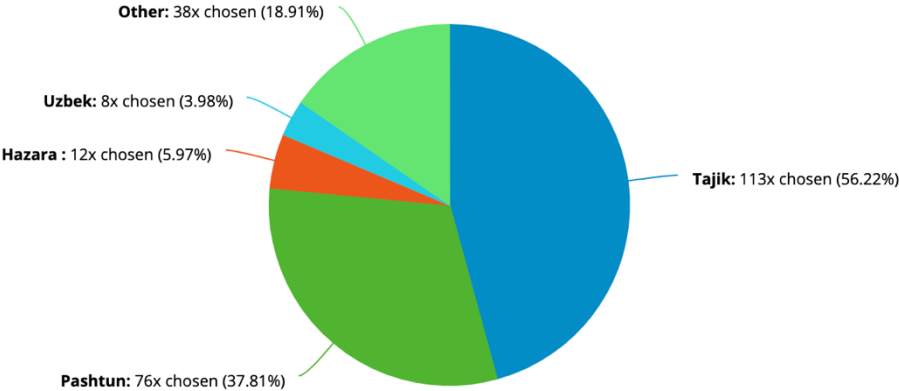
⁹⁰ World atlas <https://www.worldatlas.com/articles/ethnic-groups-of-afghanistan.html>

⁹¹ World atlas.

of category “other”). Most of the respondents in this category (5,47% of total and 28,95% of category “other”) identify as “Afghan” or “all.” Interestingly, some respondents also identified with cities instead of recognized ethnicities. 18,42% of the respondents in the category “other” (and 3,48% of total respondents) identified as either Kabuli (from Kabul), Mazari (from Mazar-e Sharif), or Herati (from Herati).

Which ethnicity do you identify as?

Number of responses: 201

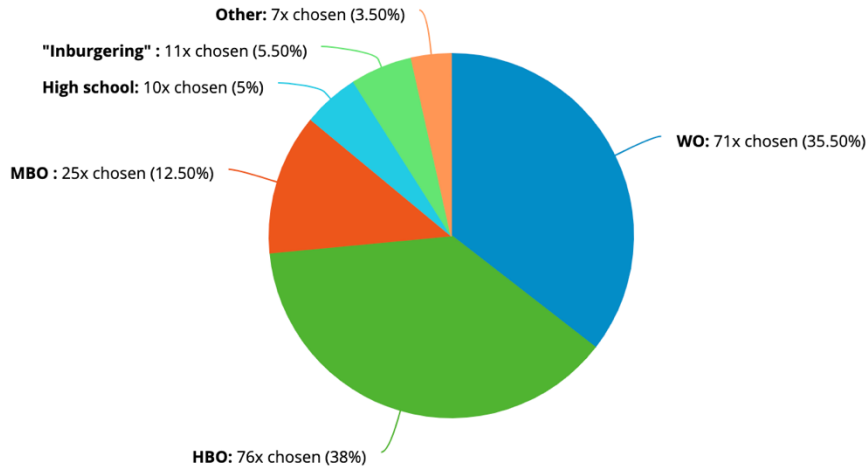


78% of the respondents have attained or currently study at the university or university of applied sciences level. 5,5% of the respondents have only finished their “inburgering⁹²” in the Dutch educational system.

⁹² Inburgering literary translates as integration and refers to the mandatory civic integration process of learning the Dutch language, culture, and history in order to become a permanent citizen in the Netherlands. It ends with a series of exams certifying the person having completed basic integration.

What is your highest attained education level in the Netherlands?

Number of responses: 200



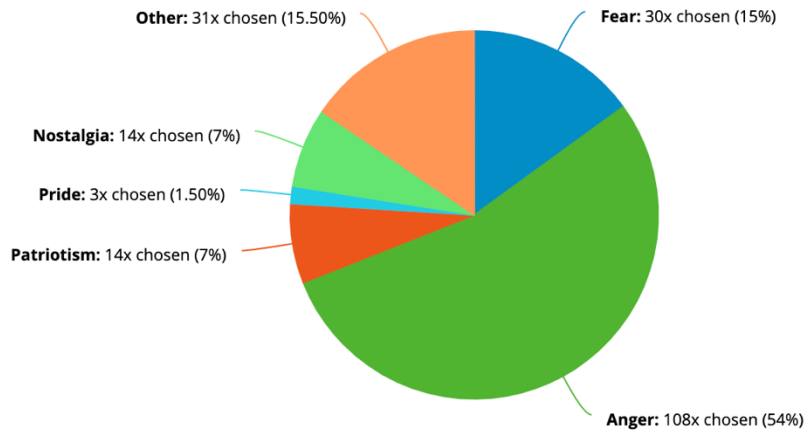
5.2 Emotional mechanisms

To explore the presence of emotional mechanisms I asked the question “What is the main feeling that the conflict in Afghanistan evokes in you?” I formulated the question around feelings instead of emotions to make it easier to answer.

As the graph shows, most respondents (54%) felt angry when thinking about the conflict. The following primary emotion within the diaspora is fear (15%). The presence of positive emotions, nostalgia (7%), pride (1,5%), and patriotism (7%) is relatively weak. Together they make up only 15,5%. The answers given under “other” are divergent. The most prominent feeling under this category is sadness (4,5%), followed by disappointment (2,5%).

What is the main feeling that the conflict in Afghanistan evokes in you?

Number of responses: 200



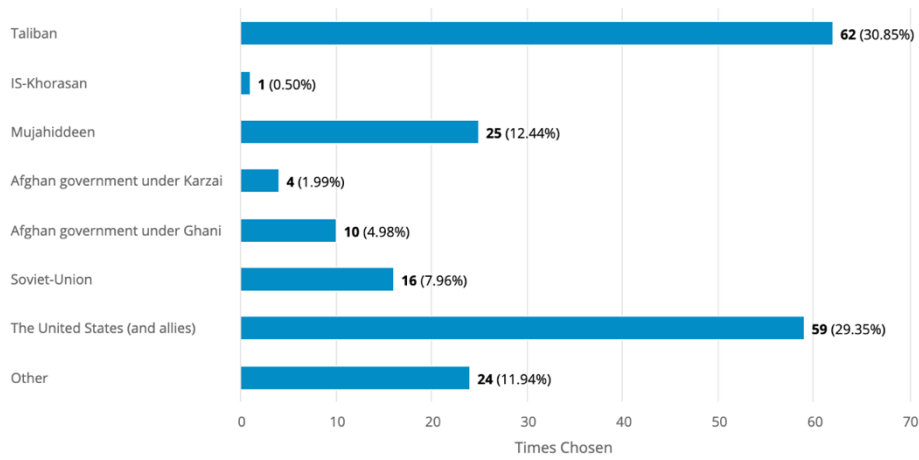
5.3 Cognitive mechanisms

To explore the presence of cognitive mechanisms within the diaspora, I first asked the question “who has committed the most wrongdoings in Afghanistan (starting from the Soviet Invasion of 1979)?” the results show that 30,85% hold the Taliban accountable for having committed the most wrongdoings in Afghanistan. Interestingly, 29,35% hold the United States (and allies) responsible.

