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# Afghanistan

## Building an Effective State

### Priorities for Public Administration Reform

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## ABBREVIATIONS AND ACRONYMS

AEP	Afghan Expatriates Program	MOI	Ministry of Interior
AGCHO	Afghanistan Geodesy and Cartography Head Office	MoLSA	Ministry of Labor and Social Affairs
ANDS	Afghanistan National Development Strategy	MoPH	Ministry of Public Health
AREU	Afghanistan Research and Evaluation Unit	MTFF	Medium-Term Fiscal Framework
ARTF	Afghanistan Reconstruction Trust Fund	MRRD	Ministry of Rural Rehabilitation and Development
BPHS	Basic Package of Health Services	NA	National Assembly
CAP	Coaches and Advisors Program	NABDP	National Area Based Development Program
CAO	Control and Audit Office	NGOs	Non-Governmental Organizations
CDC	Community Development Committee	NSP	National Solidarity Program
CDP	Community Development Plan	NYU	New York University
CSO	Civil Society Organization	OAA	Office of Administrative Affairs
DGs	District Governors	PAA	Provincial Administrative Assemblies
DfID	UK Department for International Development	PAG	Policy Action Group
DOs	District Offices	PAR	Public Administration Reform
EU	European Union	PCs	Provincial Councils
GDP	Gross Domestic Product	PDCs	Provincial Development Committees
GIACC	General Independent Administration Against Corruption	PDPs	Provincial Development Plans
GoA	Government of Afghanistan	PDs	Provincial Line Departments
HR	Human Resources	PEFA	Public Expenditure and Financial Accountability
HRPD	Human Resource Policy Department	PG	Provincial Governor
I-ANDS	Interim Afghanistan National Development Strategy	PRR	Priority Reform and Restructuring
IARCSC	Independent Administrative Reform and Civil Service Commission	PRT	Provincial Reconstruction Teams
IDLG	Independent Directorate of Local Governance	RIMUs	Reform Implementation Management Units
IMF	International Monetary Fund	RTA	Radio Television Afghanistan
JEMB	Joint Electoral Management Body	SCO	Social and Cultural Organization
LEP	Lateral Entry Program	SOEs	State Owned Enterprise
MAC	Ministerial Advisory Committee	TA	Technical Assistance
MCP	Management Capacity Program	UNAMA	United Nations Assistance Mission in Afghanistan
MDGs	Millennium Development Goals	UNDP	United Nations Development Program
MOF	Ministry of Finance	VOs	Village Organizations

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## EXECUTIVE SUMMARY

### Context and Prospects for Reform

1. Building an effective state – that can provide security and services to the people, while protecting their rights – has always been at the heart of the reconstruction effort in Afghanistan. A lot has been achieved over the past five years. Most importantly, the economy has grown strongly and social conditions have improved in many parts of the country. Some progress has also been made in building up a more professional, merit-based civil service – which can start to take on the core functions of a “lean state”. However, many functions expected of government are still performed by the international community or not performed at all. Realistically, this will remain the case for many years to come. Yet, despite the difficult political and security situation, it is important to persevere with the longer-term task of building an effective state – which can gradually take on more responsibility for Afghanistan’s future. This report looks at the implications for public administration reform over the next 5-10 years, and proposes a priority agenda for action by the Government of Afghanistan (GoA) and the donor community.

2. The review of international experience in Chapter I confirms that PAR is difficult under the best of conditions. In Afghanistan – where informal power relationships are stronger than formal government systems, and large parts of the country are insecure – it is a daunting challenge indeed. With the urgent need to show progress on a broad development agenda, PAR sometimes seems like a luxury that will have to wait for more normal times. The trouble with this view is that it leaves Afghanistan with a very weak state – that cannot deliver public services without large amounts of external expertise. This inevitably weakens local ownership and leadership of the development agenda. So a balanced approach is needed: one which finds innovative ways to improve service delivery as quickly as possible, while sustaining progress on PAR over the longer term. All government and donor agencies supporting PAR need to recognize it is a long-term task, which requires sustained support for institutional change and capacity building over the next decade and beyond.

3. PAR in Afghanistan is often equated with civil service reform. Indeed, civil service reform is essential to build a professional, merit-based bureaucracy – which can deliver public services in an effective and efficient manner. But this should not be interpreted as solely building a strong, centralized bureaucracy in Kabul. Much of the reform effort will have to be directed at deconcentrating line ministry authority to provinces and districts, and improving the capacity and coordination of government activities at the sub-national level. This is where most services are delivered – and where the credibility of government will be won or lost. Similarly, civil service reforms are unlikely to work unless there are ways for the Afghan people to express their demand for public services and hold the government accountable for results. Hence the importance of broader reforms to build trust in the effectiveness of parliament and the judiciary, and to involve civil society and communities in decisions affecting them.

4. Against this backdrop, the rest of the report reviews the prospects and priorities for public administration reform in three key areas:

- ***Building an effective civil service:*** The GoA is about to embark on a major reform of the civil service pay and grade structure. This is seen as important for attracting and retaining quality human resources. However, it will be a challenge to implement a merit-based system in the face of widespread patronage and corruption. Furthermore, to lead to improved civil service performance and service delivery, higher pay will have to be linked to other reforms in ministry roles, functions, structures and processes. Chapter II looks at how such a program might be implemented: the sequencing of reform actions, the role of the IARCSC and line ministries, and ways to monitor progress.

- ***Improving local governance and service delivery:*** There has been growing debate over the past year, within the GoA and the donor community, about the role of sub-national administration. While Afghanistan is a unitary state, the Constitution provides flexibility to delegate functions to provincial and district government units. Chapter III looks at the major challenges facing sub-national administration in Afghanistan, their impact on governance and service delivery at the local level, and the implications for public administration reform.
- ***Making government accountable to the people:*** Some of the checks and balances on government power come from internal controls, including through better public financial management. However, most successful states recognize the importance of external controls on executive power, formally through the judiciary and parliament, and informally through the role of civil society and the media. Chapter IV explores what can be done to make government more accountable to the people, through better information flows and transparency, as well as institutional development of parliament and the judiciary.

## **Building an Effective Civil Service**

5. Civil service reform is vital for sustaining the state in Afghanistan. A civil service, that serves the public's interest rather than its own, is important for Government's credibility within the country. An effective civil service can equally reassure donors that their support is being credibly spent.

6. The Afghan Government has controlled the civil service's size through considerable discipline in establishment control. Since the start of reconstruction, it has reduced the number of ministries from 30 to 25. The civil service pyramid is characterized by a broad base and narrow-tip, respectively explained by the pressure on government to generate employment and severe scarcity of professionals in the civil service and society at large. How the government chooses to deliver services affects its size and shape now and in the future. Consistent with the Education Ministry's retention of most of the service delivery functions, it is the government's biggest employer. The Ministry of Public Health, having delegated the delivery of its Basic Package of Health Services largely to NGOs, has much fewer staff. Drawing upon alternate service delivery models being used in other developing countries, Afghanistan could to select service delivery models most appropriate for its different sectors.

7. Functional overlap between organizations complicates the scope of government. For example, both the Ministry of Urban Development and Kabul Municipality claim responsibility for planning, zoning, and building regulations within the city. Equally, gaps in agency coordination exist in some critical areas of government. Although policy making is the most important function of the center of government, there exists no institutional arrangement to coordinate policy development across ministries prior to their submission to Cabinet for consideration. Greater synchronization between the Ministry of Interior (police) and the Attorney General's office (prosecutors) will help improve rule of law.

8. Similar to the structure of government as a whole, individual organizations need restructuring as they had become very informal during the conflict years. The Priority Reform and Restructuring (PRR) program was the principle vehicle for restructuring and rationalizing individual government organizations. Ministries that underwent restructuring started to look like modern ministries, and merit-based recruitment was introduced.

9. IARCSC, the organization mandated to lead civil service reform and organizational restructuring, itself has conflicting roles and functions. Two distinctly separate personnel functions are merged within IARCSC: a ministry in charge of personnel, and a traditional Public Service Commission to provide the necessary check and balance between government and employees. Having to perform all aspects of

Afghanistan's civil service management has created a serious capacity crisis in the Commission. Meanwhile, neither practice nor the provisions of the Basic Civil Service Law lay down the Commission's independence. The current arrangements create conflicts even within the IARCSC's own structure.

10. Because the IARCSC is responsible for leading civil service reform, it needs to start serious monitoring of reform's progress against the Compact's benchmarks. This will enable the Commission to point out to the Cabinet and line ministries those areas where more concerted effort is needed. It will also enable the Commission to highlight its own achievements (such as the number of civil servants trained, the number of high level recruitments made by the Appointments Board etc) to partly offset leaders' unhappiness with the IARCSC's role in reducing patronage.

11. Reforming the structure of government and its various ministries and agencies provides the necessary framework within which the civil service can function, but the best of structures would not result in good service delivery without competent civil servants working in these organizations. This required level of competence among civil servants was virtually non-existent in 2001. International technical assistance flowed into the vacuum at a rate that government was largely unable to plan for, or effectively control and coordinate. Some leaders have observed that there is little to show for the estimated US \$1.6 billion that has been spent on technical assistance since 2002. The government has since been trying to balance initiatives on three fronts: managing technical assistance; conducting in-house training to strengthen current employees; and planning for longer term improvements in competence through schooling, training institutes and higher education. An Inter-ministerial Capacity Development Committee has been established to monitor and compile information on various capacity building interventions.

12. Even competent civil servants, employed in well-structured organizations do not comprise an effective civil service unless their institutional environment motivates their accountability and high level of performance. Informality in government administration during the conflict years distorted whatever civil servants' incentive structure might have existed prior to the conflict. As a result, at the start of reconstruction in Afghanistan, there was very little discipline or competence within the civil service, and no high level consensus that it should be politically neutral. In February 2005, the President and Cabinet approved a Basic Civil Service Law. Key regulations and procedures to implement the law still need to be finalized; otherwise the law will remain only a lofty ideal.

13. Merit basis in appointments is at the heart of effective civil service management. But the volatility of decades of conflict eroded the limited trust there had been with merit-based recruitment as competing political factions needed loyal and known representatives within government. The lack of transparency in the recruitment process left staff dissatisfied and demoralized, and contributed to the overall capacity depletion of the civil service. With the establishment of an Appointments Board in the IARCSC to process recruitment at high levels, there has been significant progress in this area. But the Appointments Board still faces considerable pressures from ministers and other leaders to appoint specific candidates, and the process and outcomes of the merit system itself have been subject to considerable criticism across government. Some lacunae arise from the Appointments Board's insufficient technical expertise.

14. The inherited grade-pay structure in Afghanistan did not provide adequate performance incentives for civil servants. It emphasized longevity rather than competence and responsibility, and focused managers and individuals on the inputs (such as qualifications and seniority) and process rather than outputs. Pay scales for qualified staff are completely out of line with prevailing market conditions and severely compressed. These created incentives for donors to intervene with a wide range of ad hoc top-ups and supplements, providing further distortions in the incentives system. The new pay and grade

structure, approved by Cabinet on June 18, 2007 is intended to end the practice of personal grades, make grades consistent with job content, reduce the need for ad hoc pay arrangements, and allow government to substantially raise salaries at the top end so as to recruit and retain experienced and effective staff. The proposed salary scales, ranging from \$100 to \$650 per month, are significantly higher than current senior salaries, but could be still be inadequate in cases to attract the required skills and compete with the salaries offered by donors. Schemes such as the new Management Capacity Program will be required to deal with such extra-normal appointments over the medium-term.

15. The new structure's test will lie in its implementation, and whether the higher pay will provide the right incentives for improved performance and service delivery. The introduction of regrading and new pay scales has been postponed by a year to SY 1387. This will require compressing the implementation timetable if its synchronization with the MTFP is to be maintained, and covering 25% of civil servants in one year. However, the IARCSC has not yet discussed any implementation plan with line ministries and donor partners. With elections scheduled in Afghanistan in less than two years from now, the same pressures that led to units making superficial PRR-restructuring plans, abandoning the rigorous recruitment process, and migrating *all* existing staff to higher pay scales—could equally derail any logical and systematic roll-out of the new scheme. IARCSC and line ministries have limited competence to ensure that structures, job descriptions and trained staff are in place at the right time in ministries, which can then implement the new structure in a systematic way. .

### **Improving Local Governance and Service Delivery**

16. Civil service reforms will inevitably impact on sub-national administration, as ministries devolve responsibilities and strengthen their capacity at the provincial and district levels. However, there are many other formal and informal power structures that influence the way government works at the sub-national level. Attention to these sub-national issues has risen markedly over the past year – reflecting concerns about the effectiveness of local investment and service delivery programs, and the growing influence of militia commanders and criminal elements in some parts of the country. This has brought home the point that the key question surrounding the character of the state in Afghanistan is not that of a strong center versus a strong periphery. Rather it is whether the current *de jure* (and hollow) state at the periphery can become a *de facto* state at the periphery; whether robust and institutionalized systems of government can be expanded and deepened within the provinces and below.

17. The analysis in Chapter III identifies five important features of the “sub-national problem” in Afghanistan:

- ***First, the overall structure is characterized by significant systemic contradiction.*** On the one hand, formal functional and budget authority for the delivery of most key services in the provinces is held by highly centralized line ministries, which work in vertically integrated silos with weak linkages between them. On the other hand, this highly centralized line ministry system co-exists with the Provincial Governor (PG) system, which allows the PGs to intervene in the affairs of line ministries and other agencies (such as municipalities) through a number of informal channels for influencing staffing and resource decisions.
- ***Second, even given the choice of a centralized inter-governmental structure for Afghanistan, existing institutional arrangements are often highly inefficient.*** In particular, line ministries tend to be over-centralized, with their central offices in Kabul retaining functions which could be more efficiently performed at the provincial level (teacher recruitment in the case of education, for example). To some extent, this problem is not unrelated to the one discussed above. So long

as line ministries perceive that deconcentration of authority to their Provincial Departments is likely to make them subject to greater influence by the PGs, they are unlikely to do so.

- ***Third, the current system is both asymmetric and inequitable.*** Different institutional models being used in different provinces (due to accidents of history or varying donor practices) are likely to introduce significant strains and tensions as the sub-national system consolidates and attempts to cohere. An even more pressing set of problems arises from the inequitable distribution of resources across sub-national jurisdictions (in sectors such as education and health). Afghanistan does not as yet have strong enough mechanisms for citizen voice in setting local priorities. And large aid flows further distort resource allocations between and within provinces.
- ***Fourth, the most autonomous elements of the sub-national system of governance and service delivery – the municipalities and CDCs – face issues of their own.*** Until municipal elections are held, the potential for municipalities to deliver accountable local government in their areas will be highly circumscribed. In addition, the fiscal and functional framework governing them is both unclear and constraining of effective and efficient service delivery. CDCs face questions about their future funding, and the possible extension of their role from planning and implementing community projects to taking on broader governance functions at the local level.
- ***Finally, like the rest of the Afghan state, the entire sub-national structure is afflicted by the sorts of problems characteristic of fragile states:*** severe human resource weaknesses, an absence of properly functioning operational systems, shortages of equipment, and spares supporting infrastructure (such as power and phone systems) necessary to get things functioning properly. Afghanistan is particularly badly affected by these, and they will inevitably impact on any effort to reform and strengthen the sub-national system.

18. The political climate in Afghanistan precludes any significant reform to the underlying inter-governmental structure in the short to medium term. The Constitution refers to “preserving the principles of centralism”, and it is also clear that the current political establishment is firmly committed to the current centralized structure and has no appetite for a substantial political devolution to sub-national levels. The basic intent of any sub-national strategy, therefore, must be to improve the functioning of the current system, rather than to restructure it. True, this structure has intrinsic weaknesses from the service delivery and governance perspectives – especially in a large, poorly-linked country with a thinly spread population. However, notwithstanding these difficulties, the emerging structure does allow for improved performance with appropriately focused reforms. These reforms should address four broad challenges:

- ***Challenge 1: Establish an overall direction for sub-national reform which, while building on the current system, diminishes the existing levels of systemic contradiction.*** This direction should be based on the broad allocation of roles and responsibilities outlined in Figure 3.1. Two directions of reform stand out: (a) in order to reduce systemic contradiction, strengthen and consolidate the role of the PG’s Office in the areas of coordination and planning, while limiting its functional, budget and operational authority to deliver services, which falls under the Provincial Departments; and (b) in order to enhance accountability, strengthen the oversight and supervisory role of the Provincial Councils, to provide checks and balances on the activities of the delivery agencies.
- ***Challenge 2: Strengthen the performance of the main service delivery agencies by improving their organizational structures.*** One key, cross-cutting activity in this area is for line ministries to ensure that functions are properly divided between their central offices and Provincial Departments. In a number of cases this is likely to involve the deconcentration of various powers and functions from the central to provincial level. In fact, in some cases this is already underway;

the Ministry of Education, for example, is currently in the process of deconcentrating teacher recruitment to the provincial level. The pace of such deconcentration will be determined, among other things, by capacity constraints and appropriate service delivery models in different sectors. For example, deconcentration may be of less relevance in the health sector, which relies more on contracting out to NGOs.

- **Challenge 3: Provide sufficient resources for the key organs of sub-national governance and service delivery to play their ascribed roles.** For example, CDCs face a fundamental threat as their access to funding under NSP is due to end, and without the funds necessary for their development activities, they will wither and die. At the provincial level, organs such as the Provincial Councils need to gain access to sufficient funds to conduct their operations as envisaged under the recently amended law; while at the municipal level, an overall fiscal framework which provides a rational, equitable and affordable solution to the fiscal gap they face needs to be developed. A further dimension of the “fiscal problem” is moving towards a more equitable distribution of resources across the country. Arguably, this is a second generation problem which can only really be addressed once greater stability and predictability are established in vertical and sectoral flows, including those funded by aid. But it cannot be neglected indefinitely.
- **Challenge 4: Enhance the operational performance of all sub-national organs by providing them with the systems and capacities they need.** In some areas (e.g., some PG Offices) substantial progress is being made; in others (e.g., Provincial Councils) it has really only just begun. Needs obviously vary across organizations, but certain generic themes can be identified (training, IT, offices, communications etc.). Moreover, it should be possible to handle some of these needs on a modular basis, i.e., to define a package of “basic needs” equipment for Provincial Councils, for example, and to roll this out to PCs across the country.

19. In order to address these challenges, a number of concrete initiatives are proposed in Section E of Chapter III. Some of these proposals are new but many leverage off activities which are already in place or are planned. It should be stressed that the proposals made cover a wide area and there is no expectation that they will – or should – all be embarked upon at once. Rather, incremental movement will be required on as many fronts as is feasible at any one time. However, to bring some order to the process, there is an urgent need for a clear policy framework for the desired institutional structure of the sub-national system, and a strategy to guide actions to realize it. While the Constitution and other legislation provide a legal framework for a number of sub-national institutions, such as Provincial and Municipal Councils, this tends to be broad and ambiguous, and often begs more questions than it answers about who should be doing (and is accountable for) what, the resource flows that are necessary for the effective exercise of powers and functions, and the implementing mechanisms that need to be put in place.

20. To this end, the recent decision to establish the Independent Directorate of Local Governance (IDLG), reporting directly to the President, is a welcome move. The IDLG is essentially a merger of the structures of civil administration under the Ministry of Interior and provincial relations under the Office of Administrative Affairs (OAA). Its basic role is to supervise the affairs related to Provincial and District Governors, as well as municipalities (except Kabul). To be effective, the IDLG will need consistent political support from the President. It will also have to build up political credibility with the powerful and disparate interests working at the sub-national level, and the technical capacity to tackle complex institutional and policy issues. To support this effort, consideration should be given to forming an Inter-Ministerial Committee, chaired by the President or Vice President, with IDLG acting as the secretariat, to establish a framework for sub-national strengthening and reform. In the short to medium term, this should focus on providing clear direction for the evolution of the sub-national system. In the longer term, it could oversee a more thoroughgoing policy exercise, culminating in a new Local

Government Law (a process which began some time ago, but which now appears to be in a state of suspended animation).

21. The IDLG warrants strong support from the donor community. In the past, donor activities at the sub-national level have been poorly coordinated. The extensive funding, which flows to sub-national initiatives outside government systems, has compounded this problem. Recent efforts to establish a donor working group on sub-national governance are therefore welcome. This provides a useful forum for formulating common donor views on sub-national issues and approaches, which should be fed into the Sub-National Governance Donor and Government Working Group under the ANDS mechanism. The IDLG should probably take over the chairmanship of this group from the IARCSC. One of its first tasks will be to set appropriate benchmarks for developing a clear policy framework for the sub-national system, and a strategy for guiding reforms, along the lines mentioned above.

### **Making Government Accountable to the People**

22. Thirty three years after the last election in Afghanistan, 6 million citizens went to the polls in September 2005 to elect the lower house of the National Assembly (*Wolesi Jirga*) and 34 Provincial Councils. Citizens have other indirect means of holding the executive to account. Restraints on the executive are exerted formally by the National Assembly (NA), Control and Audit Office, and independent agencies at arm's length from government. However, these organizations and individuals are not generally trusted by citizens. Afghan media and civil society organizations (CSOs) comprise a less formally organized oversight mechanism.

23. Public accountability is the least advanced among the three elements of Afghanistan's PAR strategy. The first Constitution of 1923 did not introduce formal checks and balances on the King's powers. The 1964 Constitution, while giving the status of a Constitutional body to the traditional *Loya Jirga*, also gave the King the power to dissolve it. In the 1977 Constitution, the Party was the guarantor of power and all branches were accountable to the party, including the President. Public accountability also has had a slow start in the reconstruction. The extreme 'capacity deficit' inevitably ignored the 'accountability deficit' during the early days of reconstruction. Humanitarian and reconstruction needs were so immense and immediate, and government's capacity so sparse relative to the challenge, that the objective of donor-assisted reconstruction was to first get the system back on its feet before fine tuning its performance. The security deficit—like the capacity deficit—also ignored the accountability deficit. Donors' reconstruction priorities were short-term, but long-term effort is required to build institutions of public accountability.

24. The National Assembly has started asserting its role of oversight on executive power. It rejected some Presidential nominees for cabinet, and for the Chief and judges of the Supreme Court. However, parliamentary scrutiny of the government's budget and accounts has been impeded by NA members' unfamiliarity with presentation of public financial management information. Passing of the SY 1385 and SY 1386 budgets by the NA were delayed by several weeks. Although the NA receives the CAO's annual report of audit of government accounts, it has no established system of scrutiny of public expenditure and response to these audit reports. Parliamentary effectiveness is reduced by the absence of strong and effective political parties. Third party groups form the balance between pro and anti-government factions. Without party discipline to keep members in the house, many sessions have to be canceled for lack of quorum. An adversarial relation sometimes develops between the NA and the executive.

25. Justice institutions are probably the least developed among formal oversight organizations. Stronger legislative capacity and skills in legislative methods and techniques will be required in the NA, the Cabinet and the Ministry of Justice; and greater coordination between the Cabinet and the NA. Customary law prevails widely, and most disputes are settled in non-state forums, but customary law and informal justice systems are biased against women, who are not represented. At the same time, confidence in the formal justice institutions is low, and strengthening the sovereignty and integrity of the Afghanistan courts will require transparency of courts' operations and procedures, uniform application of law with predictable and credible decision-making, and courts' capacity to deliver services and manage resources. The role of the judiciary, especially the Supreme Court, in enforcing constitutionality of laws and regulations and reviewing legality of administrative decisions needs to be strengthened.

26. The Government of Afghanistan has taken several high-level steps to fight corruption: Constitutional provision, creation of the General Independent Administration against Corruption, adoption of the Anticorruption Roadmap, and ratification of the UN Convention Against Corruption. These ideals are not reflected in ground reality. Drugs and unprecedented large inflows of international assistance are dominant sources of corruption. Confusion stems from lack of clarity of what corruption actually means in the Afghan context, blurred lines of responsibility among agencies responsible for fighting corruption, and the large number of uncoordinated complaint mechanisms at all levels.

27. Recent tensions between the media and government are evidence that the media has started playing its role in public accountability. The new media law has provisions that can be potentially used to restrict the media's freedom through classifying some material as prohibited through the constitutionally mandated supremacy of Afghanistan's religious beliefs over other laws. As the media acquires capacity to play the public accountability role, the government is also adjusting to having its actions being scrutinized by the media. There have been stand-offs between the executive and media over allegations of misquoting and corruption. The concept of investigative journalism still has not taken root in large parts of the media and government. Accountability of government institutions has received marginal media coverage, and more than half of published information was attributed to government sources. Considering this very low base from which media development started during reconstruction, its growth in volume is impressive. However, the print media is still a long way from financial independence. A majority of the population depends on radio for news and information.

28. There is little contact and communication between media and civil society organizations. The media ignores thousands of *shuras*, associations and NGOs as news sources; while these groups also do not use the media to voice their concerns. Afghanistan had little or no tradition of formalized community participation in political decision-making or development planning, either at the national or local level. *Shuras'* top-down model and patriarchal structure impedes efforts to include female members—thus impeding the whole community's involvement in discussion and debate on civil society.

29. The current role of most Afghan CSOs is more that of project implementer than defender of public accountability. Demands of the donor community and their emergency aid programs led to relocation of Afghan NGOs from Pakistan to Kabul, and mushrooming of several new Afghan NGOs all over the country. They have carved their own niche in delivering the very much-needed humanitarian aid throughout the country while following international organizations' policies and practices. Arising partly from the general population's frustration and jealousy for NGOs' access to resources, many hold a deep mistrust for "NGOs," and perceive them as a foreign phenomenon that has gained control over the money meant for Afghans. CSOs' capacity to play the role of monitoring government is not fully developed. Few CSOs themselves have the capacity to analyze the reports and inform the public. CSOs rarely lobby the National Assembly or the Executive. Security conditions not only threaten the opportunities for international NGOs to assist in developing Afghan civil society, but are also diminishing the ability of local NGOs to enhance their own capacity and legitimacy. Local perceptions about association with

internationals, particularly the Provisional Reconstruction Teams, are adversely affecting the security of NGOs.

30. There is no clear answer as to which amongst the current CSOs organizations has the most potential for being effective participants in local level governance—in district level planning and prioritization, as well as monitoring of services. There is a large gap between the mandate of a traditional community *shura* and a local community development association. Religious leaders and networks have always played a prominent role as civil society forces in Afghanistan, but the question is how the Taliban experience may have affected traditional Islamic leaders' potential as civil society forces in Afghanistan. CDCs, being elected bodies and having more women's representation than traditional *shuras*, could potentially evolve into district level governance organizations, but could potentially lose the people's voice if they become part of the establishment. While the NSP has delivered actual results on the ground, the advocacy of those with political stakes in the NSP, and NGOs that functioned as implementing partners may have been overstated. It also remains to be tested how CDCs perform outside their currently limited remit of planning and implementing small infrastructure projects, and with less funding than provided under NSP.

31. Timely and reliable information is essential for public accountability. Weak communications, the steep learning curve of parliamentarians, and relatively undeveloped CSOs make it quite impractical to expect that either parliamentarians or civil society groups can even demand the relevant information, let alone analyze it to hold government to account. Therefore, rather than waiting for demand to emerge, government and donors should take the initiative to publicize their activities. This could include, for example, information on budget preparation and execution, public financial management and procurement, and project objectives, spending and achievements. Special attention should be given to monitoring the outcomes of government programs, so that the public can see whether they're getting value for their money and the government can make mid-course corrections when programs fail to achieve their stated objectives. Better information flows – even among government organizations – can also bolster anti-corruption efforts.

## **A Twelve-Point Agenda for Public Administration Reform**

32. This report has made the case that public administration reform in Afghanistan is both very important and very difficult: very important because it will provide the Government of Afghanistan with the capacity to respond to popular demands for good governance and improved service delivery; very difficult, because of the inherent challenges of institutional change, especially in the current political and security situation in Afghanistan. PAR in Afghanistan is nothing less than rebuilding an effective state after more than two decades of conflict and administrative decay.

33. Afghanistan's experience over the past five years, as well as lessons from other fragile states, provide some clues about how to go about public administration reform. The resulting challenges, and possible responses, have been summarized above. Chapter V of this report attempts to distil the main points into a twelve-point agenda. There is nothing magical or immutable about this list. It is simply intended to help shape the PAR debate within the GoA and with the donor community – with the objective of speeding up progress on reforms and realizing tangible benefits for the Afghan people over the longer term.

**(1) Recognize that PAR is a long-term task – which will require persistent effort over time, as well as innovative approaches to improve service delivery in the short and medium terms.**

34. It will inevitably take time to build up the capacity and credibility of the state in Afghanistan. That is why it is important to initially limit the role of the state to core functions in line with existing capacity. This is consistent with the government's commitment to a "lean state" and the use of non-governmental delivery mechanisms (such as in health). Innovations in service delivery should be evaluated carefully over time – to help define the appropriate role of the state in different sectors and hence the priorities for PAR in different line ministries. This bottom-up approach should constantly challenge the top-down directions of PAR. The real litmus test must be: how will these reforms contribute to better governance and service delivery?

35. In many ways, the opportunistic approach adopted under PRR is still very much relevant to Afghanistan today. It is impossible to implement a broad-based, long-term agenda in a comprehensive systematic way – especially in a country like Afghanistan where capacity is very weak and the government has limited reach outside Kabul. Rather the framework for reform must be comprehensive and coherent, and short-term actions must be consistent with that framework. At any point in time, there must be a clear idea of priority areas requiring attention, and those which can be sorted out later.

**(2) Provide strong political leadership and effective coordination to implement the PAR agenda.**

36. Because PAR is a broad-based effort, it must be led from the top with effective coordination across institutions. This leads to the following recommendations:

- Strong leadership is needed from the President – to provide a clear message about the direction of reform and to manage conflicting political interests. The President should personally take responsibility for explaining the importance of the reforms to Parliament and the public at large, and also reporting on the results achieved.
- Important issues need to be discussed and decided at Cabinet level (the Cabinet's PAR Sub-Committee provides a convenient vehicle) to build a consensus view even when different interests are being advocated by different agencies. Implementing agencies should also report back to Cabinet on a regular basis on progress made and issues to be addressed.
- Instead of attempting to implement reforms in all ministries by itself, IARCSC needs to increasingly focus on guiding and overseeing ministries' implementation, while allowing ministries take responsibility of their own respective reforms.

**(3) Ensure that donor support is adequate and consistent with the PAR framework set by the Government of Afghanistan.**

37. Although Afghanistan has received large amounts of development assistance since the fall of the Taliban, very little of this has been directed specifically at the PAR agenda. Indeed, it is hard to know exactly how much assistance has been received for PAR, given the different categorizations used by different donors, and the difficulty of separating PAR components from projects with broader objectives. Getting a better picture of donor support for different parts of the PAR agenda would be useful in itself. But even more important is effective coordination of donor assistance by the Government of Afghanistan, in line with its own PAR priorities. This should be done within the overall framework provided by the I-ANDS and the Afghanistan Compact. Responsibility for donor coordination should then be delegated to

the relevant government agency: for example, IARCSC for civil service reform and IDLG for sub-national reform.

38. Most of the donor support for PAR is in the form of technical assistance. Initially, many had believed that the gap-filling need for civil servants' competence would last 2-3 years, and that short-term imported consultants would simultaneously train and coach their replacements while performing in-line functions. However, these assumptions proved to be overly optimistic. Furthermore, the higher salaries paid to externally-funded consultants and advisers have attracted some of the best talent away from the government and bid up the cost of scarce talent in the country. Therefore, in the future, more attention will have to be given to the objectives of TA, with a clearer distinction between gap filling and capacity development. Donor funding of salary top-ups for civil servants will also have to be carefully managed and phased out over time.

***(4) Match higher salaries from the new pay-grade scheme with other civil service reforms – to improve government performance and service delivery.***

39. The new grade structure's purpose is to bring formality into civil service management by reducing inconsistencies and scope for arbitrary actions, while the new pay scales are intended to attract, retain and motivate well-qualified staff. Even though the new pay scales are significantly higher than the existing ones, they still cannot match what donors pay; and upon receiving higher salaries, civil servants will not automatically start performing better. The following cautions are advised in the implementation of the new grade-pay structure:

- Draw upon the lessons of PRR. The same issues that overcame the earlier exercise i.e., allowing higher pay scales to all staff could also engulf implementation of the new scheme. Therefore, IARCSC needs to prepare job descriptions carefully, and line ministries need to closely match incumbents' skills to these job descriptions. Unlike the PRR exercise, line ministries should be in charge of their own implementation while IARCSC plays a guidance and oversight role.
- Recognize that even within this clearly defined role, IARCSC is undertaking a task of magnitude and complexity that it has never encountered before. Strengthen its management capacity, and provide it high level political support.
- The "second civil service" is directly paid for by donors. Because of the continuing scarcity of qualified human resources, donors are likely to continue funding salary top-ups to civil servants from project budgets, thus rendering even the new pay scales inadequate to draw necessary skills into the civil service.

***(5) Re-examine the IARCSC's role – to focus on core functions and remove conflicts of interest within its structure.***

40. The Commission's mandate both overloads it and creates conflicts of interest. A thorough restructuring of the Commission may not be possible in the short term, and especially not now as it embarks upon the huge challenge of leading the implementation of the new grade pay structure. But some short-term steps could alleviate the problem:

- To demonstrate the IARCSC's "independence," the Cabinet Sub-Committee's and PAR Steering Committee's supervision of the Commission could be explicitly limited to its policy-making functions, and excluded from appointments and appeals.

- The Appeals Board and the Civil Service Institute could be distanced from the Commission's own line structure. Distancing the Appeals Board will have the advantage of upholding its credibility with civil servants whom it is meant to serve. Distancing the Civil Service Institute, currently buried three layers deep within the Commission's structure, will allow it to negotiate with donors for their support.
- Clarify the respective roles and responsibilities of the Office of Administrative Affairs (OAA) and IARCSC in civil service management, and especially in finalizing ministries' *tashkeel* (establishment).
- Donors that support civil service management could design their projects so that IARCSC's role is more of a facilitator than project implementer. This will not only reduce strain on an already overloaded IARCSC, it will allow line ministries to take control of their own human and financial management functions as is intended in the Compact and I-ANDS.

**(6) Monitor progress on PAR – and be willing to rethink reforms when they're not meeting their goals.**

41. The Government and IARCSC now have a systematic and well-thought out approach to PAR's first element: civil service reform. The Compact benchmarks make clear what is to be achieved; while the Government's PAR Strategy, the ANDS-assisted sector strategy, and the costed civil service implementation plan have formulated how this can be achieved over the next three years. Thus, IARCSC needs to establish a monitoring system that regularly produces findings that are judged valuable by ministries, the PAR Steering Committee, cabinet and donors. It also needs to monitor line agencies' compliance with government-wide rules and regulations.

- IARCSC needs to become the powerful champion within government that generates line ministries' demand for monitoring civil service reform. Because of ministries' lack of awareness, their demand to understand how well or not they are performing their own restructuring and personnel management is weak. IARCSC needs to make available the tools and their potential uses, and also create incentives for ministries to monitor.
- The structural arrangements to monitor PAR should be clarified and strengthened. The current arrangements require one line unit of the Commission to judge the performance of the whole Commission and its Chairman's leadership. Also, it does not have the profile to influence other ministries, or to attract donor resources.
- The monitoring system should not be over-engineered; rather the emphasis should be on reliable data systems. What is required is a set of intermediate benchmarks leading up to the Compact's targets. The need for ministries to report on their compliance with new personnel guidelines and regulations could be reinforced through an appropriate government regulation and procedures.

**(7) Develop a clear policy framework for the sub-national system – and a strategy for guiding sub-national reforms.**

42. Without a clear policy framework, initiatives to improve sub-national governance and service delivery will remain piecemeal and often at odds with each other. Two directions of reform stand out:

- In order to reduce systemic contradiction, strengthen and consolidate the role of the Provincial Governor's Office in the areas of planning and coordination, while limiting its authority to deliver services, which falls under the Provincial Departments.

- In order to enhance accountability, strengthen the oversight and supervisory role of the Provincial Councils, to provide checks and balances on the activities of the delivery agencies.

43. The recent decision to improve the central oversight of sub-national issues with the establishment of the IDLG is a welcome move. Next steps on sub-national issues should aim to:

- Build up the political credibility and technical capacity of IDLG. To this end, an Inter-Ministerial Committee, chaired by the President or Vice President, with IDLG acting as the secretariat, could be formed to establish a framework for sub-national strengthening and reform.
- Build on recent efforts to improve donor coordination. In particular, the IDLG should probably take over chairmanship of the Sub-National Governance Donor and Government Working Group under the ANDS mechanism. One of the first tasks of this group should be to set appropriate benchmarks for developing the sub-national policy framework and reform strategy.

***(8) Strengthen the performance of the main service delivery institutions by improving their organizational structures – and providing adequate resources to do their job.***

44. Line ministries will have to ensure that their functions are properly divided between their central and provincial offices. These decisions should be built into the organizational plans being prepared by line ministries as part of the PRR/PAR process, and guided by the following considerations:

- Any deconcentration process should be crafted flexibly enough to allow different ministries to implement service delivery models which are most conducive to success in their sectors.
- Ministries should consider asymmetric approaches: experimenting with different degrees of deconcentration with different functions.
- The extent to which line ministries deconcentrate will need to be moderated by the degree to which this risks capture of Provincial Departments by Provincial Governors.

45. Improvements in organizational structures need to be matched by the provision of adequate resources for key organs of sub-national governance and service delivery to play their roles. Initially, this means meeting basic needs for training, IT, offices, communications etc. Over the longer term, it means moving towards a more equitable distribution of fiscal resources across the country.

***(9) Address the particular issues facing municipalities and CDCs: the most autonomous elements of the sub-national system of governance and service delivery.***

46. Municipalities have been established under the law, as important and self-sufficient local service delivery and governance entities. To improve their effectiveness, the following measures are needed:

- Enact new legislation which clarifies the relationship of municipalities to the central and regional governing entities, while protecting their self-reliance. Inter alia, this should provide them with solid expenditure and revenue assignments, and enhance their capacity for providing local services sustainably.
- Formulate a comprehensive financing framework for municipalities which clarifies and rationalizes own-source revenue assignments, and establishes a transparent rules-based system to allocate central transfers among municipalities. This should be matched by improved budgeting, financial management and accounting systems.

- Introduce elections for mayors and municipal councils at the earliest feasible opportunity. Institutional measures should be introduced to bridge the current gap between the bottom-up system for expression of community voice and top-down planning and budget decision making.

47. CDCs were established as community-level vehicles to deliver infrastructure in rural areas under NSP and have since started to take on a wider range of local governance functions. To sustain their effectiveness, the following issues need to be addressed:

- CDCs need to secure a regular and reliable funding flow to resource local development activities which provide their *raison d’etre*. The funding should be set at far lower levels than under NSP.
- CDCs’ roles should be consolidated on the basis of the new by-law. In general, CDCs should take on only public good functions, and not compete with other local governance bodies (such as school management committees).
- The matter of “ownership” of CDCs at the central level will have to be settled within the central government by those agencies and ministries which have a core interest in the question.

**(10) *Demonstrate Government’s will to fight corruption.***

48. The public has little trust in leaders and government institutions. Despite positive rhetoric, government has not initiated action in the face of widespread and entrenched corruption. Although the Bonn accord stressed accountability of public organizations, the political process that followed stressed representation from all quarters above accountability, and peace before justice. Afghanistan is now responsible for 93 percent of total global illicit opium output. Institutional disarray and in-fighting within government, and lack of strong government leadership to confront corruption has resulted in the widely held view is that corruption is being ignored or tacitly allowed. This report recommends:

- Initial implementation of meaningful yet feasible short-run measures, with emphasis at sector and agency levels instead of spending too much effort and resources on preparing an impressive strategy, and focus on a few agencies where the public interacts most frequently with service providers. In these agencies, the number of steps, signatures and visits could be reduced.
- Clarifying institutional arrangements so that different agencies involved in anti-corruption work harmoniously. Enforcing ministries to respond to audits and involving Ministry of Finance in the response to audit reports will allow it to play a stronger oversight role.
- Strengthening the leadership of institutions involved in the fight against corruption. Much more can be done to go after key actors in the drug industry (larger and medium drug traders, and their sponsors inside and outside government). Even if weaknesses in the justice sector make prosecution and conviction very difficult, officials associated with the drug industry should at least be removed from their positions in government, which would send a strong signal of government commitment to address the drug issue.

**(11) *Build public trust in parliament and the judiciary – so they can provide formal oversight in an effective and credible manner.***

49. In the National Assembly, work is needed to strengthen coordination between the Cabinet and NA, and to build parliamentarians’ understanding of their actual role, including how they can constructively contribute to law-making and oversight of the executive. Particularly, Budget Committee

members' comprehension of how government budget and accounts are prepared and presented needs to be strengthened.

50. In the justice sector this report recommends:

- Recognizing that security strengthening measures are only partially effective without accompanying strengthening of rule of law. Strengthening coordination between the Cabinet and the NA, referred in the previous paragraph, will improve legislative capacity.
- Starting small and scaling up. Both judicial reform and infrastructure creation should focus on the major cities because that is where the formal justice system is most used and most needed. But during this time the role of the judiciary, especially the Supreme Court, needs to be established in enforcing constitutionality of laws and reviewing legality of administrative decisions.
- Supporting non-state dispute resolution because it will take many years before sufficient courthouses are constructed, judges appointed and legal texts are available.

***(12) Provide credible information on government programs and performance – and open up government processes to public scrutiny and participation.***

51. The media and CSO sectors in Afghanistan are still finding their feet. Donor support can help to develop their capacity and effectiveness over time. But, in the area of public accountability, their role is very much dependent on their access to official information and their ability to provide feedback on government performance. Donors should support government initiatives to improve transparency, while being sensitive to the country's history, culture and politics. A number of innovative approaches have already been built into donor-funded projects to provide information to affected communities, involve them in project planning and implementation, and to monitor the impact of project interventions on economic and social conditions in the affected area. These approaches should be mainstreamed into other government programs over time. The Government should also provide the information needed to inform public debate on complex issues such as the budget and corruption, and to build public confidence in financial management and procurement processes.

52. This would be a daunting agenda in the best of circumstances. In Afghanistan, where the public administration has to be rebuilt from a low base in a very difficult reform environment, it can sometimes seem overwhelming. But some comfort can be taken from the progress to date, and the fact that small steps can build into a coherent program over time. Experience in Afghanistan and elsewhere shows that successful innovations in service delivery can be implemented – even in an environment of poor overall outcomes and when systemic problems are still to be resolved. However, over the longer term, there is no substitute for a merit-based and accountable public administration that can perform its core functions well. It will simply take a long-term commitment from the Government of Afghanistan and its international partners to stay the course. The stakes are high: only an effective public administration, that is seen to provide security and services to the people, can ensure the long-term legitimacy and credibility of the state.



## I. CONTEXT AND PROSPECTS FOR REFORM

### A. Introduction

1.1 Building an effective state – that can provide security and services to the people, while protecting their rights – has always been at the heart of the reconstruction effort in Afghanistan. At the end of 2001, after more than two decades of wars and civil strife, the political system had largely collapsed, with power dispersed in the hands of regional warlords and local commanders. Although the Taliban had taken control over most of the country, prior to being overthrown in late 2001, they did nothing to build a modern state other than imposing, through harsh measures, a certain degree of order. While many of the formal structures of public administration remained in place, appointments were based more on loyalty than merit, procedures followed the old-style soviet model, and officials lacked the financial resources and motivation to do their job. Therefore the new government faced a severe challenge: to restore security and take charge of running the country, while also rebuilding the very limited capacity of the public administration.

1.2 This Chapter will review progress over the past five years in building an effective public administration in Afghanistan (for what we mean by public administration reform, see Box 1.1). It will draw some lessons from successes and failures in Afghanistan -- as well as from research and experience in other countries (especially fragile states). And it will outline the context and prospects for accelerating public administration reforms and improving the delivery of public services. This is not intended to be a comprehensive review of recent developments in Afghanistan, which are well covered in other references.<sup>1</sup> Rather it is intended to set the stage for the rest of the report, which will develop reform proposals in three key areas: (a) building an effective civil service; (b) improving local governance and service delivery; and (c) making government accountable to the people. The final Chapter will pull this together into an agenda for public administration reform, and chart a way forward that is both relevant and realistic in the current Afghan environment.

### B. Rebuilding after the Taliban<sup>2</sup>

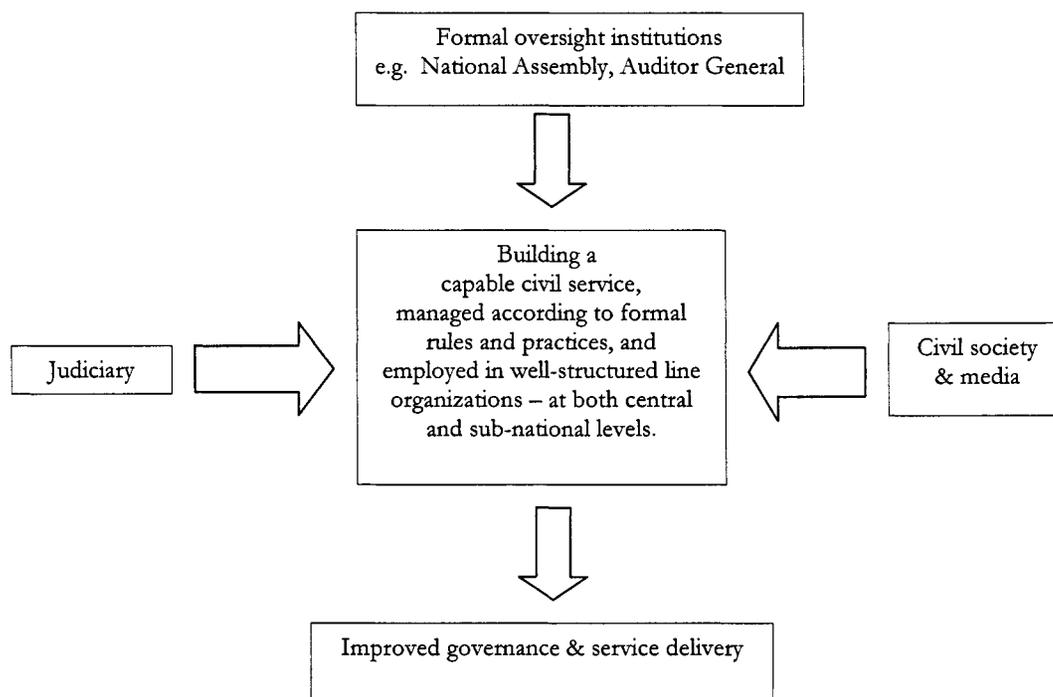
1.3 Afghanistan has long been one of the poorest countries in the world, falling near the bottom in terms of per capita income and UNDP's Human Development Index. Nevertheless, Afghanistan was at peace between the 1930s and the late 1970s, and underwent a modest degree of economic and social development. Modernization was concentrated in the cities and towns, however, and most rural areas retained their traditional mores, governance structures and social practices. The Afghan state remained relatively weak and had limited outreach in most of the country. More than two decades of conflict after 1978, compounded by a prolonged drought, resulted in widespread human suffering and massive displacement of population (both within Afghanistan and as refugees in neighboring countries). By 2001, an estimated 7 million people were vulnerable to famine. Afghanistan's infrastructure had been destroyed or degraded, and its human resource base severely depleted.