Under the category of “other,” almost all answers differed from each other. The answers were forming different categories of those listed as choices. 3,8% of all respondents and 29,17% in the category other answered “all.”

Who has committed the most wrongdoings in Afghanistan?

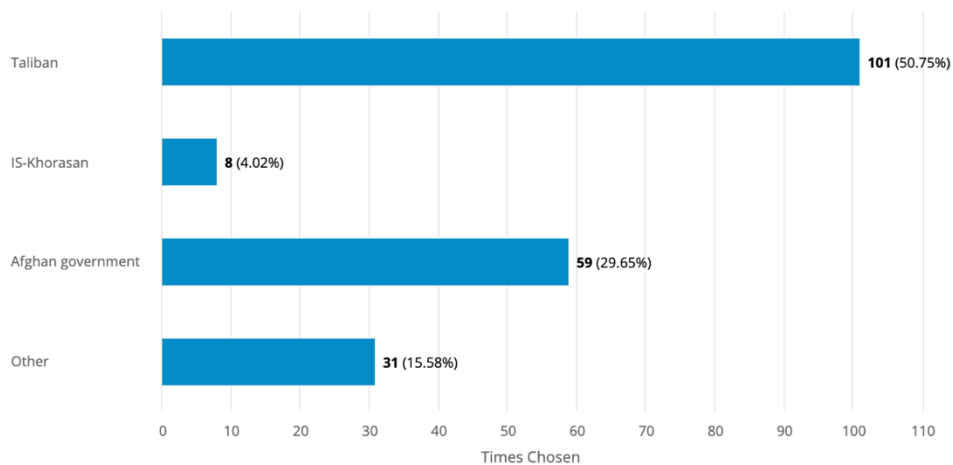
Number of responses: 201



Keeping the intra-Afghan peace process in mind, the next question asked, “who is the main internal obstacle to peace in Afghanistan?” While most respondents, 50,75%, consider the Taliban to be an internal obstacle to peace. 29,65% say that it is the obstacle to peace is the Afghan government. The results of the follow-up question shows that the majority of respondents, 73,63%, do not think that peace with the internal obstacle is possible.

Who is the main internal obstacle to peace in Afghanistan?

Number of responses: 199



The following two questions in the survey aimed to explore the presence of “thin sympathy” within the Afghan-Dutch diaspora. The results show that 27,14% of the respondents acknowledge that the obstacle group has suffered equally under the conflict.

5.4 Symbolic/value-based mechanisms

Two of the survey questions were framed around the “learning” mechanism. The first identified that 91,04% of the respondents actively try to learn more about Afghanistan. The second question identified that those who educate themselves on Afghanistan do so through their parents, the internet⁹³, and other Afghans. In the “other” category, 4% of the respondents mentioned having learned about Afghanistan from their own experiences by living or working there.

When it comes to the “socialization” mechanism, the survey shows that 57,50% of the respondents try to educate other Afghans on the history of Afghanistan (8,50%), the current conflict (11,50%), or both the past and the current conflict (37,50%). Along these lines, I conclude that not all respondents who actively try to acquire knowledge on Afghanistan are involved in spreading that knowledge.

To identify the presence of chosen trauma within the diaspora, I first asked the question, “Is there a specific event in the history of Afghanistan that you consider traumatic?” with the option to describe the event in text. In total, 106 respondents answered this question. Out of the 106 given answers, only 78 answers were substantively relevant to the research. I have categorized these 78 answers into five categories.

The first category contains answers given that refer to the period of communism in Afghanistan (1978-1992). This category has six respondents with an age range of 23 to 57. 5 out of 6 respondents have lived in the Netherlands since before 2011. One of the respondents was born in the Netherlands. This category contains two personal anecdotes as answers. Both describe an event wherein the respondents have witnessed a Russian soldier killing an Afghan civilian. 3 out of 6 respondents answered that the Saur Revolution, the *coup d’etat* that removed president Daud Khan from power and transformed Afghanistan into a communist state, is an event in the history of the traumatic conflict for them. With one out of the three elaborating that

⁹³ The survey did not specify which internet channels

“this has ignited everything. From arresting and oppositions to the emergence of resistance movements, invasions, opportunities for foreign powers to wage their proxy wars in Afghanistan, with daily casualties. Endless corruption and so on”. None of the respondents in this category participated in activities to remember this trauma.

The second category contains answers given concerning the Mujahideen civil war period (1992-1996). This category had 11 respondents. Interestingly, one out of the 11 respondents is 19 and was born in the Netherlands. This respondent is the only one younger than 29. Nine out of the remaining 11 have lived in the Netherlands since before 2011. The other respondent has thus lived in the Netherlands since later than 2011. 1992 marks the fall of the communist regime under president Najibullah as a result of a mujahideen victory. The civil war and the period of lawlessness that followed is the period that the respondents in this category consider being traumatic. The content of the answers differs from mentioning the power struggle between the different Mujahideen fractions, one respondent answered “Rocket attacks from Gulbuddin, Dostum, Abdullah Abdullah. They are all killers”, to mentioning personal experiences of witnessing the killing of a neighbor at the hands of the Mujahideen. Four out of 11 respondents say that they participate in activities to remember the trauma endured during this period in the conflict.