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<sup>1</sup> See, for example, the Preliminary Needs Assessment prepared ADB, UNDP and World Bank 2002 for the situation immediately after the fall of the Taliban. An excellent review of development challenges is provided in the Afghanistan National Development Strategy 2006. Also see World Bank 2005a on *Afghanistan: State Building, Sustaining Growth, and Reducing Poverty* and World Bank 2006d *Managing Public Finances for Development*.

<sup>2</sup> This section draws heavily on World Bank 2005a and other references as noted. For an historical review of government in Afghanistan, see Evans, Manning, Osmani, Tully and Wilder 2004.

### Box 1. 1: What do we mean by Public Administration Reform?



The objective of public administration reform (PAR) is to deliver public services in a more efficient and effective manner. Much of the effort towards this objective has focused, to date, on establishing a well-performing, merit-based civil service. But good service delivery requires more than competent civil servants. It requires management processes and practices that focus organizational units and their staff on delivering the services for which they are responsible, and restructuring of government organizations to respond to their modern-day functions. Meanwhile, there is growing interest in sub-national administration, including deconcentration of responsibilities within line ministries, and efforts to improve capacity and coordination at the local level. Taken together, they constitute traditional public administration ‘supplied’ by government and are depicted by the diagram’s middle box.

But this core of public administration tends to become self-serving unless stimulated by the ‘demand’ from the Afghan people for good administration and public services (expressed through elections, civil society groups, the media etc), and the ‘checks and balances’ provided by formal oversight institutions (such as the National Assembly) and the judiciary—institutions that hold the government accountable.

Given Afghanistan’s security situation, and donors’ heavy presence in both security and civil administration, any discussion of civilian public administration inevitably expands to include security issues. However this report does not discuss security forces per se. It references security issues only in so far as they impact on government performance.

*Source:* Adapted from World Bank (2007) and GoA PAR Framework (discussed in Chapter II).

1.4 While many of the formal structures of public administration were still intact, they had become largely dysfunctional as the state broke down under previous regimes. According to the Preliminary Needs Assessment released in early 2002:<sup>3</sup>

“Even at the central level in Kabul, ministries or departments are war-damaged shells, without even the most basic materials or equipment, and with few experienced staff. Before the Taliban,

<sup>3</sup> ADB, UNDP and World Bank 2002, 15.

43 percent of government employees were women, most of whom were dismissed. Similarly, in other walks of life women were largely prohibited from work. Government staff has been paid intermittently, if at all, and many of the senior personnel have either left the country or sought alternative part-time employment.”

1.5 The new Constitution, adopted in January 2004, refers to “preserving the principles of centralism”, and there is little appetite, at least in Kabul, for a substantial devolution of political power to sub-national levels.<sup>4</sup> As a result, on paper, Afghanistan is one of the most centralized states in the world:

- Politically, Afghanistan is a unitary state, with all formal authority vested in the government in Kabul. Provincial governors, for example, are appointed by the center, which also determines their powers and responsibilities. Municipal mayors are also approved by the center – but based on candidates proposed by local elders and the Governor.
- Fiscally, Afghanistan is also highly centralized. Expenditures at provincial and district levels are made through national programs carried out by provincial arms of central ministries. No fiscal transfers as such go to sub-national levels. With 44 percent of the civil service workforce in Kabul, funds are concentrated at the center. Budgets of provincial governments are set in Kabul, and approval from Kabul is required for even minor changes. On the revenue side, Afghan districts and provinces have no independent authority to impose taxes. The only expenditure autonomy is at the municipal level. Although all tax and fee rates are set in Kabul, revenues and fees collected by municipalities remain there and fund municipal spending.
- Administratively, provincial and local governments have only a very modest formal role in decisions concerning their own structure, recruitment of senior staff, size of establishment, composition of workforce etc. Such decisions are made by each ministry in Kabul, in conjunction with the Office of Administrative Affairs (OAA), and signed off by the head of the Independent Administrative Reform and Civil Service Commission (IARCSC). The ministry in Kabul or the President makes staff appointments at middle to senior grades, while the provincial governor appoints junior staff down to the district level.

1.6 Despite this very high degree of *de jure* centralization, the *de facto* reality is that central control is very weak, given the strength of regional and local warlords, who command sub-national revenues and military power. Governors often make resource allocation decisions except on basic salaries. Staff appointments from Kabul are often rejected in favor of those loyal to regional factions, and even Kabul-based appointments often reflect loyalties and ethnic ties, rather than merit. Factional loyalties have been strengthened by a general lack of financial support from the center. With the exception of offices which have been through PRR, pay levels are generally low, especially for middle-level and senior staff. Non-salary budgets for provinces and districts have also been inadequate in recent years, and allocations are very uneven across provinces. The end result is a very inefficient and inequitable system of sub-national administration.

1.7 This *de facto* reality reflects the long-standing tension in Afghanistan between traditional regional models of administration, based on loyalty to the ruler, and tribal and family relations, and newer European models based on service to the public and merit-based appointments. In Afghanistan, the exchange of obligations and service among different clans, tribes and families follows a set of norms known loosely as *wasita*, which literally means “connection”.<sup>5</sup> Those in government are expected to

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<sup>4</sup> See Rubin 2007 for a discussion of the political dynamics underlying the preference for a strong central state. Understandably, there is an unease about anything which could encourage “fissiparous tendencies”.

<sup>5</sup> This situation is not unique to Afghanistan. According to North, Wallis and Weingast 2006, most societies “provide order by using the political system to limit economic entry to create rents, and then using the rents to stabilize the political system and

provide a valuable point of contact and financial support for the entire extended family. As the capacity of the state was steadily eroded over the past twenty years, there were paradoxically pressures to expand its role: “driven by the logic of creating positions to accommodate interests, rather than the delivery of public services.”<sup>6</sup> The next chapter discusses how *wasita* plays out in all aspects of civil service management, and how the basic tension between patronage and merit-based models lies at the heart of the PAR agenda in Afghanistan.

1.8 Another complicating factor was the rapid expansion of the international military and civilian presence in Afghanistan after 2001. Learning from experience in other fragile states, the UN adopted a “light footprint” approach, where the assistance mission had no direct administrative responsibilities and Afghan staff were used as much as possible. Even so, Afghanistan was and is highly dependent on foreign aid. In SY 1385, the international community provided US\$1.5 billion of development assistance, almost three times the level of domestic revenues.<sup>7</sup> This high dependency on aid, much of which is implemented outside the government budget, has created a “second civil service” of externally-paid consultants and advisers, many of them only loosely supervised if at all by the government. Not only has this second civil service taken some of the best talent from the government and bid up the cost of scarce talent, but with the relatively small share of resources at its disposal, it is a constant challenge for the government to stay “in charge” of the development agenda. This situation is perhaps inevitable in a situation where local capacity has been decimated, and both the government and the international community share an interest in showing that progress is being made. But it also creates an environment in which the long-term agenda of institution building is often sacrificed to short-term imperatives.<sup>8</sup> Indeed, some have argued that the prominent foreign presence undermines the very objective of building a credible and legitimate Afghan state.<sup>9</sup>

1.9 Faced with these daunting conditions, the new Government of Afghanistan, in June 2003, established the new Independent Administrative Reform and Civil Service Commission (IARCSC). It opted for an “asymmetric” approach to public administration reform, which was more opportunistic than systematic. This reflected the reality that the central government had little reach beyond Kabul and, because of internal divisions, could not build any meaningful consensus around the key elements of a comprehensive PAR program. As argued in Hakimi, Manning, Prasad and Prince 2004, 11:

“Under such difficult circumstances, where central government has very little traction over the public sector that it seeks to reform and must, at all costs, avoid wholesale, painful reforms which would further alienate civil servants, and probably the population as a whole, the only option, other than total inaction, is to stimulate modest, targeted incremental reform of key functions within government departments and agencies. Priority must be given to those transformations and changes that would enhance the legitimacy of the center rather than undermine it and which both exploit and nurture the appetite for reform that does exist within certain areas of the government administration.”

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limit violence.” They call this the “natural state”. Only a handful of countries since WWII have transitioned to “open order states”, where open access and entry into economic and political organizations sustains economic and political competition.

<sup>6</sup> Rubin 2007, 4. This is one of the background papers commissioned by the World Bank for this report.

<sup>7</sup> Substantial external assistance to the security sector is excluded from these numbers.

<sup>8</sup> It also creates resentment among Afghans who have lived through many years of conflict, at very low pay levels, and see many of the best-paying jobs going to English-speaking Afghans returning from overseas.

<sup>9</sup> See, for example, Suhrke 2007. Others argue that the foreign role has been too light to achieve its objectives (see Maley 2006 for a summary of these arguments). One such example is the initial decision to limit the ISAF military role to Kabul. This provided a window for the Taliban to re-establish in the South, and complicate the current task of providing security and development in these conflict-affected areas.

1.10 The asymmetric approach was reflected in the Priority Reform and Restructuring (PRR) process, which allowed staff in key departments and agencies to be placed on an elevated pay scale for a fixed term in exchange for restructuring. This was intended to jump start the reform process, until more fundamental issues of civil service pay, grading and structure etc could be sorted out. By March 2007, new job descriptions had been written for over 43,000 positions, and 7,800 of these had been filled through the new “merit-based” selection process. There is little doubt that ministries that have gone through a serious PRR process, such as the Ministry of Public Health (MoPH) and the Ministry of Rural Rehabilitation and development (MRRD), have benefited in terms of higher pay and better performance. However, there were also growing concerns about the asymmetric approach: with highly differentiated pay scales within ministries and the difficulty of working within dysfunctional ministerial constraints. As a result, the program was expanded in late 2004 into a more ambitious ministry-wide program. In general, while many staff have been approved for higher salaries, progress on restructuring has been slower than promised in the PRR proposals. And the merit-based selection process, managed by IARCSC, has been criticized for being both slow and subject to political bias and patronage.<sup>10</sup>

1.11 More fundamentally, the PAR program has been criticized for focusing too much on building technical capacity, primarily in Kabul, while downplaying issues of political legitimacy, especially at the local level. The presumption was that increased capacity would improve service delivery and thereby help to build political legitimacy throughout the country. However, Lister has argued that “powerful international and domestic actors have tended to see ‘state building’ as creating organizations and structures and have ignored the very interventions that would have contributed to supporting the introduction and establishment of a different set of rules constraining powerful interests. In this they have contributed to the failure of both local government reform and the wider state-building agenda in Afghanistan.”<sup>11</sup> She goes on to argue that more attention to key institutional changes – such as disarmament, reform of the police and judicial system, and merit-based senior appointments – would have helped to change the rules of the game in Afghanistan from informal patronage-based systems to more formal and professional state systems. “Instead their neglect at a critical period has enabled local powerhouses to continue to use the state as a means to exercise power, resisting or co-opting attempts to create new structures and impose bureaucratic rules.”<sup>12</sup>

1.12 Faced with severe capacity constraints, the government had little option but to develop a “lean state” focused on core functions. Consistent with this aim, the number of ministries has been reduced from 30 to 25. The number of civil servants has grown slightly, from 327,000 in 2004 to 348,000 in 2007, mainly due to the addition of more teachers. But at just over 1 percent of the estimated population, this is still a relatively small civil service by regional and international standards. The government has also adopted some innovative mechanisms for program delivery. Two notable examples show what can be achieved under difficult conditions:

- Delivery of health services in rural areas was always very limited in Afghanistan, with a heavy dependence on NGOs during the war years. After the fall of the Taliban, the MoPH formulated a basic package of health services (BPHS) that is largely delivered in rural areas by NGOs through grants or contracts. Independent assessments by Johns Hopkins University show a 21 percent improvement in the quality of health care from 2004 to 2006. MoPH has also experimented with a “contracting-in” management model to run publicly-financed health services. This model has also shown significant improvements in quality of care, with as good coverage as in provinces using the NGO delivery model. While “contracting-in” model has been applied in relatively easier provinces near Kabul, with better security, the good results probably also reflect talented

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<sup>10</sup> See Michailof 2007a.

<sup>11</sup> Lister 2007, 15.

<sup>12</sup> Ibid, 16.

management and competition from NGOs. (Broader issues of service delivery models, across sectors and over time, are discussed in Chapter II.)

- The National Solidarity Program (NSP) was introduced in 2003 to: (a) lay the foundations for a strengthening of community-level governance; and (b) support community-managed sub-projects that improve access of rural communities to basic infrastructure and services. By the end of 2006, the program had reached more than two thirds of Afghanistan's estimated 24,000 villages across all of the country's 34 provinces. A key component of NSP was the establishment of Community Development Councils (CDCs) to develop a Community Development Plan, select sub-projects for funding under NSP, and manage their implementation, operation and maintenance. A mid-term evaluation by the University of York in 2005-06 showed that communities reached by NSP had empowered CDCs, improved community relations and increased public faith in government. (Emerging issues around the role and funding of CDCs are taken up in Chapter III.)

1.13 Similarly, a lot of progress has been made in building up the government's public financial management systems under the direction of the Ministry of Finance (MOF).<sup>13</sup> The World Bank's assessment under the Public Expenditure and Financial Accountability (PEFA) program in November 2005 "portrays a public sector where financial resources are, by and large, being used for their intended purposes as authorized by a budget which is processed with transparency and has contributed to aggregate fiscal discipline."<sup>14</sup> These achievements are commendable compared to experience in other post-conflict countries. However, the assessment also notes that these improvements have to a large extent been dependent on external capacity brought in on an emergency basis to get things going (renting rather than building capacity). The development of sustainable core government capacity for key public finance functions has barely begun, and there are daunting weaknesses in public financial management in the line ministries. More fundamentally, there is still a wide gap between public expectations and the actual delivery of public services.

1.14 While the PAR agenda is largely focused on developing an effective civil service, this objective won't be achieved without stronger institutions of public accountability. Politically, Afghanistan has come a long way since the Bonn Conference in establishing the basic institutions for a "broad-based, gender-sensitive, multi-ethnic and fully representative government." A new constitution was adopted in January 2004. Hamid Karzai, previously head of the transitional administration, became Afghanistan's first popularly elected President in December 2004. Elections for the *Wolesi Jirga* (the lower house of the National Assembly) and for Provincial Councils took place in September 2005. The inauguration of the National Assembly in December 2005 marked the formal conclusion of the Bonn process, a major achievement. However, Parliament's performance to date has been constrained by its fragmentation and lack of experience. The normalization and professionalization of political culture, including trust between individuals and groups, has a long way to go before Parliament can achieve its objectives of representing Afghan citizens and holding the executive to account.

1.15 Similarly, despite some signs of progress over the past two years, including the appointment of a more reform-minded and professional Supreme Court in 2006, the justice sector in Afghanistan is still very weak. According to a recent review by the United Nations Assistance Mission in Afghanistan (UNAMA):

"The justice system still lacks sufficiently qualified officials, adequate legal education, and the necessary administrative tools and physical infrastructure to administer justice properly, fairly or effectively. The absence of strong state institutions, particularly in rural areas, low salaries for

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<sup>13</sup> Issues of public financial management were recently covered in World Bank 2006d, and are not a specific focus of this report.

<sup>14</sup> World Bank 2006d, 22.

judges and prosecutors, rampant corruption, the ominous influence of warlords and local commanders, and the failure to ensure a secure environment of courts, judicial personnel, victims and witnesses also continues to severely undermine the capacity of the legal system to act independently and impartially, and contributes to the low level of public trust and confidence in these institutions..... Traditional dispute resolution mechanisms, especially in rural areas, remain dominant to the detriment of women and children in particular.”<sup>15</sup>

1.16 During the war, non-governmental organizations (NGOs) often substituted for a weak or non-existent state by providing basic health and education services. As noted above, this model has now been formalized to some extent in the health sector. Civil society and the media have also been widely used for the purpose of civic education, in order to secure the success of the electoral process in the post-Taliban period. However, as NGO dependence on aid has increased, their local support and responsiveness to local concerns has sometimes been reduced. There are only two organizations – Integrity Watch Afghanistan and the Afghan Civil Society Forum – monitoring government performance and working on integrity issues. According to Integrity Watch Afghanistan, while the media has wide ownership and relative autonomy in Afghanistan, compared to other countries in the region, it lacks the investigative skills to put effective pressure on the Executive. And journalists are often threatened for raising politically sensitive issues, including cases of corruption.

1.17 It is against this backdrop that this report looks at the priorities and prospects for public administration reform in Afghanistan over the next five years. However, before returning to that agenda, it is perhaps useful to step back, and learn from experience in other countries about what has worked and has not worked in public administration reform, and how to increase the chances for success in Afghanistan.

### C. Lessons from Research and Country Experience

1.18 The World Bank has done considerable research on the role of the state and reforming public administration over the past ten years. The 1997 World Development Report on *The State in a Changing World* proposed a two-part strategy for building an effective state:

- “*Matching the state’s role to its capability* is the first element in this strategy. Where state capability is weak, how the state intervenes – and where – should be carefully assessed. Many states try to do too much with few resources and little capability, and often do more harm than good. A sharper focus on the fundamentals would improve effectiveness. But here it is a matter of not just choosing what to do and what not to do – but of how to do it well.
- But capability is not destiny. Therefore the second element of the strategy is to *raise state capability by reinvigorating public institutions*. This means designing effective rules and restraints, to check arbitrary state actions and combat entrenched corruption. It means subjecting state institutions to greater competition, to increase their efficiency. It means increasing the performance of state institutions, improving pay and incentives. And it means making the state more responsive to people’s needs, bringing government closer to the people through broader participation and decentralization.”<sup>16</sup>

1.19 Fukuyama 2004 builds on this framework to “distinguish between the scope of state activities, which refers to the different functions and goals taken on by governments, and the strength of state power, or the ability of states to plan and execute policies and to enforce laws cleanly and transparently –

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<sup>15</sup> UNAMA 2007, 1.

<sup>16</sup> World Bank 1997, 3.

which is now commonly referred to as state or institutional capacity.”<sup>17</sup> He then develops a matrix (see Figure 1.1) to show how different countries rank in terms of the scope of state activities and the strength of capacity, as well as how these rankings change over time. According to Fukuyama, the dominant trend in recent years has been to consolidate the scope of state activities, with much less attention to (and success in) building state capacity. Afghanistan would probably be close to the axis on Figure 1.1, with both limited scope and capacity. The challenge is obviously to build the state’s strength, including through public administration reform, before embarking upon any major expansion of state activities.

1.20 But Fukuyama also warns about the “black hole of public administration”. By this he means that there are no globally-valid rules for public-sector organization, and that the field of public administration is “more of an art than a science.” While most good solutions to public administration problems will have certain common features of institutional design, they will also have to incorporate a great deal of context-specific information. Fukuyama therefore concludes:

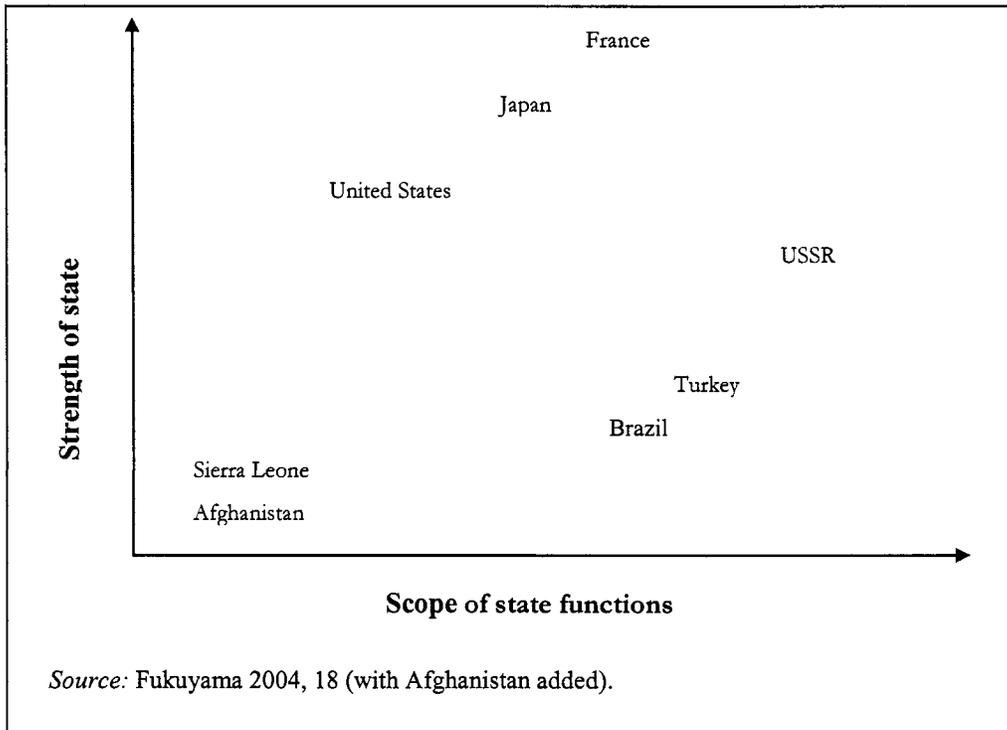
“If we really want to increase the institutional capacity of a less-developed country, we need to change the metaphor that describes what we hope to do. We are not arriving in the country with girders, bricks, cranes and construction blueprints, ready to hire natives to help build the factory we have designed. Instead, we should be arriving with resources to motivate the natives to design their own factory and to help them figure out how to build and operate it themselves. Every bit of technical assistance that replaces a comparable capability on the part of the local society should be regarded as a two-edged sword and treated with great caution. Above all, the outsiders need to avoid the temptation to speed up the process by running the factory themselves.”

1.21 Fukuyama also draws on the analytical and historical framework developed by Pritchett and Woolcock 2002 to understand why there is an absence of a uniform consensus on *how* to improve service delivery. They distinguish between two aspects of public sector services: their transaction intensity (the number of decisions that need to be made by organizations) and their discretionary character (requiring judgment of imperfect or incomplete information by a skilled decision maker). A traditional, centralized approach to public administration makes most sense when it is easy to monitor a few decisions based on good information, such as running a central bank. But this approach becomes more difficult when many decisions are needed and there is little information to monitor performance. Education is a case in point, where outputs are hard to measure and it is virtually impossible to hold individual teachers accountable. Pritchett and Woolcock develop eight different models of service delivery – including supplier autonomy, contracting out, decentralization and community-driven development – which may provide better outcomes than a centralized civil service depending on local conditions.

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<sup>17</sup> Fukuyama 2004, 9.