The third category contains trauma concerning the Taliban period (1996-2001). This category includes 15 respondents. The age of the respondents in this category ranges from 18 to 64. Most of the respondents (68,67%) have lived in the Netherlands since before 2011. Six respondents only mention that the Taliban regime was traumatic. Others elaborated with events such as the bombing of the Bamyan buddhas or the stoning of females inside the football stadium⁹⁴. This category also contains personal stories of being interrogated by the Taliban, losing property due to the Taliban, and witnessing parents losing their jobs. Only two out of the 15 respondents say that they participate in activities to remember the trauma inflicted during this period.

The fourth category contains trauma concerning the period after the US and its allies’ invasion and the fall of the Taliban in 2001. With only four respondents, this is the smallest category. Three of the four respondents are younger than 25. Noteworthy is that none of the respondents in this category have answered with a personal anecdote. Only one out of the three mentioned a specific event: the peace deal between the U.S. and the Taliban. Three out of the

⁹⁴ I will add information about the bombings of the buddhas and the policy of stoning women later.

four have lived in the Netherlands since before 2011. The other respondent was born in the Netherlands. None of the respondents in this category take part in any memorialization activities.

The last category contains more general answers. This is the largest category containing 41 respondents with answers ranging from “the entire war is traumatic” to specific attacks in the last two decades. This category also contains more historical answers—for example, the attacks on the Hazara community by Abdul Rahman Khan.

In the end of the survey, I included three questions to explore the visions on injustice and accountability within the diaspora. 99% of the respondents agreed with the statement “injustice in Afghanistan should be punished.” This number decreased to 90,45% when the question was changed to “injustice in the past should be punished.” Interestingly, 60,7% of the respondents are unaware of the investigation process into war crimes and crimes against humanity in Afghanistan by the ICC.

6. ANALYSIS INTERVIEWS

6.1 Background information on participants

Respondent A is a 28 years old female who does not identify with a particular ethnicity but rather as Afghan. She was born in Afghanistan and has been living in the Netherlands for 23 years. In the Netherlands she obtained graduate's degree. Respondent B also has a graduate's degree. She is a 29 years old female that identifies as Pashtun and was born in Moscow. Respondent C is a 32 years old male who identifies as Afghan. He came to the Netherlands in 2014 after marrying an Afghan-Dutch woman who already had Dutch citizenship. He has a *MBO niveau 2* degree. Respondent D is a 26 years old female graduate who identifies as Afghan and has lived in the Netherlands for 21 years. She did not feel comfortable sharing details about her journey to the Netherlands on record. Respondent E is a 24 years old female who was born in Afghanistan and has lived in the Netherlands for 21 years. As far as ethnicity is concerned, this respondent said that she knows that she is ethnically Tajik, but it does not mean much to her. Currently, this respondent is an undergraduate student. Respondent F is 34 years old women that identifies as Afghan. Born in Afghanistan and having lived in the Netherlands for 23 years, she still has active memories of her childhood in Afghanistan and the journey to the Netherlands through Iran and Pakistan. The same active memories of both the childhood and journey applies to respondent G, who is a 37 years old female that identifies as Hazara. This respondent has an HBO degree. Lastly, Respondent H is a 40 years old male. This respondent is ethnically Pashtun but said that for him the word "Afghan" covers his identity. He has been living in the Netherlands since 2014. He came to the Netherlands after the Dutch government gave him a visa because he had worked with Dutch forces in Afghanistan. Currently, he is enrolled in a graduate's program at a Dutch university.

6.2 Emotional mechanisms

Unlike with the survey, in the interviews I did not give the respondents a list of emotions that they could choose from. As a result, the answers given by the respondents are divergent from the five emotional mechanisms that I had divided into "positive" and "negative" mechanisms.

In some of the interviews, the respondents differentiated between thinking of Afghanistan in general and thinking specifically about the conflict in Afghanistan. Respondent A answered

that thinking of Afghanistan gives the feeling of ownness. “It’s the place I am from. That’s the feeling I get, that it is my motherland.”⁹⁵ Because the respondent feels that Afghanistan is her own, she feels sad whenever confronted with the violence in the country. Respondent F almost gave the same answer. She was saying that thinking of Afghanistan sparks positive feelings: feeling at home, peaceful, and admiration. Former experiences in Afghanistan feed into these feelings: “Everything was different. The togetherness, not such an individualistic society that we have now, but being a group... taking care of each other. Those feelings. I still have that when I think about Afghanistan.”⁹⁶ But when thinking of the conflict, the respondent feels powerless, frustrated, sad, and despaired. This respondent regularly returns to Afghanistan to provide medical training to doctors and medical students. The feeling of desperation comes from her work experiences in the country “you just don’t know where to start and how to go about it or change it to make real structural change. It seems like everything is going to fail, no matter what you try.”⁹⁷ Furthermore, a feeling of sadness is evoked because she feels that all of her efforts get lost once she returns to the Netherlands.

Respondent E feels pride when thinking of Afghanistan. She tries to speak positively of Afghanistan mainly because she believes that the positive things, culture, values, food, etc., don’t get enough attention. “I always try to talk very positively about the country because the media mainly tells negatives, the war, and the violence. So, because of that, I always try just to tell a positive side of it. For example, you never hear about the culture.”⁹⁸ Thinking of the war makes the respondent feel angry. She tells me that her anger focuses on different actors in the war, including foreign countries such as the United States and counterinsurgency groups such as the Taliban and Daesh. The respondent says that the anger felt towards foreign countries is different than the anger felt towards the insurgency groups. This is because she thinks that foreign countries are more approachable. “You know who they are and who you can hold accountable. While for example with the Taliban, I do not even know who their leader is.”⁹⁹

Mixed emotions are also present within respondent D who feels patriotic when thinking of Afghanistan. However, because of the patriotic feelings, she feels sadness and pity, “I have never been able to go back to my country and see how it is. At the same time, I have always

⁹⁵ Author’s first interview with Respondent A on 12-06-2021

⁹⁶ Author’s sixth interview with Respondent F on 27-06-2021

⁹⁷ Ibid

⁹⁸ Author’s fifth interview with Respondent E on 16-06-2021

⁹⁹ Ibid

had the feeling that I want to mean something to my country, but I cannot.”¹⁰⁰ Like the former respondent, she also feels that the western media paints an incomplete picture of Afghanistan, “They paint an image that things will never work out for that country. That there will always be a defect... That there is simply is no future in that country. As if one has to give up hope.... this image does not offer the solution and resources.”¹⁰¹ This realization sparks pity, not only towards the people but towards the status of Afghanistan.