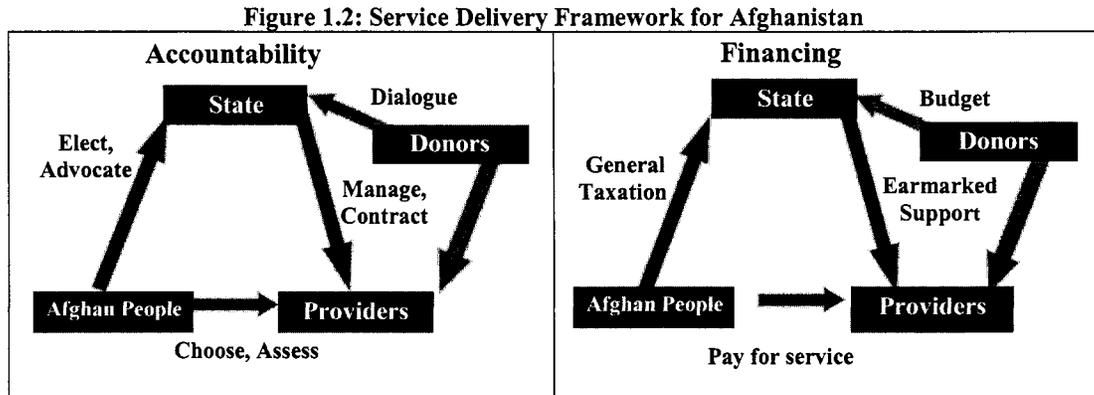
**Figure 1.1: State Scope and Strength**



1.22 This approach was further developed in the 2004 World Development Report on *Making Services Work for Poor People*. It provided a framework for thinking about relationships between clients, providers and policymakers, and alternative models for delivering services depending on whether: (a) the political system is pro-poor or captured by vested interests; (b) clients are homogenous or heterogeneous; and (c) services are easy or hard to monitor. This framework was applied to Afghanistan in World Bank 2006d, as shown in Figure 1.2. This report goes on to draw some lessons for Afghanistan:

- One size does not fit all: different approaches can and should be used depending on the characteristics of the service concerned and the context in which it is being delivered. However, it is essential that the underlying accountability relationships support and encourage adequate service provision.
- Service providers need to be made more accountable directly to consumers/beneficiaries: through enhanced channels for voice, choice of providers or, in some cases, by paying directly for the service and thereby having a greater incentive to be concerned about quality.
- Different models of service delivery have different implications for state building. Several dimensions are important in this regard: (a) the actual role played by government (policy, financing, management, provision etc); (b) the visibility of the government to consumers/beneficiaries; and (c) the effectiveness of the services (access, quality, inclusiveness etc).
- Where possible, competition (or at least contestability) among providers can play a useful role. Mobile telecommunications is a notable example of competition resulting in major improvements in access, quality and efficiency of service delivery.

- In Afghanistan, the lack of capacity in traditional centralized service delivery systems provides an opportunity to rethink, modify or even move away from this model – although this could seriously constrain service delivery in the short run. Alternatives include deconcentration within the government structure, more use of commercialized modes of provision, and private sector participation.



Source: World Bank 2006d, 99.

1.23 The *2006 Global Monitoring Report* prepared by the World Bank and IMF has a special focus on monitoring governance. In an expanded background paper, Levy 2006 concludes: “Top-down reforms of bureaucracies and checks and balances institutions generally take a long time before they help improve the front-line performance of governments. Low-income countries seeking to turnaround their performance thus confront a dilemma. Maintaining the momentum of turnaround may depend on achieving major gains in service provision in the short-to-medium term. But reforming their top-down state accountability system to the point that it can provide the requisite combination of accountability and responsiveness is a task which will only bear fruit over the long-run.” Levy goes on to argue that top-down initiatives can be undercut insofar as they are not underpinned by a change in the incentives of political and bureaucratic actors. “Engaging at the front-line has the potential to alter this equation – achieving development results quite quickly, while also potentially helping to accelerate the pressure and momentum for deeper top-down reforms.”<sup>18</sup>

1.24 World Bank evaluation results confirm the difficulty of implementing reform programs in public administration and public financial management. According to the *Annual Review of Development Effectiveness 2006*, while assistance has led to improvements in the quality of public sector management processes in some countries, this has not usually translated into improvements in the perceived quality of governance. Yet recent progress in perceived governance quality in some countries in Eastern and Central Europe shows that it is possible to make progress in a limited time when there is strong country commitment:

“Public sector reforms of a technocratic nature, such as modernizing personnel practices, can succeed when they build on political commitment. Bulgaria’s achievement in professionalizing its civil service, for instance, has been the product of both donor-supported reforms in pay and recruitment and broad political interest in meeting conditions for European Union (EU) accession. But many reform programs have been undermined by lack of political support. The extent of political opposition is often underestimated at the time of design. In Bolivia and Yemen, Bank-supported reforms in civil service management achieved little, because there was no commitment

<sup>18</sup> Levy 2006, x-xi.

to ending the traditional role of the public service as a vehicle for large-scale patronage appointments. When political conditions are not ready for wholesale reforms, it is advisable to proceed gradually, identifying opportunities for less-contentious reforms in order to build coalitions across affected interests and to gradually gain momentum.”<sup>19</sup>

1.25 State building has always had a central role in the World Bank’s work on fragile states. In a 2005 Board paper on Good Practice in Country Assistance Strategies it is noted: “Fragile states, as the name implies, are fragile because state institutions have limited capacity to deliver services to their citizens, to control corruption, or to provide for sufficient voice and accountability. In the long-term, therefore, a successful exit from fragility will only come about through stronger and more accountable state institutions which are resilient to political and economic shocks. Building state institutions means not only focusing on state capacity, but also on the responsiveness and accountability of state institutions to the population at large, civil society and the private sector.”<sup>20</sup> The paper goes on to stress the importance of calibrating assistance to weaknesses in existing capacity and accountability and to the risk of conflict or instability.

1.26 Cliffe and Manning, in a forthcoming paper for the International Peace Academy, look in more depth at the challenges of building state institutions after conflict. They argue that “effective institutions are now widely viewed as critical to address both the ‘capacity deficit’ and the ‘legitimacy deficit’ faced by fragile states – since only strong national institutions can ensure that the state is associated with provision of positive services to the population, and can be held to account by its citizens.” Yet the track record on building state institutions in post-conflict societies is mixed at best. Four particular problems are identified:

- First, many reconstruction efforts have been insufficiently informed by what institutions already exist, and so have tended to reinvent the wheel, rather than build on the pre-existing institutional architecture. Transitional arrangements should be as light as possible, and as reliant as possible on national capacity.
- Second, efforts to support institution-building have typically been quite diffuse, spread across all sectors and all areas of the state, without a clear sense of priorities or sequencing over time. The initial focus should be on key functions and outcomes that are necessary for the survival of the state and sufficient to restore credibility to the state.
- Third, there has been little attention to the relation between transitional oversight and delivery mechanisms and long-term national institutions. Some sectors (army, health) are more amenable to the use of international models and capacity than others (police, education).
- Fourth, donors’ own good intentions to support rapid recovery after a conflict have all too often unintentionally undermined long-term institution-building, by sapping the skills base available to national institutions and bypassing national decision making structures.

1.27 Given these lessons from research and country experience, our approach to PAR in Afghanistan should follow the following principles:

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<sup>19</sup> World Bank 2006e, xv.

<sup>20</sup> World Bank 2005d, 3.

- Initially limit the role of the state to core functions in line with existing capacity and political realities.<sup>21</sup> This is consistent with the government’s commitment to a “lean state” and the use of non-governmental delivery mechanisms in some sectors (such as health).<sup>22</sup>
- Recognize that real PAR will take a long time -- and will not generate quick returns. It requires a steady hand and a lot of patience. Likewise, donor support has to be sustained to support long-term institutional change and capacity building.
- Look for innovative ways to respond to popular demands for better service delivery in the short and medium terms. Here Afghanistan’s own experience in health and community development provides valuable lessons, along with experience in other countries (e.g., India).
- The broad nature of PAR requires commitment to a common framework, and a clear sense of priorities and sequencing over time. PAR should build into a coherent program, even if short-term actions will often have to be opportunistic and incremental.

#### **D. Looking Ahead: Challenges and Constraints**

1.28 Before turning to the future, it’s important to acknowledge what has been achieved in Afghanistan over the past five years. From a state of near collapse at the end of Taliban rule, the non-opium economy grew on average by 16 percent per annum from 2001/02 to 2005/06. Progress on social indicators is also very significant: enrollments in primary schools are up from one to five million children, one-third of them girls; and the coverage of basic health services has been extended to 82 percent of the population, contributing to a 22 percent fall in the infant mortality rate from 2002 to 2006. Yet, nothing can conceal the fact that Afghanistan remains a very poor country, with per capita income around US\$300 in 2005/06. Health indicators remain among the worst in the world, just over half of the eligible students are in primary school, and only about one third of the 15-24 year old population is literate. Progress has also failed to keep up with the expectations of the population, which had been buoyed by new-found freedoms and promises of large amounts of aid. According to a 2006 survey of citizen perceptions sponsored by the World Bank, the biggest problem facing Afghanistan was security and law and order, followed by progress on the economy, poverty and jobs. In terms of basic services, most complained about poor access and quality of electricity, sanitation and drinking water.

1.29 The Government of Afghanistan’s strategy to bridge this gap is laid out in the Interim Afghanistan National Development Strategy (I-ANDS). The primary objective of the I-ANDS is “to consolidate peace and stability through just, democratic processes and institutions, and to reduce poverty and achieve prosperity through broad-based and equitable economic growth.”<sup>23</sup> The strategy is based on an economic growth rate of 9 percent per annum from 2006 to 2010: to provide people with a tangible sense of improvement, while compensating for the contraction of the drugs economy. Together with investments in human development, this is expected to lead to significant progress towards achieving

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<sup>21</sup> The criteria proposed by Cliffe and Manning forthcoming to focus on key functions and outcomes that are necessary for the survival of the state and sufficient to restore credibility to the state, are very relevant to Afghanistan. In comments on an earlier version of this chapter, Professor Rubin (NYU) questioned whether it is realistic to expect GoA to carry out even “core functions”, given the low potential for mobilizing resources and the high costs of administration, especially in insecure areas. It is certainly true that Afghanistan will be dependent on foreign resources for the foreseeable future. But, as more of these resources are channelled through the budget, there will be more scope for their management by GoA. Therefore, the capacity of the public administration is likely to remain the critical constraint on getting things done.

<sup>22</sup> Paul Fishstein (AREU) notes that the Government’s commitment to a “lean state” is more like acquiescence, as many middle-level officials see the use of non-governmental delivery mechanisms as a temporary measure only.

<sup>23</sup> Islamic Republic of Afghanistan 2006, Executive Summary, 2.

Afghanistan's Millennium Development Goals (MDGs). Underpinning the strategy, is a set of goals to develop an effective and accountable public administration at the central, provincial and districts levels:

“Through the Public Administration Reform program, the government will ensure that there is improved coordination between decision-making bodies within the central government. It will restructure ministries and simplify administrative procedures and business processes. The IARCSC will assist line ministries and decision-making bodies with reforms of sub-national administration and also monitor and evaluate the process. Government will work through line ministries and decision-making bodies to strengthen coordination and improve service delivery ministries. Government will create an effective, financially sustainable civil service and gradually phase out donor supplementation of salaries. The IARCSC will strengthen rules and procedures for a professionally managed civil service, including promotion of high ethical standards and establishment of disciplinary measures for corrupt or unethical practices. Government will adopt a merit-based recruitment system that promotes gender equity and ethnic diversity. It will establish a coherent, comprehensive skills development program for existing and new civil servants. The IARCSC and MoF will better manage international technical assistance to ensure faster, more sustainable skill transfer, including in the area of project management.”<sup>24</sup>

1.30 Unfortunately, while expectations are rising, the environment for implementing the I-ANDS, including proposals for reforming public administration and improving government performance, is deteriorating. A number of factors are at play:

- **Politics.** Like most post-conflict states, Afghanistan had to weigh up the relative merits of co-opting or sidelining warlords and factional leaders, some of whom have dubious pasts. Initially, a number of technocrats, often Afghans returning from overseas, were brought into key positions. However, many of these have now left, as more positions are allocated to balance ethnic and regional interests (with the notable exception of the Taliban).<sup>25</sup> This is perhaps to be expected, as different factions vie for power within a maturing democracy. Even so, many observers perceive that the overall political environment for reform has deteriorated, and this has to be factored into any assessment of the prospects for progress on PAR. Similarly, security concerns have increasingly encroached upon the objectives and modalities of bilateral aid programs. Again, this is understandable, as security operations have to be quickly backed-up with demonstrable progress on reconstruction and development. However, a quick-fire approach is unlikely to be sustainable, and is often inconsistent with longer-term goals of institution building and public administration reform.
- **Security.** The security situation deteriorated in 2006, with major challenges to the Government's authority from the May riots in Kabul and the growing insurgency in the South and East. By early 2007, the violence had spread, with suicide bombings in Kabul and in other parts of the country as well. Reports from Amnesty International suggest that at least 3,000 persons have been killed since 2002, including around 1,000 civilians in 2006 alone. More generally, law and order problems – related to criminality, drugs and warlordism -- are a major concern for the population. Coordination between Afghan forces, and with international troops, is challenging, while police and judicial reforms remain elusive. Some argue that the provision of law and order is the primary function of government, and until this is done in Afghanistan, other functions will suffer. Recent attacks on schools in the South are a case in point. Others argue that establishing law and order depends on a minimum level of government presence and credibility. But, either

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<sup>24</sup> Ibid, Volume 1, Chapter 7, 127.

<sup>25</sup> As noted by Suhrke 2007, 11-12: “Political criteria became increasingly evident in 2006 and 2007, as President Hamid Karzai sought to co-opt potential rivals, rebels or critics by appointing them as special advisers to his office and distributing gubernatorial and police chief positions in the provinces. He came to recognize militias run by local strongmen, a move supported by the U.S. military for counter-insurgency purposes as well.”

way, it will be very difficult to build effective public institutions in an insecure environment, without the normal checks and balances of a working judicial system.

- **Drugs.** One of the major causes of insecurity in Afghanistan is the opium economy. By 2007, production had risen to an unprecedented 8,200 tons of opium, accounting for more than one quarter of the national economy,<sup>26</sup> and further enhancing Afghanistan's role as the dominant supplier of illicit opiates to the world. Opium production is increasingly associated with insecurity, with around 70 percent of the poppy crop grown in 5 provinces along the border with Pakistan, and 50 percent from just one province: Helmand. According to a recent report by the UN Office on Drugs and Crime and the World Bank 2007, the opium economy is a massive source of corruption and undermines public institutions especially in (but not limited to) the security and justice sectors. There are also worrying signs of infiltration by the drug industry into higher levels of government and politics. Yet, there are no easy solutions. Counter-narcotics efforts – whether enforcement actions or development of alternative economic opportunities – inevitably cannot be as nimble or quick as the activities they are targeted against, and they inevitably take time to be effective. Although different strategies will be needed in different geographic areas, there is a strong argument that enforcement efforts against poppy farmers should follow rather than precede the development of alternative income sources.
- **Corruption.** According to available statistics, Afghanistan ranks near the bottom in terms of the seriousness of its corruption problem. Although the opium economy is undoubtedly the most important source of corruption in Afghanistan, the unprecedented large inflows of international assistance, and the pressures to spend money quickly, also carry associated vulnerabilities to corruption. Other, more normal sources and forms of corruption, related to the role of government in service delivery and regulation, are likely to increase as state activities and capacity are expanded. Similarly, there is a growing risk of political corruption, as the political system is developed. Widespread corruption raises the cost of business and deters and distorts private investment. It also undermines the effective functioning and credibility of the state. The Government of Afghanistan has recently produced a draft anti-corruption roadmap. While this is an important first step, a much more cohesive and effective approach will be needed to reduce the costs of corruption in the future.<sup>27</sup>

1.31 So it is in this difficult environment that the Government of Afghanistan, supported by its international partners, has to build an effective public administration. In the following three chapters, we will look at the immediate and medium-term reform priorities in three critical areas:

- **Building an effective civil service.** The Government of Afghanistan is about to embark on a major reform of the civil service pay and grade structure – to raise salaries and decompress pay scales between the top and bottom grades. This is seen as important for attracting and retaining qualified human resources. However, it will be a challenge to implement a merit-based system in the face of widespread patronage and corruption. Furthermore, to lead to improved civil service performance and service delivery, higher pay will have to be linked to other reforms in ministry roles, functions, structures and processes. Past experience with PRR suggests that political pressures for higher salaries may well overwhelm reform efforts – unless there is a strong commitment to implementing the reform program in a systematic and phased manner. Chapter II looks at how such a program might be implemented: the sequencing of reform actions, the roles of the IARCSC and line ministries, and ways to monitor progress.

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<sup>26</sup>UNODC and the World Bank 2007 estimate that drug income accounted for 26.7 percent of total (licit and illicit) GDP in 2005/06. This share has almost certainly risen since then.

<sup>27</sup> The World Bank is managing a separate work program on anti-corruption, of which the roadmap is one of the first outputs. This report refers to corruption only in so far as it's a symptom or cause of broader weaknesses in public administration.

- **Improving local governance and service delivery.** There has been increasing debate within the Government of Afghanistan and the donor community about the role of sub-national administration. While Afghanistan is a unitary state, the Constitution provides flexibility to delegate functions to provincial and district government units. It is at this level that most services are delivered to the people – and where the credibility of government will be won or lost. However, there are many actors at the sub-national level (including Governors, Provincial Development Committees, Provincial Councils, and Provincial Reconstruction Teams) that influence the way government works, albeit in different ways in different provinces and sectors. There are also powerful informal power structures at work, which often complement or replace government services. Chapter III will look at the major challenges facing sub-national administration in Afghanistan, their impact on governance and service delivery at the local level, and the implications for public administration reform.
- **Making government accountable to the people.** Some of the checks and balances on government power come from internal controls, including through better public financial management. However, most successful states recognize the importance of external controls on executive power: formally, through the judiciary and parliament, as well as informally through the role of civil society and the media. Understandably, most of the PAR focus to date in Afghanistan has been on civil service reform. But issues of public accountability are likely to become more important as Afghanistan develops into a mature democracy, and experience in other fragile states suggest it is better to look at these issues sooner rather than later. Therefore Chapter IV explores what can be done now to ensure that government is held accountable to the people, including through better information flows, and institutional development of parliament and the judiciary. How can trust in these institutions be restored? And how is this likely to impact on the public administration reform and anti-corruption programs?

## II. BUILDING AN EFFECTIVE CIVIL SERVICE

### A. Introduction

2.1 The previous chapter presented the background necessary for the rest of the report to explore three key components of Afghanistan's public administration reform: an effective civil service; local governance and service delivery; and Government's accountability to the people. The present chapter will examine in detail the first of those three areas—the civil service. Using the analytical framework referenced earlier and drawing lessons from recent reform experience, this chapter's intent is to develop proposals for building an effective civil service that functions at Compact-mandated standards<sup>28</sup>.

2.2 The civil service is being examined first because this piece of Afghanistan's public administration is comparatively more developed than the other two. However, its success in serving the public depends on the other two components: local governance and public accountability—which are discussed in the next two chapters. The Government's PAR framework explains that a capable civil service is not restricted to central government. Because the bulk of public functions are delivered at the sub-national level, the capability of civil servants working in provincial and district governments is important along with local participation for monitoring delivery of services. But even a civil service, strong at both the central and local levels, becomes self-serving unless stimulated by a 'demand' upon government for good administration and public services. Some of these checks and balances on government come from the National Assembly and from the judiciary, while the public and media have a role in monitoring government's performance and holding it accountable. Thus, institutions of public accountability are very important for building an effective civil service.<sup>29</sup>

2.3 Civil service reform is vital for building and sustaining an effective state in Afghanistan – one that has Afghans at the center of determining policy and guiding utilization of public resources. An effective civil service can reassure donors that their financial support is being credibly spent. More importantly, an effective civil service underpins government's credibility throughout the country. The civil service is the 'face' of Government seen by citizens, whose expectation now from their Government is that it will provide security and public services. Unless citizens perceive that civil servants are serving the larger public interest rather than their own, the Government's trustworthiness will be eroded leading to large scale dissatisfaction, and perceptions that outside actors are managing the state.

2.4 The civil service's wide extent, cutting across all sectors of Government, makes its progress both essential and hard to achieve. Improving the civil service means dealing with individual organizations as well as the whole apparatus of government. But even more challenging than the scale of reform is its nature. Since the 1990s, both developed and developing governments' roles have shifted—away from being sole provider of public services and towards policy setting and regulation—while allowing other agents to actually deliver the services. This shift in governments' priorities has meant reorienting many government organizations and their officials towards different goals, and to perform a different set of tasks. Such transformation is difficult anywhere: Afghanistan's circumstances enlarge the magnitude of the challenge. At the start of reconstruction, organizational structures were still based on functions of the

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<sup>28</sup> At a conference in London on January 31, 2006, the Government of Afghanistan presented the Interim Afghanistan National Development Strategy (I-ANDS) to its development partners. It set out the government's political and economic plans and priorities for the following five years up to the end of SY 1389. The framework for co-operation that resulted from consultation on the I-ANDS at the London conference is referred to as the Afghanistan Compact.

<sup>29</sup> This is part of the PAR framework approved on April 3, 2007 by the Government's PAR Steering Committee.

Afghan government established during the 1960s and before. Their sizes had grown considerably during the Soviet period, and defunct and bloated structures were overlaid with arbitrary changes imposed during the conflict years. Civil service reform also means introducing performance incentives along with accountability mechanisms for civil servants employed within these organizations. This latter is slow and painful because it involves changing officials' behaviors. In Afghanistan, the merit principle sits uncomfortably on a tradition of administration based on *wasita* (exchange of favors): in spite of discussions on this issue, the Bonn Agreement in 2001 did not come out with any definite statement about a merit-based civil service.<sup>30</sup> Progress in this area is also compounded by a serious lack of local competence and the continued uncoordinated and distortionary behavior of donors in attempting to fill that void through short-term arrangements. At the sub-national level, increasing competition with anti-government forces with significant resources or influence at their disposal also creates serious impediments to improving government performance and legitimacy.

**Box 2. 1: Compact Goals for an Effective Civil Service**

The London Compact contained specific goals of civil service reform to be achieved by SY 1389 (end 2010). The Compact stated:

With respect to scope of Government, Government machinery (including the number of ministries) will be restructured and rationalized to ensure a fiscally sustainable public administration; the civil service commission will be strengthened; and civil service functions will be reformed to reflect core functions and responsibilities.

With respect to civil servants' competence, requisite support will be provided to build the capacity of the civil service to function effectively

With respect to personnel management and incentives, a clear and transparent national appointments mechanism will be established within 6 months, applied within 12 months, and fully implemented within 24 months for all senior level appointments to the central government and the judiciary, as well as for provincial governors, chiefs of police, district administrators and provincial heads of security.

By end-2006, in furtherance of the work of the civil service commission, merit-based appointments, vetting procedures and performance-based reviews will be undertaken for civil service positions at all levels of government, including central government, the judiciary and police. Annual performance-based reviews will be undertaken for all senior staff (Grade 2 and above) starting by end-2007.

*Source: The Afghanistan Compact at*

<http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1134650705195>

2.5 The ingredients of an effective civil service are the same as those that make an effective state. These were outlined in Chapter I (paragraphs 1.18 to 1.22). The World Bank's experience and research has shown that effective governments have, first, deliberately selected what functions they will perform, and then, discharged those functions satisfactorily. The first step is to match the state's role to its capabilities. The next is to raise state capability by reinvigorating public institutions. Fukuyama 2004 has described state performance in terms of the same two dimensions, which he has named—only slightly differently from World Bank 1997—as scope of state activities, and strength of state power. The same logic of scope and strength also determine civil service effectiveness. A civil service can be a well-performing, effective tool of government when its extent (scope) is compatible with how well public organizations perform their tasks (strength). The civil service's strength is determined by whether or not

<sup>30</sup> Rubin 2007.

public officials have the competence to perform their tasks, and whether personnel management rules and practices induce behavior and performance consistent with the goals of a professional politically neutral civil service. Thus the civil service's effectiveness is described by the scope of government, and the competence and incentives of civil servants.

2.6 The rest of this chapter explores the Afghan civil service's current and future performance in terms of its scope and strength. The government's scope is evaluated in Section B in terms of its size and shape, how it is arranged to accommodate differences between service delivery models in different sectors, and the structure of individual organizations. The chapter then probes the civil service's strength in terms of civil servants' competence to do their work (Section C) and the incentives created by the laws and rules for personnel management (Section D). The last section (E) outlines conclusions from the analysis, and proposes directions for maintaining the reform agenda.