Respondent B feels sadness and frustration when thinking of Afghanistan, “When I was young, I always thought that the war would last for a while and then it would stop, and I could fully immerse myself in my ethnic origin and the meaning of it... but I realized that how I thought it would be, as my parents lived and experienced, our cultural industry, our film industry, that everything had been destroyed and that our culture has been so affected by 40 years of war. Also, the Taliban of course have imposed such a stringent view on the people that there is no longer a place with which I can identify. That makes me very sad.”¹⁰² At the same time, despite never having been to Afghanistan, the respondent is nostalgic towards the country. “I’ve always wanted to go back to be surrounded by Afghans for once. To go down the street, into the store, and then you can just speak your own language. I have just never had that before.”

However, within some respondents, only negative emotional mechanisms were present. Respondent H answered “Well, thinking of Afghanistan gives you a very sorrowful and sad feeling. Being in the Netherlands and seeing the progress in this side of the world, and having the memories and thinking of the situation and how it develops there, gives you a very sad feeling. Unfortunately... Of course, we are missing our homeland, but at the same time, it is a homeland burning in war, so to speak.”¹⁰³

Respondent C equally answered that thinking of Afghanistan does not spark good feelings and that these feelings get fed by the news because there are many attacks. However, this respondent elaborated that every period of the conflict in Afghanistan has its feelings. This respondent remembers the period under the government of former president Karzai, “The situation was a little bit better and so the feelings were a little bit better. It gives a good feeling when peace is close. People can get an education, regardless of gender, people can go to work, raise their children well, those kinds of things.”¹⁰⁴

¹⁰⁰ Author’s fourth interview with Respondent D on 14-06-2021

¹⁰¹ Ibid

¹⁰² Author’s second interview with Respondent B on 13-06-2021

¹⁰³ Author’s eight interview with Respondent H on 27-06-2021

¹⁰⁴ Author’s third interview with Respondent C on 13-06-2021

“I don’t remember a good time wherein things were okay. Wherein life was not about surviving”¹⁰⁵, says Respondent G. She remembers the civil war under the Mujahideen and the attempts made by the Taliban to capture Mazar-i Sharif. Contrary to the two respondents who hold positive emotions towards Afghanistan and feel that the media focuses too much on negativity, this respondent also thinks that the media is selective with its covering of Afghanistan. However, not because it focuses on negativity, but because “it only makes the news if there have been negotiations or if something serious has happened in Kabul, but not what is happening in the surrounding area. That’s not interesting enough for the media here.”¹⁰⁶

6.3 Cognitive mechanisms

Framing

For the first mechanism under this category, the mechanism of framing, I was interested in assessing whether the Afghan-Dutch diaspora frame the group they deem responsible for committing the most crimes to be the obstacle for reconciliation. In the interviews I therefore I asked the respondents, “who do you think has committed the most crimes or wrongdoings since 1979?” in the follow-up questions. I aimed to unravel what group the respondents think forms the obstacle to peace in Afghanistan.

For only two respondents, namely A and B, the group they consider to have committed the most crimes and the group that currently forms the obstacle to peace were consistent with each other. Both respondents referred to the Taliban. Interestingly however, one of the respondents pointed to the role of Pakistan and how they host the Taliban, “The Taliban are being educated in Pakistan. A lot of the people that commit attacks in Afghanistan come from Pakistan. I believe that the people carrying out the attacks do it for religious reasons. They are being brainwashed into thinking that that is the religion. They do not know any better. But those people behind it, they have other motives. They do not want it to get better in Afghanistan.”¹⁰⁷ Both the respondents did not have any victims of the Taliban within their immediate circle of friends and family. One of the respondents did have victims within her immediate circle but not at the hands of the Taliban. Both her grandfather and aunt were killed, and two other family members were almost killed because of the Mujahideen.

¹⁰⁵ Author’s seventh interview with Respondent G on 27-06-2021

¹⁰⁶ Ibid

¹⁰⁷ Author’s second interview with Respondent B on 13-06-2021

For the other respondents, the group that they considered to have committed the most crimes since 1979 and the current obstacle to peace were not consistent. Respondent C considers the Mujahideen to have committed the most crimes. However, the obstacle to peace is the Taliban. This respondent says that peace with the Taliban is impossible if they do not change their vision for Afghanistan. Their vision is still the same as 20 years ago "...that women should not work, there should be no TV, they do not like cameras and media in general. If there is media, it should be Islamic."¹⁰⁸ This respondent had many friends and family in his immediate circle who have become victims, not necessarily of the Taliban, but the entire conflict because they became refugees or their childhood was stolen from them. "All Afghans have suffered in this conflict."¹⁰⁹ Another respondent agrees on this point. And because all Afghans have suffered, she says she cannot answer the question of who has committed the most crimes in Afghanistan. Despite this, the current obstacle to peace is the Taliban. "I cannot think of anyone else. Unless I can look inside the head of other politicians."¹¹⁰

Respondent F, who has lost several family members during the civil war and has people in her immediate circle who throughout the conflict have gone missing, equally says that she cannot answer who has committed the most crimes. However, this respondent says it is not the Taliban that forms the obstacle to peace, but the political elite of Afghanistan. By political elite, the respondent means everyone who works for the government, the parliament, the President House, or is affiliated in another way. The belief that the elite forms the obstacle to peace is framed around the idea of corruption and the respondents' experiences with formal political Afghan institutions, "They are corrupt in the way they get into parliament or become president or whatever position of power. It doesn't matter what position of power you get there, even if it's an assistant to, I don't know what in a ministry, that's all part of it. It's just one big institution, a corrupt institution.... those who do have qualities and talents and just deserve to be there are not chosen there to get that position."¹¹¹ Slightly different from this position is the position of Respondent E who says that the obstacle to peace is the government, "I hear from my parents that they are always unable to reach an agreement during the peace negotiations because they have their own agenda... If the government had wanted peace, it would have been

¹⁰⁸ Author's third interview with Respondent C on 13-06-2021

¹⁰⁹ Ibid

¹¹⁰ Author's fourth interview with Respondent D on 14-06-2021

¹¹¹ Author's sixth interview with Respondent F on 27-06-2021

possible.”¹¹² But this respondent believes that the Taliban has committed the most crimes. However, she makes the distinction between those who carry out the crimes and the brain behind it, says a respondent. This respondent believes that the brain behind the crimes is the US.

Another category of what the respondents consider to be the obstacle to peace consists of ideas, not groups or people. Respondent G in beliefs that there is not one party who has committed the most crimes during the conflict and has victims in her immediate circle both at the hands of the Taliban and the Mujahideen due to people who have been people killed or disappeared, points offer a different explanation for the internal obstacle to peace “it is because of ethnic rivalry and not having equal right in Afghanistan” she says.¹¹³ Finally, the last respondent holds the Taliban accountable for committing the most crimes but says that the obstacle to peace is not having ownership of the peace process. “... from February 2020 we only see one thing, that is the US leading as a dominant force, who is involved with the Taliban in negotiations, and as an ally to the Afghan government has over and over isolated the Afghan government from direct communication and direct decision making with the Taliban. But it’s also for the Taliban. They are not independent in their decision-making either. They are in contact with regional powers... if it’s an Afghan-owned process, it is possible. It will succeed in a very immediate result. But unfortunately, there’s no national ownership of the process with Afghans.”¹¹⁴

Thin sympathy

Because of the disparity and sometimes lack of acknowledgment on who has committed the most crimes in Afghanistan and who is now the obstacle to peace, to explore the presence of thin sympathy within the diaspora, I asked the participants whether they thought that the obstacle to peace has suffered equally during the conflict as others.

Four out of the eight participants say that the group that forms the obstacle to peace is the Taliban. They all agree that the Taliban has suffered equally during the conflict. One of the participants elaborates that the Taliban can be divided into different groups, “There are Taliban leaders who act for the benefit of foreign countries or foreign people. They live in foreign

¹¹² Author’s fifth interview with Respondent E on 16-06-2021

¹¹³ Author’s seventh interview with Respondent G on 27-06-2021

¹¹⁴ Author’s eight interview with Respondent H on 27-06-2021

places, in Doha, Pakistan, Russia, and Iran, as leaders of the Taliban and live a good life there. But there are also unfortunate Taliban members who in Afghanistan do not have anything to eat. Out of their ignorance, the only thing they know is Islam and jihad. They do not know anything else. They are the most unfortunate people and they have suffered a lot. But the ones who command these people and use them, they have not suffered at all.”¹¹⁵ This analysis is also shared by Respondent H who does not think the Taliban forms the obstacle to peace in Afghanistan. He referred to the casualties on the Taliban side, saying that the Taliban has also had a high number of casualties on their side. Respondent A agrees that the Taliban has also suffered during the conflict but adds, “... it’s a choice for them. A normal civilian does not have a choice when they die.”¹¹⁶

The two respondents who hold either the entire political elite or the government responsible for forming the obstacle to peace do not recognize their suffering. One of the respondents says that the Afghan civilians just want peace “while if you look at all of the actors involved, the Taliban, IS, the US, or the government, all they want is power.” The other respondent says that while it is undoubtedly true that the political elite has also had some losses in their immediate circle, the problem is that the political elite holds grudges because of past violence. “We do not forgive and forget. We keep going on and on, conflict after conflict. And everyone keeps trying to take revenge on each other. It’s bizarre.”

Contact

All of the respondents are in contact with other Afghans. However, not all of the respondents discuss Afghan politics or the conflict with other Afghans. This is not because they separate according to according to ethnicity, ideological- or religious beliefs. Rather, three respondents said this is because not everyone is always interested in speaking about politics, one of the respondents explicitly stated that she does not discuss political matters with other Afghans because she believes that not everybody can appreciate that her political ideas are not necessarily adopted from her parents. She says, “not a lot of friends realize that when you say something, it’s not because you’re biased. They feel that it has been printed in your head and

¹¹⁵ Author’s third interview with Respondent C on 13-06-2021

¹¹⁶ Author’s first interview with Respondent A on 12-06-2021

that that has been the case for generations. This makes it difficult to discuss politics with other young people.”¹¹⁷

However, since the idea behind the mechanism of contact is that being in touch with the “other” can reduce prejudice and deconstruct negative stereotypes, I was interested in exploring whether the respondents are in contact with individuals with different political views and, if so, how they handle those differences. Three of the respondents say that they are not in contact with Afghans whom they know have different political beliefs. Three other respondents say that they are in contact with Afghans who have different political ideas and that these differences do not form obstacles in friendships or relationships. However, none of these respondents are in contact with individuals who support the Taliban. Only Respondent F says that she is in contact with individuals with divergent political ideas. She says that she is happy to see that people are becoming more tolerant in the last few years. In the past, “people would avoid each other just based on politics” she says.¹¹⁸ Lastly, Respondent G says that she is in contact with Afghans, who she says is different from herself, but not because of their ideas about politics in Afghanistan but because of how they talk about other Afghans. She does not like it when the Afghan-Dutch diaspora despises Afghanistan or Afghan culture.

6.4 Symbolic/value-based mechanisms

Learning and socialization

Four of the respondents have answered that they do not necessarily have a lot of knowledge of Afghanistan. They know about Afghanistan mainly based on stories from their parents and other relatives. They watch documentaries sometimes, follow Instagram and Facebook pages, and news outlets such as Al Jazeera and Reuters. Respondent G answered that she knows nothing about history except for her personal history. She does however know about the culture because that is something that she has learned from her grandmother. Two of these respondents are now trying to improve their knowledge on Afghanistan. Respondent E so because she finds it important that Afghans in the Netherlands know about their country of origin. Respondent F says that she tries to improve her understanding because it’s part of her job as she gets asked to give lectures on Afghanistan and provides medical training in Afghanistan.