2.7 Clarifying terminology here can avoid confusion arising later in the chapter. The word 'capacity' is used very often in Afghanistan. This chapter uses the word 'competence' instead of the wider 'capacity' to mean the narrower idea of civil servants' skills to perform their tasks. The term TA is used in Afghanistan to mean both technical assistance as well technical assistants hired from donor funds. In this chapter, TA means only the support provided by donors, while the individual contractors providing the assistance have been referred as consultants. The Priority Reform and Restructuring program may have been unpopular, but it has made the term PRR so prevalent that it is used in Afghanistan both as a verb (describing the process that ministries undertook) as well as an adjective describing the ministry's status (whether PRR-ed or not).

## **B. The Civil Service's Scope**

### ***Whole of Government***

2.8 The Afghan government has displayed considerable discipline in establishment control and civil service growth that is rare in post-conflict countries. In Cambodia, for example, the civil service's size ballooned during reconstruction because the political coalition following the peace accord required expanding the civil service to absorb functionaries from parties joining the coalition. Close budget management has helped control the establishment in Afghanistan. During every budget's preparation, the staffing demand of each ministry and department is examined and approved, often with reductions, during the budget formulation process. The salary bill is released according to this approved *tashkeel*, and ad hoc, mid-year increases are not easy to extract from the Ministry of Finance. The persistence of security threats and the resulting steady growth of the security sector have acted as another check on civil service growth. The approved strength of police and para-military forces combined is currently 62,000; but the JCMB has recently agreed a higher figure of 82,000. Growing security sector expenditure constrains the rise of general civilian government's wage bill. In SY 1386, the security sector's salaries and allowances accounted for nearly half of the operating budget (48 percent) compared with the 27 percent for education and health sectors combined<sup>31</sup>.

2.9 The Government has controlled its scope and the civil service's size by reducing the number of ministries—from 30 at the start of reconstruction in 2002 to the current number of 25. Though this reduction may have been driven by political considerations rather than rationalization of government's structure, it was a notable achievement. The Afghan delegation at the 2001 Bonn negotiations had refused to eliminate any of the existing 29 ministries, and instead added one more, a ministry for

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<sup>31</sup> Ministry of Finance's budget estimates for 1386.

Women's Affairs<sup>32</sup>. In addition to the 25 ministries, there are 11 independent departments, 2 Constitutional agencies and 8 other independent organizations that do not report to any ministry. The current structure of Government offers further scope for rationalization. For example, there have been proposals within Government to merge the Ministry of Returnees and Refugees and the Ministry of Women's Affairs into the Ministry of Labor and Social Affairs; and to merge both the Ministry of Religious Affairs and *Haj*, and the Olympic Committee Department into the Ministry of Information and Culture. Another proposal was to fold the Ministry of Counter Narcotics and the National Security Department into the Ministry of Interior<sup>33</sup>.

#### Box 2. 2: The Civil Service's Size

Looking at the civil service as a whole, its size appears small by international standards. The proportion of the population employed in government (1.9 percent) is lower than the average of other countries in the South Asian region.

The estimated figure of 348,000 for a general civilian government includes 138,000 teachers, 10,000 employees of municipal administrations and approximately 63,000 police but does not include employees of public enterprises, the military and other uniformed personnel.

Teachers comprise half of the non-uniformed civil service; and nearly half of the non-teacher civil servants are contract employees (*agirs*). However, these distinctions make little difference to civil service management or the salary bill because *agirs* have the same status, rights and benefits as civil servants.

Equally, the 25,000 employees of state owned enterprise (SoEs) also have civil servants' status, thus extending the size of the civil service. Although a majority (56 out of 65) of the SoEs has been earmarked for divestiture, their auctions—especially of their fixed assets—have been unsuccessful. The enterprises that were selected to be restructured and retained in government employ nearly 11,000 employees, with DABM (6,660) and Millie Bus (2,146) being the two largest employers.

*Source:* Ministry of Finance, Verified Payroll Project.

2.10 This civil service's shape is a very broad-based pyramid, populated at the base by employees in low-skill positions, at the tip by managers in the higher grades, and with the technical qualified staff distributed in between. The pyramid's broad base and narrow-tip are explained by the pressure on government to generate employment and severe scarcity of professionals in the civil service and society at large. The narrow tip of the civil service pyramid may be even leaner than it appears. Following earlier civil service management rules and practices, many officials have been promoted in post, to higher grades, based on their academic qualifications and years spent in each grade. So, there are officials with low skills occupying positions in higher grades. The recently approved, new grade-pay structure attempts to restore some order to the previous inept civil service structure through classifying government positions into 8 grades based on those positions' job descriptions and responsibilities. The proposed, new distribution is not expected to radically alter the civil service's shape. It will still generate a very broad-based pyramid, with about three-fourth of positions at the bottom, not unlike other civil service pyramids in the South Asian region. But even this structure may turn out to be hard for the civil service to achieve as it is extremely difficult to find skilled persons to fill technical and managerial positions in the civil

<sup>32</sup> Rubin 2007.

<sup>33</sup> Until recently, the Ministry of Interior was in charge of provincial and district administration, with an unspecified coordination role for Governors. A Presidential Decree on August 30, 2007 established the Independent Directorate of Local Governance (IDLG) as an independent directorate under the Office of the President. The IDLG is essentially a merger of the structures of civil administration under Ministry of Interior (excluding registration of births and deaths – *tashkera*) and provincial relations (provincial councils) under the Office of Administrative Affairs (OAA).

service. In addition, unless donors and government can collectively address the accountability and incentive problems created by the “second civil service”<sup>34</sup> then government will continue to be thwarted in its ability to build in-house competence at these important levels.

2.11 How the Government chooses to deliver services should affect its scope and shape now and in the future, as well as the level of competence that is needed. Apart from the general needs of fiscal sustainability and transparency, Afghanistan’s approach to service delivery would expect to be strongly determined by central government’s limited reach and capacity, and even more limited resources and capacity at sub-national levels. These constraints would typically suggest that central government focus primarily on planning, support, and oversight of service delivery, while delegating the actual delivery function outside of central government. Since Afghanistan has extremely limited capacity at the provincial level to which central government can delegate, it is especially pertinent to utilize alternate models such as NGOs and public-private partnerships to deliver specific kinds of services, and make use of community engagement to help monitor and guide performance.

2.12 The difference between service delivery models in Afghanistan’s education and health sectors is reflected in the scope of government in these areas, although not necessarily in the underlying organization and structure of relevant ministries. Unlike many other post-conflict countries, Afghanistan very quickly returned to the pre-conflict centralized organization of education after 2001. The sector’s model so far has been to bring schools, including the ones run by NGOs<sup>35</sup>, into the ministry’s fold, through the provision of standardized textbooks and curriculum, and by putting all teachers on the government’s payroll. Some administrative and financial controls and teacher recruitment are being examined for delegation from the national level to deconcentrated units of the ministry at provincial, district and school levels. NGOs participation is restricted to where they have a comparative advantage relative to government, such as in-service training for some teachers, early childhood education, and community-based schooling for girls in remote areas<sup>36</sup>. Consistent with the Education Ministry’s retention of most of the service delivery functions, it is the government’s biggest employer with 143,000 teachers and 38,000 staff in administrative and other categories. Until recently, it has lagged behind other key ministries in terms of administrative reforms; resulting in poor planning, budgetary, monitoring and technical (including teaching) capacity. Despite the high level of donor engagement, financial sustainability will be challenging without greater prioritization or community contributions. There have been no formal evaluations undertaken to assess different service delivery models, and there is virtually no data on education outcomes. The Ministry has recently prepared a five-year education strategy and is beginning implementation of organizational and human resource management policies designed to improve performance. Along with these, the ministry could usefully examine the scope for increased partnerships with NGOs/communities in various parts of the education process.

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<sup>34</sup> The second civil service is described in Chapter I (paragraph 1.8) as an army of “externally-funded consultants and advisers, many of them only loosely supervised if at all by the government.”

<sup>35</sup> Currently estimated at between 15, 000 to 25,000 schools, many of which survived the conflict years.

<sup>36</sup> In 4 out of the 14 provinces where the World Bank’s Emergency Education Program and the on going Education Quality Improvement Program are being implemented, NGOs have been contracted by the ministry as facilitating agencies.

**Box 2. 3: Using communities instead of government mechanisms to deliver education**

Guatemala's PRONADE, which started in 1992, and now extends to 4,100 communities and 445,000 children in remote rural indigenous areas, is an example of government's contracting out the actual delivery of primary education.

The Ministry of Education is responsible for strategic planning, financial management, and monitoring and evaluation of primary education. It contracts communities to deliver the service. Each community participating in this program is represented by a parent-run school committee, COEDUCA. Eligible contractors are communities located at least 3 kilometers from the nearest public school, having at least 25 primary school-aged children, and which have located a site and demonstrated ability and interest in managing the new school. Government funding covers teacher salaries, learning materials and school snacks. Teachers and parents are trained on how to manage their community schools by NGOs, contracted by the ministry.

In 2003, PRONADE schools accounted for 15.2 percent of the primary enrollment nation-wide. Fewer PRONADE schools had access to water, latrines and electricity than government schools. However, on average, PRONADE students spent more time in classroom instruction than traditional rural schools. PRONADE students were in school for 180 days during the year compared with much fewer school days of traditional schools' years. Parental participation in school activities and contact with teachers and principals was higher in PRONADE schools than in the control schools.

Source: Rojas 2005

2.13 In contrast, the Ministry of Public Health has delegated, through grants and contracts, the delivery of its Basic Package of Health Services (BPHS) to NGOs in roughly 80 percent of the rural areas of Afghanistan<sup>37</sup>. As reported in Chapter (see paragraph 1.12), independent assessment of the quality of health care shows a significant percent improvement in NGO-provided services. The ministry is also experimenting with contracting *in* management (called the ministry's Strengthening Mechanism) to run publicly-financed services. In 3.5 provinces, senior managers of the ministry were recruited at market rates, salaries were increased through the Government's PRR process, and performance bonuses were paid according to the results of independent assessments. Both quality of care and coverage have also increased considerably in these provinces where the Strengthening Mechanism is being implemented.<sup>38</sup> All in all, and in relation to other post-conflict countries at similar periods, Afghanistan's health sector is regarded as relatively functional; characterized by a strong policy framework, clear guidelines for service providers, a formal evaluation plan, and reasonable access. The Ministry itself is regarded as the star performer of PRR which it utilized liberally to attract well qualified candidates to the civil service, including at provincial levels. It has also benefited from a high level of well managed national and international technical assistance which have been influential in determining policy directions and guiding donors. It is not clear, however, that these radical changes have had a significant impact on the ministry's wider structure and organization. The Strengthening Mechanism model has in part been a result of continuing belief within parts of the ministry, especially at provincial levels, that the future of Afghanistan's health system is public sector service delivery. There is still some ambiguity about the role of provincial health offices in the context of the delivery of services, and gaps in capacity at this level to monitor NGO performance or oversee vertical disease control programs. Financial sustainability of both hospital-based services and the BPHS without some consideration being given to user charges, and ministry reorganization/staffing will be a challenge.

<sup>37</sup> As part of its support to Afghanistan's health sector, the World Bank finances Performance-based Partnership Agreements (PPAs) between the ministry and the NGOs.

<sup>38</sup> These and other findings are contained in Islamic Republic of Afghanistan, Ministry of Public Health 2006.

#### **Box 2. 4: Alternate Delivery of Health Services in Rwanda**

While re-building its health services, Rwanda at first re-adopted the district health system model in which provincial and district health management teams in the public sector were given complete responsibility for running health services. In 2001, the annual public budget for health was \$3 per capita of which it is estimated only \$1 made it to the frontline facilities which generated 60-80% of their revenues from user-fees.

A series of contracting efforts were started in different parts of the country. Resources were given to health centers, not as a fixed amount but one based on performance. An international NGO, working as intermediary, worked with funds from a bilateral agency in two health districts of Butare province with a combined population of 388,000 served by 19 rural health centers. These health centers had previously received a fixed budget and per diems used to be paid to health workers regardless of their productivity.

Management committees in each health center signed contracts with the NGO that provided the health centers specified amounts based on the provision of five key services. The services and the amount provided for each one were: (i) institutional delivery - almost US\$5; (ii) antenatal care (as measured by tetanus toxoid at least 2 doses) - \$0.50; (iii) family planning new acceptor - \$2; (iv) immunization (completion of measles and DTP3) - \$1; and (v) curative care consultations - \$0.10 for each new one. The management committees had considerable autonomy in how they used the funds they received.

The performance initiative cost an additional \$0.24 per capita per year of which 62% went to the health centers, 27% went in incentives to the district and provincial staff, and 11% to cover the transaction costs of the new scheme. There were large improvements achieved in the intervention areas of Butare province in almost all the services designated in the contracts. The median double difference was 12.9 percentage points.

*Source: Loevinsohn 2008.*

2.14 Functional overlap of some organizations complicates understanding the true scope of government. Because of ambiguous and contradictory provisions in the legal framework, both the Ministry of Urban Development and Kabul Municipality claim responsibility for planning, zoning, and building regulations within the city. This not only leads to conflicting planning and development in parts of the city, but also stalemates in project implementation—both government and donor supported. Resolution occurs on a case by case basis, often only with the intervention of the Mayor and Minister of Urban Development. Water being an important subject in Afghanistan, 3 ministries (Energy and Water, Mines, and Agriculture) and one department attempt to control equipment and funds for hydrological studies. The current arrangement is that when the water in question is potable, the Ministry of Energy and Water controls the hydrological studies to determine aquifers and water deposits. When the water is meant for irrigation, the Ministry of Agriculture conducts the studies. The Ministry of Mines, on the other hand, conducts hydrological studies when it needs soil data to identify mineral deposits and the water data to avoid flooding of mine tunnels and pits. The Department of Environmental Protection also conducts hydrologic studies to determine location of dumpsites and sanitary landfills, avoiding seepage into a water vein/deposit being used by people for drinking purposes. A quick review of organizational mandates within each sector can help identify overlaps and lacunae.

2.15 While some government functions are being performed by more organizations than is necessary or economic, other critical areas of government need greater coordination between organizations to cover gaps. Even though policy making is the most important function of the center of government, there exists no institutional arrangement to coordinate policy development across ministries prior to their submission to Cabinet for consideration. The concept of a Cabinet Liaison Officer for each ministry, as a focal point for the ministry's submissions to the cabinet, and for implementation of relevant Presidential decrees emanating from Cabinet meetings has been introduced only very recently. Greater coordination between the Ministry of Interior (police) and the Attorney General's office (prosecutors) will help improve rule of law. Recent laws have generated confusions and tensions by changing the responsibility for criminal

investigations. Historically, the police in Afghanistan had been responsible for both discovery and investigation of crimes, but that responsibility has now been assigned to the Attorney General's office. Now the police do not have the authority to investigate crime. Instead, they send the file to the Prosecutor, who does not have the capacity to investigate<sup>39</sup>. The result is that investigation suffers.

### ***Scope of Individual Organizations***

2.16 The structure of individual organizations is especially important to Afghanistan's scope of government because structures had become very informal during the conflict years. There was little clarity about the functions of ministries and agencies, and even less about their constituent units. The Priority Reform and Restructuring program, introduced in July 2003, was the principle vehicle for introducing some restructuring and rationalization of individual government organizations. As already described in Chapter I, the PRR, was an unconventional initiative for a weak environment like Afghanistan's, but it was the only way possible at that time. The asymmetrical approach allowed higher pay to staff of selected departments of ministries performing high priority functions in exchange for restructuring those departments. The initiative was more in line with practice in developed countries, where the sense of discipline is ingrained. But in 2002, this was attempted in Afghanistan because there was not much alternative: neither any assigned organization in government to undertake more comprehensive organizational restructuring, nor any organization that had the capacity to undertake the restructuring of its entire structure<sup>40</sup>.

2.17 The PRR program enabled ministries that underwent some restructuring in key departments start to look more like modern ministries, and provided an incentive to begin recruiting staff on a merit basis. It also provided temporary relief from the very compressed wage structure for ministries and departments undertaking important functions. Indeed, the proposed regrading of the civil service and assignment of new pay scales could not have been considered if the PRR program had not installed, in the first place, some rational organization of ministry structures and production of job descriptions. The program encouraged efforts to reform and restructure in at least 32 of the 44 ministries and agencies, plus several Governor's offices, and approved 44,000<sup>41</sup> positions for higher allowances. Some departments and ministries inevitably used this process more rigorously than others.

2.18 The program's success in achieving some degree of restructuring in return for higher salaries was diminished when the program was expanded in 2004 to encourage "whole of ministry" approach rather department by department applications. Because it created inequities within ministries—between departments restructured and not—its replacement by a broad, across-the-board reform had been politically inevitable. The program was concentrated at the national level. Of all positions that have been PRR-ed, 44 percent are located in Kabul<sup>42</sup>. Even at national level, ministries' weak HR departments were unable to keep pace with recruitment plans; and departmental units located at sub national levels were often excluded during the program's early days. Real reform of line ministries' provincial departments was hampered by the lack of IARCSC's presence in the provinces and competence gaps at provincial levels to implement reforms. Later, however, provincial components were added to approved PRR applications of the Ministries of Public Works, Public Health, Rural Development and the *mustoufiat* offices of the Ministry of Finance.

2.19 The restructuring process initiated by PRR is far from complete. After completing an initial phase of restructuring, a number of ministries are now looking at forming units / task forces that are dedicated to

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<sup>39</sup> Wilder 2007.

<sup>40</sup> Hakimi et al 2004.

<sup>41</sup> As of 31 July, 2007.

<sup>42</sup> The Services Group 2007.

making further refinements of their organizational structures and overseeing implementation of the reform process, including improved human resource management practices. These units replace the old PRR task forces whose ad hoc nature and temporary membership by senior civil servants with other responsibilities were not able to sufficiently monitor or guide implementation of PRR reforms within ministries. The new task forces, popularly called Reform Implementation Management Units (RIMUs), will have their staffing supplemented by both national and international consultants for 18-30 months to diagnose and recommend changes. In addition, reform plans are expected to give greater attention to responsibilities at central and sub-national levels as well as to opportunities for improving service delivery or operational performance through business process improvements.

### ***IARCSC's Own Functions and Structure***

2.20 In spite of being the organization mandated to lead civil service reform and organizational restructuring, the IARCSC itself has conflicting roles and functions. The Commission is overloaded with having to perform all aspects of Afghanistan's civil service management, creating a serious capacity crisis. Other Public Service Commissions with much longer operating histories than IARCSC (4 years) and functioning in stronger institutional environments than today's Afghanistan, perform fewer functions.

#### **Box 2. 5: Creation of the IARCSC**

Even the unusually structured IARCSC almost didn't happen. The Bonn Agreement's original draft proposed a powerful Public Service Commission to process merit-based recruitment at the national, provincial and district level. But all representatives opposed any attempt to curtail their authority to appoint whomever they wanted to government posts. In the end, the Agreement stated that the Commission would "provide the Interim Authority and the future Transitional Authority with shortlists of candidates for key posts in the administrative departments (ministries), as well as those of governors and *uluswals* (district administrators), in order to ensure their competence and integrity." The Agreement did not impose on the government any obligation actually to appoint officials from among the candidates on these short lists. In practice, the Commission never compiled or submitted such lists. Instead it defined its purpose as "reform" of the system. While the core role was reduced, the IARCSC started performing other civil service functions generally performed by line ministries.

*Source: Rubin 2007*

2.21 Two distinctly separate personnel functions are merged within IARCSC: a ministry in charge of personnel and a traditional Public Service Commission providing the necessary check and balance between government and employees. Functioning as Afghanistan's Personnel Ministry, the Commission is perceived as a "doer" organization more than a "facilitator" or "oversight" organization. It was entrusted with actual reorganization tasks of line ministries in the PRR process instead of being a facilitator of an exercise led by line ministries themselves. Unsurprisingly, this resulted in overstressing the Commission's capacity and limited success where the line ministry was not actively involved or sufficiently motivated. On the other hand, if the Commission functioned as a real Personnel Ministry, it would logically play a major role in establishment control—not only its own but of the whole government. But current practice is that the Ministry of Finance agrees each line ministry's *tashkeel* only with inputs from the *Tashkeelat* Directorate in the Office of Administrative Affairs but leaving the Commission out. While expected to perform both executive and check-and-balance functions, the Commission enjoys neither executive authority nor independence from the executive. Trying to perform executive functions without being backed by Cabinet-level authority slows it down. Meanwhile, although the Basic Civil Service law states that the Commission is independent in its performance and directly responsible to the President's Office, in practice its status is unclear. Rather, the Commission reports to a Cabinet Sub-committee, with supervision coming from a PAR Steering Committee, the latter including a Deputy Minister and an Advisor to the President. Thus the IARCSC is supposed to be unbiased in all its

actions, while being vulnerable to pressure from within the Government. Finally, there are conflicts of interest even within IARCSC's own structure. While one part of the Commission (Appointments Board) handles recruitment, another part (the Appeals Board) can stay those proceedings. Similarly, the Appeals Board can also rule against any directive from the Commission's Civil Service Management Department. These could pit different parts of the Commission against each other.

2.22 The IARCSC is responsible for monitoring civil service reform's progress. This is not easy for the Commission to accomplish because a majority of the reform activities are being undertaken outside of itself and by the line ministries. The ministries themselves, lacking awareness about the usefulness of monitoring, have no incentives to monitor. Yet, it is in the Commission's own interest to do this systematically and generate useful and timely information, to identify areas of progress and stagnation, and organizations that are lagging in the reform effort. This can help IARCSC position itself as an able steward of the reform effort. Without it, the Commission will find itself explaining and defending all achievement shortfalls at the end of the Compact period. Currently, the Commission is refining a set of monitorable indicators for the civil service reform effort, in line with the Compact Benchmarks. The Human Resource Policy Department (HRPD) of the IARCSC is responsible for monitoring the compliance of personnel management policies and practices across government. At this point in time, little monitoring takes place, although the HRPD sends out monitoring teams to determine the extent to which new regulations are being complied with in ministries. The Appointment Board attempts to monitor performance assessments and appointments at senior levels. The extent to which it can monitor general appointments depends upon the ability of their staff to regularly observe ministry level recruitments.

### **C. The Civil Service's Competence**

2.23 Reforming the structure of government and its various ministries and agencies provides the necessary framework within which the civil service can function, but the best of structures would not result in good service delivery without competent civil servants working in these organizations. This required level of competence among civil servants was quite non-existent in 2001. Afghanistan had suffered a serious exodus of trained and experienced persons, and the education system had not replaced those who left or were victims of violence. Skills and practices of those civil servants who had stayed behind had not been systematically upgraded to match evolving demands of a modern society: rather policies and practices of the latest pre-reform regime placed obstacles in the way of modernization. This left the government at the start of reconstruction in a very weak position to establish control over its own finances and build public confidence in its ability to serve its redevelopment needs through its own efforts. As in many other post-conflict reconstructions, international technical assistance flowed into the vacuum at a rate that government was largely unable to plan for, or effectively control and coordinate. In addition, donors have attempted to compensate for the lack of capacity in government to manage programs and projects, through an array of salary top-ups to civil servants, replacing normal government implementation arrangements with the use of private contractors and NGOs, and competing away whatever competent staff are available to government in order to manage their own projects/programs. This has effectively created a "second civil service" with perverse incentives for reforms within ministries and unclear accountabilities for those staff receiving salary supplements. The government has since been trying to balance initiatives on a number of fronts: managing technical assistance; recruiting more competent staff under PRR and other schemes; conducting in-house training to strengthen current employees; and plan for longer term improvements competence through schooling, training institutes and higher education.