¹¹⁷ Author’s fourth interview with Respondent D on 14-06-2021

¹¹⁸ Author’s sixth interview with Respondent F on 27-06-2021

Two of the remaining four respondents answered that they had learned primarily about the country through other people, mostly their parents, and reading books and reports. They have both never been to Afghanistan. Respondent B became interested in improving her knowledge of Afghanistan when the refugee camp Moria in Greece burned since many of the camp refugees were Afghan. She was bothered by the fact that the Dutch government was doing so little for those refugees. “At that moment, I thought, you know what, let this damn Western identity that I have never accepted or identified with be for what it is. That’s when it (researching Afghanistan) started. I researched a lot and it occupied me day and night. I tried to understand as much as I possibly could. This has been going on ever since.”¹¹⁹

Finally, two respondents say that they have a lot of knowledge on Afghanistan because they have lived there until 2014. One of them gave a glimpse into what education was like under Taliban rule. He said the teachers tried their best to educate the pupils on different subjects, but other subjects were limited aside from religion and Arabic. Especially about the history of Afghanistan, they taught very little. “If they taught about history, it was minimal. The teachers could not openly speak about what had happened in the history of Afghanistan. They were not allowed to teach us about anything political, so they stayed very far from those things.”¹²⁰ The Taliban also controlled libraries. The family of this respondent, especially older family members, tried to teach inside their homes about the history of Afghanistan. The other respondent equally says that a lot of knowledge comes from his experience of growing up and working in Afghanistan. He tries to improve his knowledge through his academic engagement during his current study program and by staying in contact with his friends and relatives in Afghanistan.

Six of the respondents have said that they try to pass on their knowledge about Afghanistan to others. Three do so both to Afghans and other non-Afghans. “I try to post on Instagram to give people an understanding that it’s not just some kind of internal war in a lost country by the people themselves, but that it’s a complex whole. And when it’s so complex, you have to try and figure it out; otherwise, it will never change anything.”¹²¹ Respondent E says that while she tries to inform non-Afghans about the war, the more profound issues she only discusses with

¹¹⁹ Author’s second interview with Respondent B on 13-06-2021

¹²⁰ Author’s third interview with Respondent C on 13-06-2021

¹²¹ Author’s second interview with Respondent B on 13-06-2021

Afghans. “They are not well informed in the Netherlands, so I think I should share deeper knowledge with them.”¹²² Lastly, one of the respondents tries to share the beauty of Afghan culture with non-Afghans and with her kids to whom she also tries to transfer Afghan culture to.

Respondent C however says that he only shares knowledge on Afghanistan with other Afghans. He finds this important to pass on knowledge and share it with the next generation. This respondent feels that non-Afghans are not interested to learn about Afghanistan. In contrast, Respondent G mainly shares his knowledge with the non-Afghans he works with because he is a cultural advisor. He rarely shares it with Afghans, only when they are interested.

Chosen trauma

Three respondents referred to the civil war of the 90s as the most traumatic period in the conflict, with two of them specifically referring to the overthrow of the regime of President Najibullah. However, only Respondent B tries to keep the narrative of the suffering during the civil war alive. She does so through online activism.

Two other respondents have said that for them the experience of living through the war was traumatic. Both of them have gone to therapy to deal with these issues.

The lynching of Farkhunda in 2016, who was a young female student in Kabul, because she was accused of having burned the Quran is perceived as traumatic by Respondents D and E. One of them went to a silent march in Amsterdam shortly after the lynching had taken place. But other than that, neither go to demonstrations or take part in different initiatives. Respondent A said that she does not have any specific time or event that was traumatic. She takes part in demonstrations and signs petitions. For example, last year there was a demonstration in Amsterdam when Afghan refugees were burned and drowned in Iran. She has signed the petition to bring Afghan translators to the Netherlands, but the actions that she takes part in are usually directed towards foreign governments. She feels that those governments are more approachable than the Afghan government or politics in Afghanistan in general. “I mean, as if the Taliban are going to listen to our protests. The entire country there is already protesting. They do not even listen to their own, so they are not going to listen to people abroad.”¹²³

¹²² Author’s fifth interview with Respondent E on 16-06-2021

¹²³ Author’s first interview with Respondent A on 12-06-2021

7. opportunity structures

7.1 political opportunity structures

In terms of political opportunity structures, the question is, “what is the political climate that the Afghan-Dutch diaspora operates in?”

The Netherlands is a parliamentary democracy and a constitutional monarchy.¹²⁴ Either through direct or indirect elections, Dutch nationals, including Afghan-Dutch diaspora members with Dutch citizenship, elect who represents them in Parliament that consists of the Senate (*Eerste Kamer* in Dutch) and the House of Representatives (*Tweede Kamer* in Dutch, hereafter the House). Governments in the Netherlands have to have at least 76 of the 150 seats of the House. As a result, at least every four years a new coalition government is formed of parties that together hold a majority of the seats in the House.

Regarding the enforcement of the rule of law and human rights, the Afghan-Dutch diaspora members live in a country with a judicial system with high level of perceived judicial independence and is characterized by special attention to the quality of the justice system.¹²⁵ Furthermore, having a strong culture of integrity in public administration, the Netherlands is considered one of the least corrupt countries worldwide.¹²⁶ The Netherlands has two independent bodies that aim to protect, highlight and implement human rights in the Netherlands, namely, the Netherlands Human Rights institute (College voor Rechten van de Mens in Dutch) and *de Nationale ombudsman*.

Because of the freedom of association that the Netherlands has, Afghan-Dutch individuals can freely exchange and spread information. This right is anchored in international as well in article 20 of the Universal Declaration for Human Rights.¹²⁷ Afghans in the Netherlands have certainly made use of the freedom of association. The Non-Governmental Organization Cordaid

¹²⁴ “Democracy in the Netherlands.” House of Representatives, April 12, 2011.

<https://www.houseofrepresentatives.nl/how-parliament-works/democracy-netherlands>.

¹²⁵ Commissie, E. “Werkdocument van de diensten van de Commissie. Landverslag Nederland” (2020)

¹²⁶ Ibid.

¹²⁷ “Universal Declaration of Human Rights.” UNESCO. Accessed June 23, 2021.

http://portal.unesco.org/en/ev.php-URL_ID=26053&URL_DO=DO_TOPIC&URL_SECTION=201.html.

estimates that there are 87 Afghan-Dutch diaspora organizations active in the Netherlands.¹²⁸ These organizations were founded between 1997 and 2020 and are mainly focused on cultural, social, and integration activities.¹²⁹ Under 5% of the organizations are active in advocacy activities.¹³⁰ On social media, especially on Facebook, the Afghan-Dutch are also connected. Some of the biggest Facebook groups include “*Afghaanse Studenten in Nederland*” which has 9700 members, “*Afghanen bijeen*” which has 7500 members, “*Afghaanse Onderonsjes*” which is a somewhat smaller group and has 2600 members.

Additional to the freedom of association, in the Netherlands the freedom of expression and press are secured in the constitution,¹³¹ as well as the European Convention for Human Rights.¹³² The only conditions are that the freedom of expression and press do not contradict the law by for example inciting hatred and discrimination.¹³³

7.2 legal opportunity structures

Orjela highlights a possible difference between the legal systems regarding procedures and possibilities for litigation for obtaining criminal charges, wherein the diaspora resides and where the victims and perpetrators of mass atrocities reside.¹³⁴ This is certainly the case for the Afghan-Dutch diaspora. The question here is, “How can Afghan-Dutch individuals access justice in the Netherlands?”

¹²⁸ Sayed, Nasrat, *Diaspora engagement in Afghanistan*. Cordaid, 2021. Accessed June 2021. <https://www.cordaid.org/en/wp-content/uploads/sites/11/2021/04/210330-Policy-Brief-Diaspora-Sustainable-Development-Afghanistan.pdf>

¹²⁹ *Ibid*: 5

¹³⁰ *Ibid*: 5

¹³¹ “NVJ - Artikel 7 Grondwet – Vrijheid Van Meningsuiting.” www.nvj.nl, June 10, 2020.

<https://www.nvj.nl/balie-persvrijheid/artikel-7-grondwet>.

¹³² “Freedom of Expression and Information.” Freedom of Expression. Accessed June 23, 2021.

<https://www.coe.int/en/web/freedom-expression/freedom-of-expression-and-information-explanatory-memo>.

¹³³ Ministerie van Algemene Zaken. “Persvrijheid Bewaken.” Media en publieke omroep | Rijksoverheid.nl. Ministerie van Algemene Zaken, January 4, 2021. <https://www.rijksoverheid.nl/onderwerpen/media-en-publieke-omroep/persvrijheid-bewaken>.

¹³⁴ Orjuela, C. “Mobilising diasporas for justice.” *Opportunity structures and the presencing of a violent past*. *Journal of Ethnic and Migration Studies* 44 (2018): 1357-1373

In Afghanistan, the judicial system had to be rebuilt from scratch after the fall from the Taliban. The Bonn Agreement authorized the formation of the Afghan Judicial Commission to do so.¹³⁵ The Commission aimed to rebuild the destroyed judicial system in Afghanistan following Islamic principles, international standards, the Rule of Law, and Afghan legal traditions. Despite their efforts, the judicial system in Afghanistan still faces many difficulties and shortcomings including corruption, warlordism, weak cooperation amongst the different institutions, lack of capacity in (human) resources, limited access to justice, and lack of trust. Because of all of these issues, Afghan residents may opt to settle disputes through other informal mechanisms.¹³⁶ It is important to note that the Taliban is gaining territory in Afghanistan, many people are also bound to their courts. A study that included interviews with those living in Taliban areas shows that these courts were more accessible and easier to navigate than state courts.¹³⁷

As mentioned earlier, the judicial system in the Netherlands is characterized by its independence and professionalism. In terms of accessibility to justice in the Netherlands however, there are some signals that this has decreased. Currently, the Netherlands counts 11 Courts, 2 Courts of Justice, the High Council is located in The Hague. In the past two decades, the locations of the Courts have decreased by half.¹³⁸ In January 2013, a law called *Herziening van de Gerechtelijke Kaart*, decided to bring back the number of judicial institutions even more.

Despite these changes, the Netherlands has solid institutions which rank high in terms of the implementation of the Rule of Law and human rights while Afghanistan is a war-torn country that struggles to make justice accessible to its citizens. Additionally, the Netherlands has a clear stance on dealing with individuals who are alleged to have committed serious atrocities. This stance also applies to Afghan refugees who come to the Netherlands but are suspected of being guilty of committing serious atrocities in Afghanistan. These individuals are denied asylum based on article 1F of the Convention Relating to the Status of Refugees.¹³⁹ In the case of

¹³⁵ Wardak, Ali. "A Decade and a Half of Rebuilding Afghanistan's Justice System: An Overview." Van Vollenhoven Institute, 2016, 1–25.

¹³⁶ Ibid: 24.

¹³⁷ Jackson, Ashley, and Florian Weigand. Rebel rule of law: Taliban courts in the west and north-west of Afghanistan. ODI, May 11, 2020. <https://odi.org/en/publications/rebel-rule-of-law-taliban-courts-in-the-west-and-north-west-of-afghanistan/>

¹³⁸ Eshuis, R. "De geografische inrichting van de rechtspraak." *Justitiële verkenningen* 45 (2019): 10

¹³⁹ <https://research.vu.nl/ws/portalfiles/portal/58757656/chapter+6.pdf>

Afghans, the article is mostly applied to those that were part of Afghanistan's intelligence service under the communist regime (1978-1992). In an official statement made in 2000, the Dutch Ministry of Foreign Affairs stated that all officials who had served under KhAD or WAD are guilty of violating human rights.¹⁴⁰

However, this does not automatically mean that the individual will also be prosecuted criminally. The IND brings the case to the attention of the Dutch public prosecutor's office (*Openbaar Ministerie* in Dutch, hereafter OM).¹⁴¹ Whether the OM prosecutes the individual depends on legal and practical issues such as availability of witnesses and evidence. In only three cases the OM has prosecuted the individuals alleged of war crimes. These cases all escalated till the level of the High Council.¹⁴² In the first case, the accused was sentenced for an imprisonment of 12 years, in the second case, the accused was convicted for 9 years. Both these cases were confirmed when the trial had reached the High Council. The third accused was arrested, but the accusations were discharged by both the Court as well as the High Council. There has also been a case wherein a rejected Afghan asylum seeker sued the Dutch state arguing that the State is ought to make decisions based on a case-to-case basis¹⁴³. The High Council overruled these allegations.