## ***Managing Technical Assistance (TA) to Augment Civil Service Competence***

2.24 Five years into reconstruction, the challenge now before government is how to manage TA so that there is sufficient to fill competence gaps, while replacing it with less costly and more manageable in-country-grown and national capacity on the other. OECD's Development Assistance Committee has estimated that donor spending on technical cooperation in Afghanistan reached almost \$460 million in 2004<sup>43</sup> representing more than 20 percent of total donor assistance to the country. Speaking in Washington during the World Bank Annual Meetings in September 2006, the Minister of Finance observed that since 2002 an estimated \$1.6 billion had been spent on technical assistance and capacity building projects, with little result. This estimate did not take into account the technical assistance provided through development projects and capital expenditure (investment TA) nor TA provided by many NGOs operating in Afghanistan. Therefore, annual donor spending in Afghanistan on technical assistance could well be in the range of a half a billion US dollars. This roughly amounts to the government's tax receipts, or about one half of government's on-budget expenditure. Building in-country competence and experience, is likely to be less costly, but it will require time and has its own risks that are discussed in the next sub-section.

### **Box 2. 6: Types of TA and their perceived strengths and weaknesses**

- TA that is embodied in a capital investment operation, such as site engineering. This practice is generally perceived positively because it buys international best practice for a specific task for a limited duration with no expectations beyond the completion and functioning of the capital involved.
- TA that constitutes all or a significant part of the management of an investment operation, such as in a Project Implementation Unit. Offering advantages in terms of focus on results and experience in project management, it generally creates institutional arrangements that run in parallel with regular government operations, distort incentives, and reduces the sustainability of the project in its post-investment operations stage.
- Operational TA delivered by contractors that directly substitutes for civil service in line positions. While justified in emergency situations, it is very costly, distorts the labor market, and discourages capacity building by creating dependency. It is also difficult to effectively determine when the emergency has been sufficiently calmed to begin to reduce this dependency.
- Advisory TA, also delivered by contractors, that advises managers and policy makers but is not involved in implementation. The distinction between the provision of advice on performing a function and actually performing the function itself can be quickly blurred.
- TA that functions as coaches, trainers, and third party analysts, without involvement in operations or capital investment. This is the least intrusive form of TA, but its success is difficult to standardize and measure.

*Source:* Michailof 2007b.

2.25 Dissatisfaction with the result of TA has been wide and vocal. Among all types of technical assistance (see Box 2.6), the government is facing the greatest challenge in managing operational technical assistance. The earlier expectation had been that donor-funded consultants would function as advisors while civil servants in line positions would manage the operations. For this reason, the Afghan Expatriates Program (AEP) and Lateral Entry Program (LEP), funded from the multi-donor Afghanistan Reconstruction Trust Fund (ARTF), were expected to recruit knowledgeable Afghans that would return as advisors, and use their experience outside Afghanistan to introduce modern methods and practices in ministries and agencies. Progressively, however, the real demand for their competence, and that of most TA-funded consultants, was to act as operational line officers. The persisting need to fill gaps in

<sup>43</sup> Annual figures are \$19 million for 2001, \$226 million for 2002, \$407 million for 2003 and \$459 million for 2004.

management of key ministerial and agency functions has now been explicitly recognized in the new Management Capacity Program, which follows on the former AEP and LEP. Making explicit the demand has allowed suitable attention to accountability, transparency and management arrangements for the consultants that are being engaged, although an exit strategy for these programs has yet to be fully conceived. Apart from this advisory versus in-line dilemma, many had believed that the gap-filling need for civil servants' competence would last 2-3 years,<sup>44</sup> and that short-term, imported consultants would simultaneously train and coach their replacements while performing in-line operations. These assumptions had been overly optimistic, considering the unprecedented length and depth of the conflict from which Afghanistan was emerging and its relatively low level of development pre-conflict.

2.26 On the other hand, gap-filling has been highly successful where the objective of the TA had been clear and focused. Through a series of grants<sup>45</sup>, the Ministry of Finance has received direct operational assistance in managing treasury, budget, procurement and internal/external audit operations. This has allowed the government to absorb and account for an expanding operational and development budget, meeting acceptable international standards<sup>46</sup>. In this case it was quite clear at the outset that the technical assistance was intended to maintain a set of public financial management functions at an international standard for transparency and accountability. Training and personnel development were secondary objectives and achieved little success via this assistance: what did result was an assessment of training needs for civil servants who would later work in these public financial management areas. Similarly, TA intended to assist the Government in reforming the structure and organization of ministries and agencies was clearly mandated and achieved a successful outcome. For example, the PRR program executed through the IARCSC was almost entirely executed by international contracted experts because at the program's start IARCSC was new and not equipped to undertake the mandate. It succeeded in establishing a credible base for further self-directed agency reforms and the proposed civil service pay reform.

### ***Acquiring Civil Servants' Competence through Staff Training and Development***

2.27 One of the earliest initiatives of the IARCSC was to propose policies for civil servants' training and a strategy to be implemented by its Training and Development Department. This strategy proposed a menu of targeted skills-building activities, to be undertaken after in-ministry needs assessments, and to be provided in traditional classroom settings located within training centers in ministries and agencies<sup>47</sup>. A Civil Service Institute, built with donor assistance from the Republic of Korea has begun to operate. The result of this effort to remediate basic knowledge gaps has been relatively modest compared to the huge need for transfer of skills. The UNDP-supported Civil Service Leadership Development program, for example, is expected to reach only about 10 percent of officials in top and senior grades of the civil service<sup>48</sup>. Training in basic English and computer skills are reaching a fairly modest number of individuals compared to the size of the civil service: current results represent about 15 percent of staff in grades 5 and above, assuming that only staff in these grades will use English and computers. The cost of

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<sup>44</sup> The Emergency Public Administration Project (EPAP) (H-155) financed by IDA and DFID provided direct operational support for treasury, procurement, and audit functions of the Ministry of Finance. Its objectives were "to put in place key public administration capacity to facilitate better use of public resources, including donor funds." Unfortunately, the project also explicitly stated that this could probably be eliminated in about 3 years, based on other post-conflict recovery experience.

<sup>45</sup> World Bank Emergency Public Administration Project, World Bank Second Emergency Public Administration Project, and World Bank Public Administration Capacity Building Project supported by DFID, USAID, UNDP and ADB.

<sup>46</sup> Afghanistan's public financial management functioning was rated as average and acceptable by the 16 PEFA criteria used to rate public financial management performance.

<sup>47</sup> IARCSC 2005.

<sup>48</sup> As of June, 2006, there were about 5,800 staff in the most senior level positions, graded above 3 in the current scale, while UNDP's program aims to cover 500 officials.

scaling up such retail training to establish a critical mass is high, but perhaps unavoidable given the very limited pool of private training schools to which this could be outsourced.

2.28 The United Nations Development Program (UNDP) has introduced a new Coaches and Advisors Program (CAP) as an alternative to in-class training for civil servants. The CAP assigns a coach/mentor to an official to advise on the daily work, operating methods and resolution of issues, and generally act as a source of at-hand information that the Afghan official may lack. UNDP's international experience with this approach suggests its suitability in situations like Afghanistan where the government official is new to the job and inexperienced in the management process or becoming confronted with a range of new situations (as opposed to a single task function), and where there may be uncertainty in how to proceed. Similar programs in Kosovo and Timor-Leste have been short lived, but were generally successful in transferring experience and know-how. Through making the coach / mentor available for only 6 to 12 months, CAP avoids the risk of the coach acting as line manager as was the case under the AEP. Coaches are provided on demand, currently being sourced from among civil servants in India. Twelve are already in place and five more being processed<sup>49</sup>. Risks, however, remain because language limits communication, and differences between the culture, background and worldview of the mentor and Afghan official reduces the sharing of concepts.

2.29 In reaction to the general discontent with using TA and growing awareness that TA is not well managed, government and donors proposed to examine the prospects of a more coordinated and planned approach to capacity building. A concept note was presented at the Afghanistan Development Forum, April 2007, to provoke thinking on a possible Capacity Development Plan for Common Functions (hereafter Plan) for the Civil Service. The concept of capacity advanced was fairly broad, and included training, knowledge sharing, coaching, mentoring, experience building, while recognizing the importance of a sound enabling environment (uncluttered organization, clear job descriptions, adequate incentives) to allow knowledge and skill to be used effectively. The Plan identified 5 sets of common functions for which capacity should be built: policy and strategy development, project management, financial management, procurement and human resource management, along with a lead agency or ministry whose legal mandate establishes its primacy in the field. A proposal to establish an Inter-ministerial Capacity Development Committee to monitor and compile information on various capacity building interventions has been made and would be helpful as knowledge sharing. While the concept paper, Plan and an Inter-ministerial Committee could be helpful in raising awareness and the focus on capacity, and serving as an information clearinghouse, there are inherent risks in formalizing this unit. Without a clear definition of the objectives of a capacity building policy and standards by which to monitor achievement, the Committee would readily establish bureaucratic procedures and become overly constraining and regimenting of capacity building activities when these require creativity, flexibility and responsiveness.

### ***Acquiring Competent Civil Servants from Afghan Society at Large***

2.30 The civil service in most countries hires personnel from among graduates of universities, training schools and the general education system, directly, to fill government functions. The government's role thereafter has been to perfect job skills required for the efficient functioning of the service through specialist in-house training. The common belief has been that the Afghan education system has not been able to produce the graduates needed to fill the demand.

2.31 The Ministry of Education, with international assistance is attempting to reform the quality and educational achievement of the basic education system. Additional projects are being launched to raise standards of the University of Kabul, and establish a new National Institute of Management targeting the development of senior levels of the civil service. The Civil Service Institute is expected to continue

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<sup>49</sup> Notes and updates from UNDP staff by e-mail.

playing a role in both pre-service training, such as awarding a pre-service certificate for readiness for civil service employment, and post-employment professional straining. Unfortunately, generating candidates from the education system and hiring them into the civil service, while vital for the long term stability of government functions, is at best only a long term solution. This means that current practices for recruiting competence (TA and MCP) and in-house training are likely to remain.

2.32 For the school and university system to be effective and efficient in providing a source of future civil servants, important issues will have to be resolved. For example, the respective roles of the university system's general courses in public administration, the role of specialized institutes, and the role of the CSI will need to be clarified to minimize duplication, particularly in Afghanistan's resource scarce environment. Some general agreement between university, institute and CSI authorities and government on benchmark standards for entering the civil service at different levels would be required to assist in curriculum development and setting graduation standards. To date, little has been done in this regard. It would be incorrect to say that there are no graduates at any level, available in the market. Over the past two years, the LEP was able to hire more than 300 individuals with adequate qualifications for relatively responsible positions. IARCSC has also been managing a graduate entry scheme. Donor-funded projects have been able to recruit national graduates at almost all levels to implement their activities. Most embassies and legations have had little problem in recruiting national staff. Clearly, the Government cannot pay the salaries offered by these agencies. But the Government can certainly manage its own recruitment better by improved management and wide publicity of the job openings in Government.

#### **D. Civil Servants' Incentives**

2.33 The previous section explored competence as an element of the civil service's strength. But even competent civil servants, employed in well-structured organizations do not comprise an effective civil service unless their institutional environment motivates their high level of performance and accountability. Therefore, this present section examines whether the laws and rules to manage Afghan civil servants can induce behavior and performance consistent with the goals of a civil service that is professional, politically neutral, and unified across government.

2.34 A legally defined civil servants' cadre with predictable terms and conditions, protection from political micro-management and standardized application of recruitment can motivate both employees and employers to perform according to agreed standards and for agreed purposes. Collectively these take the form of an ingrained discipline that becomes entrenched in the organizational culture of public sector agencies, and a political culture where actual behavior is close to the written rules.

2.35 Informality in government administration during the conflict years distorted whatever civil servants' incentive structure might have existed prior to the conflict<sup>50</sup>. There were no job descriptions for civil servants and little clarity about the functions of different units and agencies. As a result, at the start of reconstruction in Afghanistan, there was very little discipline or capacity within the civil service, and no high-level consensus that it should be politically neutral. The Government's response was to stimulate modest, targeted incremental reform of key functions within organizations, through PRR. As patience with the asymmetric approach waned, and Compact benchmarks have laid down specific standards of civil service management to be achieved by 2010, Government has turned its attention to accelerating the adoption of a more comprehensive reform of civil service management.

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<sup>50</sup> Rubin 2007.

## ***Civil Servants' Legal and Regulatory Framework***

2.36 The detailed architecture of civil servants' management is usually laid down by a Civil Service Law along with secondary legislation providing regulations on how to implement the law. The purpose of the law and regulations is to prevent arbitrary actions by the executive and to define the civil service and the qualifications, duties and rights of the civil service as well as their working conditions.

2.37 Legislation for Afghan civil servants' management that existed prior to reconstruction did not contain incentives for its consistent application across government<sup>51</sup>. There was considerable confusion over which laws were actually applicable, creating poor incentives for organizations to follow any law at all<sup>52</sup>. No institution was given clear responsibility for managing the civil service, with human resource management functions, including recruitment, promotion and staff placement spread across different organizations. This created an incentive for ministries to apply rules and regulations in an ad hoc manner. The legislation did not encourage Government to focus on its core tasks and employment within government was regarded as a homogenous whole. As such, there was little effective distinction between staff having different skills, and no incentives for qualified persons to take up government employment. The elaborate system of allowances set out in the legislation, and the nature of the grading system (as described below) meant that all staff were remunerated at effectively the same low level, reducing incentives for individual performance and career advancement.

2.38 In February 2005, the President and Cabinet approved a Basic Civil Service Law via a legislative decree (*furmann taknini*). It established the principle of open competition and merit for all civil service appointments; set up the Independent Administrative Reform and Civil Service Commission to be responsible for civil service management; and specified civil servants rights and obligations in a way that provided a clear distinction and separation of the rights from the duties of the civil servants. While these somewhat assured civil servants by detailing their expectations and clarifying their responsibilities, the law lacked some critical accountability-strengthening provisions such as conflict of interest, civil servants' participation in political affairs, and their regular performance appraisal. These provisions had been dropped from the final version of the law that was approved. A Code of Conduct for civil servants has been approved by Cabinet (with a Dari pamphlet version distributed to ministries) and appears to address conflict of interest concerns but not political impartiality.

2.39 The Civil Servants Law, separate from the Basic Civil Service Law discussed above, is intended to provide guidance for the implementation of pay and grading. The current draft provides scope for misinterpretation. It appears to reinforce the principle of promotion within the civil service being based upon qualifications and longevity rather than on responsibilities and task, and allows for a considerable array of allowances, prizes and promotions without any indication of how their cost would be accommodated. This is in contradiction with the policy on pay and grading that the Cabinet earlier approved. After the law is passed, key regulations and procedures will need to be finalized; otherwise the law will remain only a lofty ideal. Some regulations have been drafted but not issued (appointments, appeals, performance appraisal). Others still need to be drafted (promotions, transfers, discipline, and implementing the new grade-pay structure). There is little capacity within government to implement new features of the law. For example, the law requires ministries, agencies, provincial and district offices to assume the full range of civil service management functions. But, Human Resource (HR) units in organizations have been primarily concerned with personnel administration and record keeping and are inadequately staffed to guide the implementation of new policies and procedures. Although an ideal

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<sup>51</sup> Arrangements for managing the Afghan civil service stem from the 1964 Constitution and include the 1970 (SY1349) Law on the Status and Condition of Government Employees as amended by the 1977 (SY 1356) Decree no 143, and relevant parts of Taliban Employment and Labor Regulations and Personnel Laws.

<sup>52</sup> Evans et al 2004.

organizational structure for HR units within line ministries has been developed along with a training schedule, this has not been implemented across the civil service thus leaving many organizations with little incentive to implement the law.

### ***Merit Basis in Appointments***

2.40 The merit principle in appointments is at the heart of effective civil service management. It provides an incentive to individuals to come forward and be considered for employment within the civil service, regardless of any particular allegiance or affiliation. It also provides the institutional mechanism through which employers can recruit the best person for the job and make the best use of government resources. Selection criteria for individual positions are specified, widely communicated and contestable: failure to appoint a candidate can be appealed and reviewed against explicit specifications for the position and prescribed procedure.

2.41 The expansion of the state in Afghanistan in the seventies did enable some degree of merit based recruitment into the civil service to take place, even though subsequent assignments and promotions were largely dependent on patronage and connections<sup>53</sup>. But the volatility of the subsequent three decades eroded the limited trust there had been with merit based recruitment as competing political factions needed loyal and known representatives within government. The lack of transparency in the recruitment process left staff dissatisfied and demoralized, and contributed to the overall capacity depletion of the civil service.

2.42 The merit principle's success depends on public perception about the credibility of the recruitment process. There has been significant progress in this area, especially considering the wide acceptance of patronage as a basis of civil service appointments. During peace discussions in Bonn in 2001, ministerial positions and the power to appoint civil servants were seen as legitimate spoils of victory by various political factions who did not want to see limits placed on their ability to use the civil service for political gain. Subsequently the Civil Service Appointment and Appeals Boards have been established and the principle of merit based recruitment defined through the 2005 Civil Service Law. A comprehensive set of Appointments procedures govern the system of appointments to the Afghanistan civil service. They have been regularly updated to reflect changes in the Civil Service Law and provide a firm framework to support merit-based recruitment.

2.43 The Appointments Board still faces considerable pressures from ministers and other leaders to appoint specific candidates, and the process and outcomes of the merit system itself have been subject to considerable criticism across government. Some lacunae arise from the Appointments Board's insufficient technical expertise. Incomplete job specification by requesting ministries, insufficient advertisement, the Board's poor interview process, and the Secretariat's inadequate reference checking have enabled ministries to favor incumbents. The Appointments Board's monitoring of appointments below the top grades, where the vast majority of appointments are made, is neither robust nor well understood, and enables the process to be bypassed by ministries in favor of patronage appointments. The Board is not sufficiently empowered to resist these pressures. Original plans to fully establish its independence through the law have not been followed through. The only recourse at the disposal of the Board is the power to report to the Chairman on unlawful appointments; and members' freedom to resign from their positions if their advice is not followed. Meanwhile ambitious quantitative targets threaten the Board's incentive to concentrate on quality in the face of mounting pressure to clear the pipeline of PRR appointments. Since September 2003, when it started its work, the Appointments Board has appointed over 1,400 candidates for grade 2 and above and monitored over 7,500 appointments at grade 3 and below. The Appointments Board's anticipation that at full capacity it can oversee some 10,000

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<sup>53</sup> Rubin 2007.

appointments per year at senior and junior levels seems not only wildly ambitious, it is also significantly short of those expected to be appointed or reconfirmed during the pay and grading process.

**Box 2. 7: Vulnerability to Corruption in Appointments**

As the Appointments Board's volume of work is expected to increase rapidly when the new grade pay structure's implementation starts, its vulnerability to political pressure and corruption opportunities was independently assessed in January 2007. The report confirmed an earlier evaluation's finding that significant progress had been made. But it also highlighted that there was a deep dissatisfaction and sometimes strong skepticism about the way in which the overall merit-based recruitment process is handled; and especially, perceptions of:

- Inadequate and poorly respected procedures;
- Inadequate experience, competence and training of Commissioners resulting in variable application of procedures and inappropriate behavior;
- Narrow bureaucratic decision making where common sense and experience should drive the process;
- Ethnic and political bias;
- Patronage by IARCSC itself and "men of influence;" and
- Corruption is of primarily, but not exclusively, an individual (petty) nature.

To remediate issues raised in the two reviews, the IARCSC has adopted a comprehensive action plan. It includes future de-concentration of senior appointments and a monitoring mechanism to allow evidence-based evaluation; and strengthening the Appointments Board's technical competence.

*Source: Michailof 2007a.*

### ***Grading structure and pay scales***

2.44 When civil service grade and pay structure is rational and predictable, it assures officials within the system, and observers outside, that assignment to positions is according to the predictive ability of the official to do the job, and it reduces arbitrary decisions and patronage in civil servants' pay. Like compensation for any other group of employees, civil service pay is an important determinant of employees' motivation. In Afghanistan, the civil service's pay structure is particularly relevant because it determines whether or not the civil service is able to attract and retain skills from the limited local pool.

2.45 The inherited grade-pay structure in Afghanistan did not provide adequate performance incentives for civil servants. It emphasized longevity rather than competence and responsibility and focused managers and individuals on the inputs (qualifications and seniority) and process of jobs rather than outputs. Grades were applied randomly and inequitably across ministries for similar functions. For example, under the current system, a Director of Finance in one ministry can have a different personal grade than a Director of Finance in another ministry, based upon longevity of service, rather than the job's content. An employee can remain in the same post and receive a grade increase every 3 years until he/she reaches "beyond grade" level<sup>54</sup>. This "rank in person" grade and pay system, as distinct from internationally more common "rank in post" systems, has resulted in severe distortions in the grading structure, with many staff in lower level posts earning higher salaries than their supervisors. The distortion is partially masked by the acute wage compression that has prevailed, but it is a serious impediment to the development of a more effective and responsible management ethos and to the ability

<sup>54</sup> Except for promotion from grade one to "above grade" and from "above" to "beyond" grade, each of which requires four years service.

of government to attract, motivate and retain qualified staff. Pay scales for qualified staff are completely out of line with prevailing market conditions and severely compressed. Because base pay had essentially remained unchanged during the conflict years, a complex set of allowances, with food allowances being the predominant, had served to lower the compression ratio to around 1.01—compared to the regional average of nearly 10. The seriously compressed pay scale provides no incentive for performance or career management. This in turn has created incentives for donors to intervene with a wide range of ad hoc top-ups and supplements, providing further distortions in the incentives system.

2.46 The new grade and pay structure, approved by Cabinet on June 18, 2007 is intended to end the practice of personal grades, make grades consistent with job content, reduce the need for ad hoc pay arrangements, and allow government to substantially raise salaries at the top end so as to recruit and retain experienced and effective staff. The proposed salary scales range from \$100 to \$650 per month. Although significantly higher than current senior salaries, there will continue to be cases where even the highest salary will not be adequate to attract the required skills and compete with the salaries offered by donors. Schemes such as the new Management Capacity Program will be required to deal with such extra-normal appointments over the medium-term. Unusually the top end of the civil service scale remains well below that of the police and the military scales. This decision was taken on grounds of the extra security risks affecting those personnel, however poses risks overall for the government, in terms of relative strengths of these arms of government.

<b>Box 2. 8: Old and new grade pay structures</b>	
<b>Old</b>	<b>New</b>
Low pay, highly compressed pay scale—little difference between highest/lowest	Higher salary and proportionate with the workload
12 grades based on qualifications and length of service	Less cumbersome 8 grades based on job responsibilities and duties
Promotion based more on length of service, and less on quality of performance	Promotion based on job performance and achieving results
Larger number of employees, low output	Reasonable number of employees with improved output
Inadequately qualified and skilled staff	Mechanisms to appoint better qualified and competent staff

2.47 The policy has allowed for a limited number of special cases for expanded pay scales in individual grades where there is a market related premium on particular skills, such as an expanded pay scale for grade-four doctors. There have been demands in Cabinet for such higher premiums to many other groups of employees, including education professionals. In addition, there have been pressures from within traditional segments of the civil service for retention of old practices – such as promotion based upon longevity. In the current fluid political environment these pressures are inevitably difficult for the IARCSC to resist but their acceptance will seriously weaken the technical integrity of the reform.

2.48 The new structure’s test will lie in its implementation, and whether the higher pay will provide the right incentives for improved performance and service delivery. As reported in paragraph 2.35, the current version of the Civil Servants Law could issue implementation guidance that contradicts the provisions of the new grade pay structure. Introduction of regrading and new pay scales has been postponed by a year to 1387. This will require compressing the implementation timetable if its synchronization with the MTFP is to be maintained, and covering 25% of civil servants in one year. However, the IARCSC has not yet discussed any implementation plan with line ministries and donor partners. Capacity within IARCSC and line ministries is very limited in terms of ensuring that ministry structures, job descriptions and capacity are in place at the right time in order to implement the new

structure, including appointments, in a systematic way. With elections scheduled in Afghanistan in less than two years from now, the same pressures that led to some units under PRR making superficial restructuring plans, abandoning the rigorous recruitment process, and migrating *all* existing staff to higher pay scales—could equally derail any logical and systematic roll-out of the new scheme. IARCSC will need to ensure frequent consistency checking as to the application of the new grading across ministries. Without a centralized HR information system, this will be challenging. Ministry of Finance could make more explicit its role as a gatekeeper to various ministries receiving new pay for re-graded positions so as to ensure that the overall application of the new pay is fiscally sustainable. Finally, proposed salary scales will still be below those prevailing in the “second civil service” and paid directly for by donors, and unconstrained donor actions could undermine the intent of the policy. .