This is not the only case wherein the Dutch State is being sued because of its treatment of Afghans. On March 29th, 2021 a lawsuit against the State took place in the Court in The Hague.¹⁴⁴ The lawsuit was initiated by 4 Afghans living in Chora, a town in the Uruzgan province of Afghanistan. The Dutch military was present in Chora from 2006-2010 as part of the International Security Assistance Force (ISAF) under the name Task Force Uruzgan (TFU). The lawsuit is about what happened between 16-20th June 2007. On June 16th the Taliban opened their offence on the Chora-Valley. In reaction TFU launched counter attacks. Approximately 80 citizens died due to the counterattacks of the TFU.¹⁴⁵ The Dutch State maintains that the use of force was proportional. However, the Court ruled that the State must

¹⁴⁰ Joost Brouwer, "Het KhAD-WAD ambachtsbericht – deel 2" *Nederlandse Juristenblad* (2020): 1232-1238

¹⁴¹ Nederland Geen Vluchthaven Voor Plegers Van Oorlogsmisdaden." Immigratie- en Naturalisatiedienst (IND), October 12, 2017. <https://ind.nl/over-ind/achtergrondthemas/Paginas/Nederland-geen-vluchthaven-voor-plegers-van-oorlogsmisdaden.aspx>.

¹⁴² Afghanistan." *Internationale Misdrijven*. Ministerie van Justitie en Veiligheid, January 17, 2020. <https://www.om.nl/onderwerpen/internationale-misdrijven/rechtszaken-per-land/afghanistan>.

¹⁴³ Wissink, M.H., v De Staat der Nederlanden, #ECLI:NL:HR:2020:1538 (Parket bij de Hoge Raad, 2020), <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:PHR:2020:413>

¹⁴⁴ Floor Boon, "Rechter" over 'Chora' Veel onbekend," *NRC*, March 29 2021, <https://www.nrc.nl/nieuws/2021/03/29/rechter-over-chora-veel-onbekend-a4037715>

¹⁴⁵ *Ibid.*

provide a reconstruction as well as investigation on the specific information that TFU relied on. The Court has also asked for details on the compensation that was supposedly paid.¹⁴⁶ This case is still in development.

The lawsuit against the Dutch State is however a civil process only concerned with the actions of the TFU between 16-20 June 2007 and as such it in no way covers all of the atrocities that have taken place in Afghanistan in the past four decades. Likewise, asylum seekers denied asylum based on article 1F are not automatically criminally prosecuted. This draws the attention to international courts that may provide the diaspora with other openings.

The most prominent international institution that is equipped to deal with international justice claims is the ICC. The establishment of the ICC means that victims who have no hope of receiving justice from their domestic governments can claim vindication abroad. The Court only has jurisdiction regarding events that occurred after the Statute of Rome entered into force for that State. However, if a State declares to accept ICC jurisdiction retroactively, the ICC may also enforce its authority over earlier committed crimes committed after July 1st 2002.¹⁴⁷ For the Afghan-Dutch diaspora, the ICC becomes tangible because it is located in The Hague. This fact can help for movements that want to protest in front of the ICC etc. After the attack on schoolgirls in Kabul in May 2021, there was an organized protest in front of the ICC.

¹⁴⁶ Ibid.

¹⁴⁷ Ibid: 5

8. Conclusion

8.1 findings

This survey asked the question “How do different mechanisms and opportunity structures influence the way the Afghan-Dutch diaspora engage with TJ processes in Afghanistan from within the Netherlands?” The research shows a diversity in the underlying rationales of the different categories of mechanisms and positive political and legal opportunities structures.

Regarding emotional mechanisms the survey results mainly depict the presence of negative emotional mechanisms under the Afghan-Dutch diaspora, the analysis of the interviews gives a more complex insight into these feelings. Firstly, it shows that while indeed thinking of the conflict may spark negative emotions, thinking of Afghanistan in general sparks more positive emotions. Secondly, these negative emotional mechanisms do not only consist of anger and fear as I had categorized prior to the interviews. Thirdly, I noticed that the respondents who have active memories of the war in Afghanistan are the ones who hold negative emotions.

An analysis of the cognitive mechanisms shows firstly that in line with the results of the survey, the interviews show that there is no consensus among the respondents of this research on who has committed the most crimes and whether this is the same group who now forms an obstacle to peace. For the respondent who had said that the Mujahideen had committed the most crimes, this is understandable because the Mujahideen as a united force does not exist any longer. However, in the survey, a majority (50,75%) of the respondents considered the Taliban to form the obstacle to peace, this is not the case amongst the respondents of the interviews. Secondly, amongst the respondents, there is thin sympathy present concerning the Taliban. However, respondents make a clear distinction between the leadership of the Taliban and the fighters. Furthermore, amongst the respondent’s thin sympathy is not present regarding the political elite or the government. Lastly, while the respondents are in contact with other Afghans, not all of them discuss political topics with other Afghans. Furthermore, while some of the respondents seem to tolerate differences in political ideas, they do not engage with members who support the Taliban.

Finally, as for the symbolic/value-based mechanisms, in line with the results of the survey, while most of the respondents actively try to improve their knowledge on Afghanistan, the

mechanism of socialization, spreading that knowledge, is less present. Furthermore, I have not found the members of the diaspora to commemorate specific days and only one of the respondents actively tries to change or influence the narrative about that trauma.

The analysis of the opportunity structures showed that the Afghan-Dutch diaspora live in a political climate with a solid democracy and high enforcement of the Rule of Law and human rights. Furthermore, in terms of legal opportunity structures justice in the Netherlands provides more opportunities than in Afghanistan. However, in terms of criminal prosecution, the only ongoing process is currently the investigations of the ICC. considering the speed to which the Court works, even this process can take a long time. Furthermore, because of the jurisdiction of the Court, it only has authority to investigate crimes after Afghanistan became a party in 2003. For the many Afghan-Dutch diaspora members who have experienced injustice before this period, these prosecutions will not necessarily always heal their wounds.

8.2 Further research

This exploratory research showed existing opportunities for the Afghan-Dutch diaspora to mobilize for TJ processes in Afghanistan whilst at the same time giving an insight into the diversity in the underlying rationales of the different categories. For further research it is interesting to examine how these two are connected.

This research also showed that not all Afghan-Dutch diaspora members are aware of the ICC trials. Further research can explore why this is. Especially because the case is located in the Netherlands. It would be interesting to consider whether this is the case because the Court only investigates crimes committed after 200.

8.3 limitations

This thesis aimed to explore the Afghan-Dutch diaspora engagement with transitional justice processes in their country of origin. Because I did the short thesis trajectory, I had limited time and words to dive deep into the topic. Furthermore, most of the participants in the interviews and survey were highly educated Afghans. I am aware that they do not represent the entire Afghan-Dutch diaspora. For further research it would be beneficial if the respondents were more diverse.

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