### ***Performance Evaluation***

2.49 Performance evaluation can be a key aid to good management in the civil service. International good practice requires that performance management should be task-oriented, based on results, and measuring results against pre-defined goals and targets, rather than an assessment of traits. Traditionally, performance evaluation, if conducted at all in the civil service, used a trait-based methodology – looking at behavioral factors such as neatness, punctuality etc. The employee typically did not participate and was often not told what rating they received.

2.50 A Performance Appraisal procedure and related forms for managers and employees have been drafted and piloted by the HR Policy Department of the IARCSC based on the principles of international best practice (based upon the individual’s job description, allowing for employer and employee feedback etc). If the individual civil servant is unhappy with the appraisal he or she has the right of appeal to the Appeals Board. The updated appraisal forms and process is only for merit-based appointments (PRR-ed positions). For non-PRR-ed positions, the traditional method of assessment will be used. Roll out of the new staff appraisal system across the Civil Service was originally scheduled to take place within two months of the enactment of the new Civil Service Law, but has been delayed.

2.51 Incentives do not appear to be strong for either ministries or individuals to implement the current performance appraisal mechanism across government. Both the pilots and early implementation have been difficult, technically and culturally. Managers and staff have no experience of meeting together to discuss and assess performance, and there are considerable cultural barriers to conducting an objective and honest face to face assessment of a subordinate’s performance. Many ministries report the system as being complicated to manage with staff lacking understanding as to the purpose and process, despite the workshops that have been held and are planned (IARCSC 2005b). Disciplinary and reward mechanisms associated with the performance appraisal process are not clear, and the process itself is technically difficult in cases where there are no clear job descriptions with associated performance standards. The lack of functioning HR departments in ministries is a critical constraint to understanding and implementation of performance evaluation.

### ***Exit Management***

2.52 Job security and pension have been inherent attractions of the civil service and have partially compensated for pay levels lower than the private sector’s. Pension prospects encourage long careers in the civil service. A workable and affordable severance scheme (that might also encompass retraining, re-skilling and redeployment) can provide a useful incentive to organizations to restructure and reform their functions and enable the recruitment of more appropriate staff to new functions.

2.53 Afghan civil servants' pension, along with that of the military and police, is administered by the Pension Department under the Ministry of Labor and Social Affairs. The legal framework of this scheme is defined by Pension Rules and various decrees issued from time to time. The scheme operates on a Pay As You Go basis and is funded by individual contributions and, significantly, by transfers from the state budget. In order to receive the regular old age benefit, a civil servant must have accumulated at least 10 years of service by the time of retirement. The normal retirement age is 65 for men and 55 for women.

2.54 The rate of pension, being dependent on the base pay, and excluding various allowances, is very low providing no incentive for individuals to consider a career in the civil service, or for those within the service to retire on time. In addition, the ad hoc adjustments in benefit administration and method of paying arrears have resulted in very different absolute pension levels for individuals retiring at nearly the same time--creating further disincentives and dissatisfaction within the civil service. For example, civil servants that retired before and after 2003 in the same rank and with the same length of service receive different pensions, on account of what length of service is considered as pensionable. Weaknesses in administration, including record keeping, and a disconnect between the process of collecting employees contributions (managed by the Ministry of Finance) and the process of assessing entitlement (managed by the Ministry of Labor and Social Affairs) have further undermined the usefulness of pensions as an effective career incentive.

2.55 Staff being considered for redundancy is the responsibility of the Ministry of Labor and Social Affairs. The legislation regarding severance of staff is unclear. The February 2007 Labor Law provides a basis for severance policy but it also refers to external provisions that are yet to be derived. There is no determination of who will pay employees "on suspension" and no referral to centralized budgets for the purpose of payments. In principle, and traditionally, such staff join a surplus list maintained by the ministry for six to twelve months while attempts are made to find them employment in other ministries. They receive "in-waiting" payments for this period, which amount to a flat rate six month salary payment for retrenched staff. Under PRR, unqualified staff are assumed to have been made surplus and suspended. A Severance and Pensions Proposal estimates the number of civil servants "suspended" under PRR at 5,000. It is not clear whether any of these civil servants have received any payments at all, and those ministries who have suspended staff have no allocated budgets to pay any ongoing salary.

2.56 In addition to providing an enhanced career incentive, there is a strong fiscal incentive to urgently reforming the pension scheme. Direct budget allocations have constituted between 75 and 81 percent of the funding source for the pension scheme in the last two years. Assuming a conservative 3 percent discount rate, the World Bank estimates that the pension debt for retirees is 2.4 percent of GDP; and outstanding pension debt for active employees—currently 3.8 percent of GDP—will rise to 27.7 percent of GDP following the new pay structure. As the pay reform progresses and individuals retire with a new reformed base pay, pension expenses will start growing and may increase 4 to 5 times within the next ten years. If at the same time pensions of the current retirees get adjusted to be at par with the benefits of the new retirees, the immediate effect may be an 8-fold increase in the current pension spending for civil servants. In order to make any new scheme fiscally sustainable there will need to be changes in both the distribution of the Employee/Employer contribution shares and the formula for benefit calculation<sup>55</sup>.

2.57 Both Ministry of Finance and IARCSC have incentives to put in place severance arrangements that are fiscally affordable, encourage the right people to leave the civil service, are fair and reasonably attractive, and can be utilized in the longer term for subsequent early departures from the civil service. A draft regulation and proposed benefits package for newly redundant staffing was prepared in 2005 but no action appears to have been taken on this. The Ministry of Finance has estimated (GoA Ministry of Finance 2006) that some 40,000 existing civil servants would not be qualified for their own, or any other

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<sup>55</sup> Palacios and Sluchynskyy 2007.

position within the administration and would need to be retrenched and receive severance. It had earlier estimated the cost of severance payments would amount to \$1.8 million, \$3.24 million, \$3.64 million and \$3.69 million over the four-year period of implementation. A more recent analysis of civil servants length-of-service statistics by the IARCSC indicates that the cost of the *initial* ‘in waiting’ payments for these staff would be closer to \$34 million based upon existing legal provisions.

2.58 Pension and severance—policy and administration—need to be finalized alongside the new grade pay structure. Indeed, the new grade and pay structure cannot be implemented without reforming pension and deciding severance policy at the same time. Various proposals for retraining, re-skilling and redeployment have been discussed. Beyond that this matter has not received attention from Government. Government is now preparing an issues paper, that would look at the various options including early retirement, severance payments (lump-sum, flow, mix), retraining and re-skilling (for in and out of service employment), in addition to changes in the pensions policy and administration. Any final package of options considered by the government, particularly in the severance area, needs to be administratively simple.

## **E. Direction of Reform Activities**

2.59 The analysis in sections B, C and D shows that some progress has been made towards meeting the Compact’s goals. But progress in both areas—scope and strength of government—has been fragile and requires sustained follow through. Through the Compact benchmarks, the Government has determined that the reform it will adopt will be comprehensive and cover all ministries. This is understandable but ambitious in the context of disparate capacity and leadership across ministries.

### **Box 2. 9: World Bank’s support for Afghanistan’s civil service reform agenda**

Starting with the establishment of IARCSC, the World Bank has been supporting Afghanistan’s civil service reform since the beginning of reconstruction. It has helped the Government and IARCSC develop an action agenda for the rest of the Compact period, estimate investment needs to meet the Compact targets, and indicators to monitor reform’s progress. Donors are now aligning their support for elements of the commonly agreed action plan.

Organizational restructuring and rearrangement of civil servants’ incentives are being supported by the World Bank’s Civil Service Reform Project. This includes support to a number of key ministries as they further their restructuring efforts, support for implementing pay and grading across government, and further development of and training in new human resource management practices within government, including merit based appointment. Meanwhile, the Bank also helped shape the Management Capacity Project which provides ARTF resources for approximately 240 high level managers within government during the next 3 years.

The World Bank’s support for civil service reform is not limited to assisting the IARCSC. Civil service strengthening measures are part of the Bank’s ongoing interventions in the Ministries of Finance, Education, and Reconstruction and Rural Development.

2.60 The overall conclusion about government’s scope is that it offers the opportunity for less government. Scope, in terms of number ministries, is unlikely to undergo serious reduction by the end of the Compact period. While there are technical reasons for recommending fewer ministries and agencies, social and political realities of governing the country are unlikely to allow for a significant compression of ministerial ranked agencies. Nevertheless, the issue could continue to have relevance in discussions of reducing the cost of government. The scope of government, in terms of the functions of individual ministries and how they organize themselves to deliver those, does provide greater room for modification. The two largely different models of service delivery shown by the Ministry of Education (sole service provider, employing all personnel as civil servants, some de-concentrated management) along with

contrasting model in Ministry of Public Health (ministry staff mostly performing core functions, multiple service providers, working under a central strategic and program leadership) offer alternative concepts for other ministries to consider when deciding how to meet their client's needs more effectively. The present reconstruction phase allows Afghanistan the luxury of a clean slate and comparatively few unwanted practices to undo when compared with other countries of the region. However, those choices need to be tempered by Afghanistan's severe resource and capacity crisis. Modifying the scope of individual organizations may be a more promising avenue for reducing the scope of the government as a whole than compressing ministry numbers. But the risk is that IARCSC, currently responsible for supporting and overseeing ministry reorganization, may interpret its mandate to mean controlling ministry reorganization by overly conditioning its assistance, and proscribe methodologies and operational models that in fact will discourage ministries from considering alternate options for achieving operational effectiveness and cost efficiencies.

2.61 The conclusion about civil servants' competence is that an ideal solution to the competence problem—currently framed as training a larger number of regularly employed nationals to perform an increasing number of key functions—is unlikely to be established before the end of the Compact period. In-house efforts for developing the competence of existing staff, and developing a broader pool of individuals employable as civil servants are important initiatives to be pursued, but will not deliver the critical mass of competent civil servants until well beyond the Compact period's end. Therefore, despite the disappointment with the cost, co-ordination and control being exercised over the use of much of TA, it is likely to be needed until proven alternatives start providing the same level of competence. The deployment of consultants can be made less problematic through making their terms of reference and accountabilities more precise, the sources more competitive (for example, using more regional and national contractors), but it will not remove the need for their continued use.

2.62 The conclusion about the civil service's incentive framework is that vigorous attention to making improvements in this area offers the best short-term opportunities for strengthening the quality of the civil service within the Compact period. The introduction of formality via new laws has driven reform in the right direction, but it needs strong follow up with regulations and guidelines, and strong monitoring of the compliance of ministries with these regulations. The application of the new pay and grading policy as intended would be paramount in this effort, but needs to be supplemented by an effort on the part of donors and government to address the disincentives created by the continued practice of salary top ups and the existence of the "second civil service". Some clear guidance on the extent of donor top-ups in government and remuneration of donor project staff working within ministries would go some way to limiting the most objectionable practices. The new laws and regulations should be clear that the IARCSC has authority to hold ministries accountable for applying the regulations and specify sanctions for non-compliance.

**Box 2.10: Simplification of Vehicle Registration in Kabul**

*Pre-existing conditions.* The process for vehicle registration in Kabul typically involved: 30 administrative steps; more than one month to complete; visits to multiple offices at various locations; and payment of bribes at most steps in the process.

*Reform efforts.* The “Simplification of Administrative Processes Commission” established by the President undertook a four phase cycle of diagnosis, process redesign, implementation and evaluation. This methodology could be applied to the simplification of other key processes.

*Results.* A one stop shop has been established; the number of steps has been reduced; processing time has declined from around one month to two days; volumes of applications processed and revenues have increased; the unofficial cost associated with bribes has been dramatically reduced; and staff motivation has improved.

2.63 The approach to building an effective civil service can benefit from two changes from the present direction. First, government’s credibility will have to be demonstrated strategically and deliberately. Without some quick wins, status quo will remain the norm past the end of the Compact period. The government can create “islands of excellence” even within a weak civil service, as it did with the simplification of the vehicle registration process in Kabul (see Box 2.10). IARCSC’s quick response to the Appointments Board’s vulnerability to corruption (described earlier in Box 2.6) bolstered its credibility. Further quick wins could come from improvements in reporting and accountability, and simplifying selected administrative procedures. At the sub-national level, quick wins could also come from rapidly improving administrative capacity in Governors’ offices and municipalities. Increasing women’s access to training could increase their numbers in Government and demonstrate Government’s commitment to reform. Second, the concept that any one organization e.g. IARCSC can build an effective civil service largely through technocratic means should be rejected. Instead, visible, high-level political commitment for civil service reform is needed, along with patience for a sustained effort to overcome resistance from those who lose from the changes. This is even more relevant in Afghanistan than in many other places because previous administrative traditions were not based on merit or formality. Technical solutions and best practice models are helpful. But even when timely and well-coordinated, they alone cannot transform the public service.

2.64 In addition to these more strategic requirements, the action that can most effectively strengthen the civil service is sound implementation of the new grade pay structure. This needs a pragmatic plan that takes available resources and competences into account, a strong leadership to manage the risks and coordinate all strands (e.g. new pension and severance schemes, civil servants’ database) into the task, and focusing resources as a priority on those ministries with the greatest likelihood of success and where the outcome is likely to be most significant in terms of potential improvements in service delivery.

### III. IMPROVING LOCAL GOVERNANCE AND SERVICE DELIVERY<sup>56</sup>

#### A. Introduction

3.1 Civil service reforms, as described in Chapter II, will inevitably impact on sub-national administration, as ministries devolve responsibilities and strengthen their capacity at the provincial and district levels. However, there are many other actors that influence the way government works at the sub-national level, albeit in different ways in different provinces and sectors. There are also powerful informal power structures at work, which often complement, undermine or even replace government services. Attention to these sub-national issues has risen markedly over the past year – indeed, as this report has been prepared. Questions and concerns raised by the Government of Afghanistan, the donor community and policy analysts reflect three main developments:

- A number of sub-national institutions mandated by the Constitution (such as Provincial Councils) have been established, lifting expectations but also creating confusion about their roles and responsibilities. In some cases – such as District and Municipal Councils – their introduction has been deferred indefinitely, creating a constitutional and institutional vacuum, and raising questions about how this is to be filled.
- While numerous local investment and service delivery programs have been rolled out, problems with coordination and alignment have impacted on their effectiveness. Moreover, security-driven investment approaches (often emanating from PRTs), which focus mainly on the rapid creation of physical assets using non-government systems, have sometimes conflicted with government institutions and processes. And, where broadly successful programs have generated institutional capacity at the sub-national level, key choices concerning the future of this capacity now have to be made. What, for example, should become of the thousands of CDCs established under NSP when their current funding runs out?
- The continued weakness of sub-national structures in certain parts of the country has allowed militia commanders and criminal elements to assert themselves, undermining local governance and service delivery, and aggravating security problems. This has brought home the point that the key question surrounding the character of the state in Afghanistan is not that of a strong center versus a strong periphery. Rather it is whether the current *de jure* (and hollow) state at the periphery can become a *de facto* state at the periphery; whether robust and institutionalized systems of government can be expanded and deepened within the provinces and below.

3.2 One of the key constraints to strengthening the sub-national system in Afghanistan has been the absence of a clear policy framework regarding its desired institutional structure, and a strategy to guide actions to realize it.<sup>57</sup> While the Constitution and other legislation provide a legal framework for a number of sub-national institutions, such as Provincial and Municipal Councils, this tends to be broad and ambiguous, and often begs more questions than it answers about who should be doing (and is accountable for) what, the resource flows that are necessary for the effective exercise of powers and functions, and the implementing mechanisms that need to be put in place. The costs of these lacunae have mounted steadily

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<sup>56</sup> This chapter draws heavily on the background paper prepared by Roland White and Sarah Lister on Service Delivery and Governance at the Sub-National Level in Afghanistan, July 2007. A draft of this paper was presented in Kabul in July 2007, and the feedback from that discussion, as well as additional inputs on municipalities and CDCs, have been incorporated into the analysis presented in this report.

<sup>57</sup> The Government of Afghanistan recently pointed this out, identifying a need for “a strategic institutional framework to improve the operating capacity of sub-national governing units.... [with] a need for higher clarity on the roles, functions, relationships and resource allocation for the various entities within the provincial administration. See Islamic Republic of Afghanistan 2007a, 5.

and have become increasingly visible to all. Both government and donors need greater clarity on the basic structure of the sub-national system, how its different elements fit together, how best to allocate roles and responsibilities between them, where to focus funding and institutional efforts, and which sorts of planning, coordination and implementing mechanisms to support.

3.3 This chapter is an initial effort to address this question. It builds on the considerable analytical work that has already been done on sub-national issues and seeks to add value in four areas: (a) to provide additional information and analytical insight into the nature of sub-national service delivery and governance in Afghanistan; (b) to develop a simple and coherent framework regarding the sub-national system for discussion with the government and donor community; (c) to propose a number of concrete initiatives that could be taken in order to strengthen the sub-national framework as proposed; and (d) to make some procedural recommendations to move things forward.

## **B. The Sub-National Institutional Structure<sup>58</sup>**

3.4 Territorially, Afghanistan is divided into 34 provinces, 2 of which were created by the Karzai administration immediately before the Presidential election of October 2004. There is disagreement about the number of districts, with different ministries and government agencies disputing both overall numbers and boundaries. As of April 2007, the Central Statistics Office considered there were 364 rural districts, and 34 provincial urban centers, some of which are sub-divided into *nahia* or urban districts. The Ministry of Interior and Afghanistan Geodesy and Cartography Head Office (AGCHO) recognize different numbers and boundaries. There is also disagreement about the number of municipalities. However, a commonly agreed figure is that there are a total of 217 provincial and rural municipalities with a population of more than 5,000 people. According to the household listing exercise (2003-2005) there are an estimated 40,020 rural villages, but some ministries have very different estimates (some as low as 25,000 to 30,000).

3.5 As administrative units were mostly formed for political, rather than technical, administrative reasons, the population and land area of each of these units vary enormously. They also vary significantly in terms of terrain. All of this has implications for the development of the sub-national systems and the delivery of services. The largest province, Kabul, has an estimated population of around 4 million, and the provinces of Ghazni, Herat, Helmand and Nangahar all have estimated populations over 1 million. Nimroz and Panjshir, on the other hand, have populations of less than 120,000. The situation is the same for districts – with districts in the same province ranging from populations of less than 6,000 to nearly 100,000. Administrative units also cover vastly different geographical areas – with estimates suggesting Helmand covers more than 57,000 sq. km, whereas Panjshir covers less than 4,000 sq. km. Some rural districts cover less than 50 sq. km, whereas others are nearly 600 sq. km.

3.6 The institutional structure of sub-national governance and service delivery in Afghanistan can be divided into four main levels: two of which (provinces and districts) are hierarchical sub-components of the central government; and two of which (municipalities and village-level structures) have a certain degree of autonomy, at least in formal terms.

- a) The **provincial level** comprises:
  - Provincial Line Departments (PDs), with basic service delivery responsibility in key sectors (health, education etc.);

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<sup>58</sup> For brevity, this section does not pursue a detailed description of the main elements for the existing institutional structure and the key issues that each of these confronts. This may be found in White and Lister 2007, Part 2.

- Provincial Governors (PGs), appointed by the President and until recently supervised by the Ministry of Interior, with considerable formal roles in areas of MOI's responsibility (e.g., security, police) as well as informal powers, including sign-off on expenditures, participation in procurement and certain powers of appointment;
  - Elected Provincial Councils (PCs), with advisory, monitoring and conflict resolution roles; and
  - Provincial Development Committees (PDCs), with limited coordinating and planning functions.
- b) The **district level** comprises:
- District Offices (DOs) of some central ministries with limited functional responsibilities; and
  - District Governors (DGs), selected by the Appointments Board (for most central provinces and Bamiyan) or MoI, with a relatively limited formal (but sometimes important informal) role.
- c) The **municipal level** comprises municipal administrations led by mayors, currently appointed by the President, with functional and service delivery responsibility mainly for urban services.
- d) The **village level** comprising a range of traditional governance entities (such as *shuras*) and the newer CDCs. CDCs (currently in about two-thirds of the country) are elected according to different systems in different areas, and are responsible for local infrastructure development and some local planning and administrative functions.

3.7 Provinces and districts are graded, determined largely by population, but with the influence of additional political factors. Grade 1 is the largest, and Grade 3 is the smallest. The grade of a province or district affects the size of the governor's office, as well as the position grades of the staff. This formal governmental structure is complemented by a large additional service delivery and development infrastructure, including NGOs, PRTs etc.

3.8 The 1382 Constitution provides the over-arching legal framework for sub-national government, establishing Afghanistan as a unitary state, but stating (Article 137): "The government, while preserving the principle of centralism, shall delegate certain authorities to local administration units for the purpose of expediting and promoting economic, social and cultural affairs, and increasing the participation of people in the development of the nation." It mandates the establishment of elected provincial, district, municipal and village councils, and the election of mayors.

3.9 The legal framework below the constitution is rather unclear, with a variety of old and new laws and decrees which impinge in different ways on the institutions of sub-national government. The 1379 Law for Local Administration (issued under the Taliban) made minor revisions to various earlier local government laws. Revision of this law has been underway for several years but is currently stalled as key issues are sorted out. Relevant new laws include the 1384 Provincial Council Law and its recent revision, the 1384 Civil Service Law, and the 1385 Procurement Law. A recent by-law has also started the process of institutionalizing the CDCs. In July 2007, the GoA moved to strengthen the central oversight of sub-national issues with the establishment of the Independent Directorate of Local Governance (IDLG), reporting directly to the President. This is potentially an important step – which is discussed further in Section F below.

## C. Key Features of the Sub-National Institutional Structure

3.10 The institutional structure described above exhibits five important features. Collectively, these constitute the core of the “sub-national problem” in Afghanistan, and generate the basic challenges that efforts to strengthen the system must address. The impact of these challenges in one province – Takhar – is illustrated in Box 3.1.

### Box 3. 1: Sub-National Challenges in Takhar Province

Takhar Province is located in North Eastern Afghanistan. It has a population of 886,000 and ranks 24 out of 32 provinces in terms of human development indicators. It ranks in the best fifteen provinces for overall primary school attendance and girls primary school attendance. However, it is among the worst fifteen provinces for under-5 mortality rates, and among the worst five for its maternal mortality ratio.

The World Bank’s PAR team visited Takhar in June 2007 for a series of consultations with the Provincial and District Governors, Provincial Directors of Line Departments, the Provincial Council and local CDCs. These consultations confirmed a number of the issues raised in this report:

- The Provincial Governor does not have a good overview of government spending in Takhar. The Provincial Development Plan calls for spending of around US\$100 million per annum, while actual spending from the core budget (excluding external assistance) was less than US\$1 million last year.
- Members of the Provincial Council were concerned that the lack of good budget information made it difficult for them to carry out their oversight responsibilities. At the same time, the Governor was concerned that the Council was pushing for executive powers to implement development programs.
- There were also concerns about the impact of uncoordinated aid. The Provincial Education Director complained about schools being built by the PRT and then handed to the government to run – without any consideration for recurrent budgets. Mechanisms for feeding local priorities into planning and budgeting processes in Kabul are still very weak.
- There was good understanding of the Priority Reform and Restructuring Program (PRR). However, the Provincial Health Director complained about the impact of multiple pay scales on staff morale. And members of the Provincial Council wanted to ensure that appointments really were merit based.
- The CDC met by the team was newly elected, and was just starting on the process of selecting priority projects for funding under NSP. They were concerned that the facilitating partner had not been back since the elections to help with the project selection process. The CDC does interact regularly with the District Governor.

Source: World Bank.

3.11 ***First, the overall structure is characterized by significant systemic contradiction.***<sup>59</sup> On the one hand, direct formal functional and budget authority for the delivery of most key services in the provinces – such as education, health, water and roads – is held by highly centralized line ministries, which work in vertically integrated silos with relatively weak linkages between them. Thus, in an organizational sense, provincial and district “administrations” – defined as horizontally integrated entities in which different agencies responsible for specific sectors fall under a unified point of budget and executive authority – do not actually exist in Afghanistan. What is often referred to as a “provincial

<sup>59</sup> The focus here is on the contradictions between systems internal to the government structure at the sub-national level. There are also contradictions between donor allocation and implementation systems and those of the government, which are well known and not necessarily specific to the sub-national level. Those which are most germane to sub-national service delivery and governance (e.g., PRTs) will be discussed at various other points in this chapter.

administration” is really just the aggregate of the provincial offices of the line ministries (i.e., the Provincial Departments), the Provincial Governor’s Office, the Provincial Development Committee and the like, with no “hard” institutional link between them. Equally, there is no such thing as a “provincial” budget, in the sense of identifiable fiscal resources dedicated to expenditures in a specific province, over which a single authority has allocation and execution responsibility. There are only aggregates of expenditure which take place for services delivered at the provincial level, which the central line ministries largely control, and which cannot even be accurately captured by the existing accounting systems.

3.12 On the other hand, this highly centralized line ministry system co-exists with – and is even cut across by – the Provincial Governor system, which allows the PGs to intervene in the affairs of the line ministries and other agencies (such as municipalities) through six “softer” institutional channels, some legislated, some not:

- As noted in Chapter I, Provincial Governors hold extensive powers over the appointments of lower-grade civil servants to departmental positions in their provinces.
- PGs are able to influence the day-to-day activities of these civil servants simply by virtue of being close to them. In fact, this power is being extended in a number of provinces as PG Offices undergo PRR reform, gain increasing capacity in technical areas, and consolidate their influence through mechanisms such as Provincial Administrative Assemblies where they formally bring heads of provincial departments together in order to make joint decisions on operational matters such as financing priorities and procurement.
- In some cases, PGs have been able to gain effective influence over funds which allow them to build infrastructure in areas for which line ministries are responsible (e.g., directly through the Governors Discretionary Fund, now narrowed in scope, and indirectly through their influence over PRTs in their province).
- PGs hold separate approval powers for all local recurrent expenditures of Provincial Departments funded from the core budget. This power also underlies the other powers they exercise, for example on PD procurements through the Administrative Assemblies.
- PGs are able to exercise (varying degrees of) control over municipal budgets (as indicated in recent research by the Asia Foundation).
- These formal and informal avenues of influence all exist within, and are reinforced by, an overall institutional culture which gives PGs a central position in the political structure of the country, and which tends to defer to the inheritance of existing practices even when they are no longer consonant with institutional developments. For example, when actual allotments to provincial departments were significantly less than budgeted, there may have been a legitimate role of PGs in the area of expenditure authorization – after all, someone had to ration the cash. This problem was solved some two years ago, but the practice continues.

3.13 ***Second, even given the choice of a centralized inter-governmental structure for Afghanistan, existing institutional arrangements are often highly inefficient.*** In particular, line ministries tend to be over-centralized, with their central offices in Kabul retaining functions which could be much more efficiently performed at the provincial level; teacher recruitment in the case of education, for example. To some extent, this problem is not unrelated to the one discussed above. So long as line ministries perceive that any significant deconcentration of budget or functional authority to their Provincial Departments is likely only to make these authorities subject to influence and capture by the Provincial Governors, they are unlikely to have much incentive to do so.

3.14 ***Third, the current system is both asymmetric and inequitable.*** Institutional asymmetries in inter-governmental arrangements are not uncommon internationally, of course, and are not intrinsically problematic – it all depends on why they exist and how they affect the inter-governmental system as it evolves. In Afghanistan’s case, it is fair to say that while some of these appear to make sense, others are the result of arbitrary processes connected with history, varying donor practices and the like, rather than considered design choices. The models of the PG Offices that are being implemented in the Policy Action Group (PAG) provinces, for example, are rather different from those in Balkh and Herat – resulting in higher degrees of governor influence in these provinces – and it is not at all clear why. Ultimately, these are likely to introduce significant strains and tensions at the sub-national level as the system consolidates and attempts to cohere.

3.15 The inequitable distribution of resources across sub-national jurisdictions presents a more obvious and pressing set of difficulties. Some preliminary work conducted by the Ministry of Finance indicates that in sectors such as education and health, per capita expenditures differ widely between provinces and much more than would be expected as a result of “neutral” factors such as variations in input-cost. In other environments, a limited degree of variation in per capita expenditure on health and education would not necessarily be regarded as problematic. Part of the rationale for increasing the autonomy of sub-national entities is that efficiencies arise when they are able to allocate their expenditures in line with (varying) local priorities. Afghanistan, however, does not possess strong local governance mechanisms for citizen voice. Thus expenditure variations are unlikely to reflect local preferences and so do not contribute to allocative efficiency at the sub-national level. It should also be mentioned that these problems are aggravated by the fact that the size, composition and regional distribution of the external budget, which finances about two thirds of public spending in Afghanistan, is largely unknown. It is therefore impossible to assess, let alone address, the equity of total public expenditure.

3.16 ***Fourth, the most autonomous elements of the sub-national system of governance and service delivery – the municipalities and CDCs – face issues of their own.*** Municipalities have been established, under law, as important and self-sufficient local service delivery and governance entities. CDCs were established as community-level vehicles to deliver infrastructure in rural areas under NSP and have subsequently started to take on a wider range of local governance functions. A common feature of these entities, which distinguishes them from provincial-level entities, is that, in principle, the elected authority in the municipal or community area is itself directly responsible for infrastructure and/or service delivery in that area. As a result, they do not suffer from the accountability and autonomy problems characteristic of other organs of sub-national government.

3.17 On the other hand, they do confront significant issues of their own. Municipal council elections have yet to occur and, until they are held, the potential of municipalities to deliver accountable local government in their areas will be highly circumscribed. In addition, the fiscal and functional framework governing them is both unclear and constraining of effective and efficient service delivery. CDCs face existential questions derived from the possible discontinuation of the funding which provides them with the basic wherewithal to play a meaningful role. Moreover, the level and scale at which they operate means that the roles that they play and the issues they face are very different from those of higher-level bodies. These challenges are discussed in greater detail later – for the moment the important point is that the main issues CDCs and municipalities face are different in complexion to those at the provincial level and need to be addressed in their own right.

3.18 ***Finally, like the rest of the Afghan state, the entire sub-national structure is afflicted by the sorts of problems characteristic of fragile states:*** severe human resource weaknesses, an absence of properly functioning operational systems, shortages of equipment, and sparse supporting infrastructure (such as power and phone systems) necessary to get things functioning properly. Afghanistan is

particularly badly affected by these, and they will inevitably impact on any effort to reform and strengthen the sub-national system.

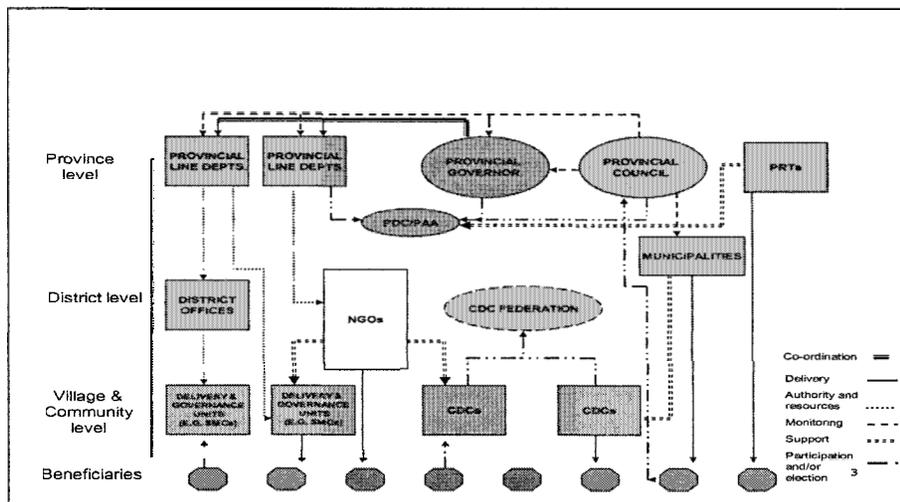
#### **D. Strategic Framework for Addressing the Sub-National Challenge**

3.19 Any effort to address these sub-national problems has to recognize that there is a constitutional dispensation and political climate which precludes any significant reform to the underlying inter-governmental structure in the short to medium term. The Constitution refers to “preserving the principles of centralism”, and it is also clear that the current political establishment is firmly committed to the current centralized structure and has no appetite for a substantial political devolution to sub-national levels. This is a fundamental point of departure for the discussion of reform paths that follows.

3.20 Given this reform environment, the basic intent of any sub-national strategy must be to improve the functioning of the current system, rather than to restructure it. True, this structure has intrinsic weaknesses from both the service delivery and governance perspectives. A strongly centralized state, in a large, poorly linked country with a relatively thinly spread population, inevitably confronts problems with regard to both efficiency and accountability. It also imposes strong constraints on coordination and integration between different agencies. However, notwithstanding these difficulties, the emerging structure does allow for improved performance with appropriately focused reforms. Such *intra-structural* reforms need to be designed with two sorts of impacts in mind: (a) to strengthen specific elements of the system (organizational impacts); and (b) to ensure that the functionality of the system as a whole improves (systemic impacts). This approach leads to four broad challenges that need to be addressed if service delivery and governance are to be improved.

3.21 ***Challenge 1: Establish an overall direction for sub-national reform which, while building on the current system, diminishes the existing levels of systemic contradiction and begins to reduce the unproductively “mixed” character of current arrangements.*** This direction should be based on the broad allocation of roles and responsibilities outlined in Figure 3.1. Among other things, this suggests two significant orientations for reform. First, in order to reduce current levels of systemic contradiction, it is important to strengthen and consolidate the role of the Provincial Governor’s Office in the areas of coordination and planning, while limiting its functional, budget and operational authority to deliver services, which falls under the Provincial Departments. Second, in order to enhance accountability, it is important to strengthen the oversight and supervisory role of the Provincial Councils to provide checks and balances over the activities of the delivery agencies.

**Figure 3. 1: Roles and Responsibilities of Sub-National Institutions in Governance and Service Delivery**



**Responsibility for direct service delivery** in sectors such as health, education, water and roads should fall under the operational jurisdiction of the line ministries (and, in their areas, CDCs and municipalities) using a variety of different service delivery models. These organizations need to improve their internal organizational efficiencies by deconcentrating functions and expenditure responsibilities from the central offices to provincial departments. Their internal operations should become less permeable to the interventions of external agencies, particularly the PG offices. PRTs will also play a key investment role for the foreseeable future. Their activities need to be increasingly aligned with those of the organs of government and/or directed in a way which does not negatively impact institutional development processes.

In the absence of district and municipal elections (and except in respect of CDCs) **the basic “bottom-up” accountability function** in the provinces should be exercised through the Provincial Councils. In essence this means that their monitoring and oversight functions in respect of both the PDs and the PG offices need to be expanded and consolidated. Going forward, their capacity to play this role needs to be strengthened through increasing their resources, improving their systems and making them increasingly self-sufficient in performing this function. A further dimension of the oversight role of the PCs is the approval power they hold in respect of provincial planning and budgeting, which appears now to be appropriately defined. At the community level, CDCs are structured in a downwardly accountable manner, hence exercise this function in respect of the activities which they undertake. They may also support the PC accountability role through providing information etc. “Top-down” accountability for delivery agencies (e.g., the PDs) is exercised through existing institutional processes and fiduciary mechanisms within the line departments and the mustofiat (at the provincial level), municipalities and CDCs.

**Coordination of PD activities and provincial planning** is the core responsibility of the Provincial Governors in and through the institutions which fall under their jurisdiction (e.g., PAAs) or over which they preside (e.g., PDCs). Given that budget, functional and operational authority lie with the line ministries the lateral co-ordination links will be institutionally “soft” rather than “hard” in character. Nonetheless they are important, and the province-level planning and coordinator function needs to be strengthened by properly resourcing the key organizations which are responsible for it, particularly the PG offices and the PDCs. At lower levels, CDCs and municipalities have planning responsibility for their areas. Federations or alliances of CDCs may be able to play a planning role at the district level.

**Conflict resolution** is dealt with by a combination of bodies, mainly PCs, CDCs and the District Governor - depending on the type and scale of the conflict. These bodies need to be resourced to be able to play this role more effectively.

Source: White and Lister 2007, 38.

3.22 It is important to stress, however, that these are suggested as broad orientations to guide a process of ongoing activity. There is no expectation that, in a country characterized by a weak central state, ethnic complexity, dispersed settlement and a history of political decentralization, specific steps in these

directions will be easily agreed or implemented. Moreover, as pointed out elsewhere, it appears that some of the current reform efforts cut against rather than in favor of this overall orientation. However, without some movement in this direction the service delivery apparatus that is currently being built, and which has achieved some apparent success, is likely to run into increasing operational difficulties and the progress that has been made may be jeopardized.

**3.23 Challenge 2: Strengthen the performance of the main service delivery agencies by improving their organizational structures.** One key, cross-cutting activity in this area is for line ministries to ensure that functions are properly divided between their central offices and Provincial Departments. In a number of cases this is likely to involve the deconcentration of various powers and functions from the central to provincial level. In fact, in some cases this is already underway; the MoE, for example, is currently in the process of deconcentrating teacher recruitment to the provincial level. The pace of such deconcentration will be determined, among other things, by capacity constraints – although it should be recognized that, in the absence of functional deconcentration, capacity at the sub-national level will not be built. Ultimately, functional deconcentration drives capacity building, not the other way around.

**3.24** Four important observations can be made here:

- The current PRR/PAR process is directly relevant. As discussed in Chapter II, a new phase of PAR is currently being planned, and affected ministries will have to develop a new organizational structure to support their staffing plan. For those ministries active at the provincial level, one key decision will be the division of functions between central and provincial offices. As proposed below, this process should be used as an opportunity to ensure that more efficient structures emerge.
- Notwithstanding this point, any deconcentration process should be crafted flexibly enough to allow different ministries to implement service delivery models which are most conducive to success in their sectors. For example, whereas deconcentration may be of significant benefit to MoE, which relies on a state-based delivery model, the same may not be true of MoPH, which relies more on contracting out to NGOs and where centralized authority could remain relevant.
- Ministries could consider asymmetric approaches. MRRD, for example, has deconcentrated certain functions, including procurement, to its provincial office in Kandahar, an experiment which appears to be going well. Other ministries could similarly pilot deconcentration in this manner.
- Challenge 2 must be addressed in the context of Challenge 1. In other words, the extent to which line ministries deconcentrate will need to be moderated by the degree to which this risks “capture” of Provincial Departments by Provincial Governors. There is little point in trying to improve organizational efficiency through vertical deconcentration if this makes the delivery agencies more vulnerable to horizontal power which inhibits operational effectiveness.

**3.25 Challenge 3: Provide sufficient resources for the key organs of sub-national governance and service delivery to play their ascribed roles.** For example, as pointed out later, CDCs face a fundamental threat as their access to funding under NSP is due to end, and without the funds necessary for their development activities, they will wither and die. Similar issues arise with other elements of the sub-national structure. At the provincial level, organs such as the Provincial Councils need to gain access to sufficient funds to conduct their operations as envisaged under the recently amended law; while at the municipal level, an overall fiscal framework which provides a rational, equitable and affordable solution to the fiscal gap they face needs to be developed.

**3.26** A further dimension of the fiscal resource issues is moving towards a more equitable distribution of fiscal resources across the country. The specific conditions of Afghanistan make this uniquely

challenging: there is an understandable tendency to concentrate expenditures in those areas which are most vulnerable to security threats, and the large off-budget flows (through PRTs etc.) distort distributional outcomes, whatever efforts are made in respect of the core budget. Arguably, too, this is a second generation issue which can only really be addressed once greater stability and predictability are established in vertical and sectoral flows. But it is ultimately an important question which should not be neglected indefinitely.

**3.27 Challenge 4: Enhance the operational performance of all sub-national organs by providing them with the systems and capacities they need.** In some areas (e.g. some PG Offices) substantial progress is being made; in others (e.g., Provincial Councils) it has really only just begun. Needs obviously vary across organizations, but certain generic themes can be identified (training, IT, offices, communications etc.). Moreover, it should be possible to handle some of these needs on a modular basis, i.e., to define a package of “basic needs” equipment for Provincial Councils, for example, and to roll this out to PCs across the country fairly efficiently.

## **E. Specific Actions within this Strategic Framework<sup>60</sup>**

**3.28** In order to address these challenges, a wide range of concrete initiatives will need to be undertaken. This section makes proposals for these with reference to each of the main organs of sub-national service delivery and governance. Some of these proposals are new but many leverage off activities which are already in place or are planned. It should be stressed that the proposals made here cover a wide area and there is no expectation that they will – or should – all be embarked on at once. Rather, incremental movement will be required on as many fronts as is feasible at any one time.

**3.29 Provincial Departments.** Broadly speaking, PDs are over-centralized, suffer too much interference from Provincial Governors in their day-to-day operations, and are under-capacitated. Their performance needs to be improved through a combination of capacity development and reorganization, with specific reference to the division of powers and functions between central and provincial offices to improve efficiency. This needs to be designed and implemented as appropriate to the service delivery model prevailing in the sector. In general, however, it is likely to involve both vertical intra-ministry deconcentration and increasing operational autonomy from PG Offices at the horizontal level. Ministries which demonstrate a willingness to pursue reform in this overall direction should receive concentrated support. More specifically:

- Cross-cutting PAR reforms should be accelerated at the sub-national level, with appropriate coordination with the capacity development plan for common functions.<sup>61</sup> Ministries formulating restructuring plans under PAR should explicitly address the division of powers and functions between central and lower levels in areas such as budgeting and expenditure authority. In order to ensure cross-ministry learning and smooth implementation, IARCSC and the line ministries must work closely together.
- Reform Implementation and Management Units (RIMUs) should continue to be established to manage and oversee ministerial reforms, although care should be taken that RIMUs do not become a large structural parallel to the civil service and a substitute for sustainable capacity development of staff in line positions.

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<sup>60</sup> Annex 1 of White and Lister 2007 categorizes these actions into each of the four general challenges identified above. It also provides some (incomplete) reference to activities that are already underway and some summary comment on what is needed, thus outlining a rough “gap analysis” for discussion with the government and donor community. The list of existing activities is partial, based on information available, and needs to be expanded and improved.

<sup>61</sup> See Islamic Republic of Afghanistan 2007b.

- The provincial budgeting process should be deepened and expanded, with the proposed expansion in numbers of ministries and provinces, as well as management at the local level of “goods and services” and “asset acquisition” allocations, as planned.
- Other PFM reforms at the sub-national level should be continued and expanded to ensure a strengthened oversight and monitoring role for the MoF. If the ADB does not continue its current funding for mustofiat reform after May 2008, then an alternative donor should be found.

3.30 **Provincial Governors’ Offices.** PG Offices are defined by a simultaneous ability to become deeply involved in the affairs of the service delivery agencies in the provinces and a lack of any structured accountability for the performance of those agencies. Therefore, the core reform agenda here needs to focus on consolidating the role and capacity of PG Offices for coordination and planning at the inter-departmental level, while reducing their incentive to become involved in the operational functions of the line agencies. Given the important role that PGs currently play in provincial affairs, change in this area is likely to be slow and incremental. However, the proposed initiatives are closely in line with GoA’s own identified areas for reform:<sup>62</sup>

- Regulatory reform is needed to ensure consistency between the powers given to different institutions at the provincial level so that PDs are able to operate effectively. For example, the sign-off powers of the Governor on line department expenditures should be eliminated or at least reduced. In time, a revised Local Government Law should clarify the coordination role of the PG Offices at the inter-departmental level while reducing the scope for their involvement on intra-departmental matters.
- In order to avoid conflicting with the mandate of line ministries, donors should not make substantial sums available to Provincial Governors for infrastructure projects and service delivery activities.
- The capacity of Governors to play a coordination and development planning role in line with the overall institutional framework should be strengthened through the continued roll out of reforms of PG Offices through the PAR process. It is important that the specifics of the models being implemented and the capacity provided is reviewed to ensure that the PG Offices are not being developed in a manner which encourages their deep involvement in intra-departmental activity, especially at the operational level.<sup>63</sup>

3.31 **Provincial coordination and planning.** In the current institutional structure, Provincial Development Committees (PDCs) and Provincial Administrative Assemblies (PAAs) are the only loci where cross-sectoral coordination and province-wide development planning can take place. PDCs are also developing an important role in the MoF provincial budgeting initiative, participating in the formulation of budgets. However, practices vary widely across the country and capacity is generally weak. While Provincial Development Plans (PDPs) are emerging as central to the planning process at the provincial level, there remains a need to clarify exactly what PDPs are – and can achieve – and to manage expectations around the process. Specifically:

- The PDCs need to be given sufficient support to play their mandated role in development planning and budgeting, according to the overall institutional framework. This mainly requires support in basic systems and organizational infrastructure, as well as institutionalization of internal practices through the development of standard practices and manuals. Donors over time should withdraw from providing the secretariat functions to the PDCs.

<sup>62</sup> See Islamic Republic of Afghanistan 2007a, 21.

<sup>63</sup> In this context, an in-depth review of the Balkh experience should be carried out, and the actual impact on institutional issues at the provincial level assessed.

- The relative roles of the PAA and PDCs should be reviewed, as there is currently the potential for overlap and duplication of effort. The PAA, under the leadership of the Governor, could have a stronger reporting role to central government on provincial affairs.
- The active and direct participation of the Governors in the PDCs needs to be strengthened through provision of appropriate support and encouragement from the Office of the President. Over time, the secretariat and support function for the PDCs could be moved away from a central ministry into the PG Offices to cement this participation, although this is not a priority reform.
- Given the problems with linking PDPs directly to resources or institutional action within the existing framework, PDPs should be seen less as costed plans and more as strategic documents giving some sense of priority issues to guide line ministry and donor decision making in the provinces. It is important that information about what PDPs can and cannot achieve is widely disseminated to lower expectations.

3.32 **Provincial Councils.** The key role of PCs is to exercise an accountability function – in fact, aside from CDCs, they are currently the only source of “bottom up” accountability in the sub-national system. The recent revision of the legal framework has strengthened the scope of the PCs’ mandate considerably, and this mandate will increase in importance as and when line ministries deconcentrate. However, there are significant constraints, both financial and capacity-related, to their ability to exercise this mandate effectively. Two types of initiative are therefore needed: to clarify and inform all actors about their roles; and to provide the resources and capacity needed to play these roles properly. Specifically:

- Ensure widespread dissemination of and training to councils, government bodies and other sub-national actors on the roles of the councils as laid out in the revised law.
- Clarify the mechanisms by which the PCs can exercise their oversight role and act on the problems they identify. There is, for example, currently confusion about whether they should report issues to the Governor or (through the PAA) to the President.
- To strengthen the accountability function, clarify with all actors the role of PCs in providing qualified sign-off on budgets formulated by PDCs.
- Provide substantially more resources for internal systems and institutional development, also IT infrastructure, transport etc. To ensure improved coordination in this, re-establish the joint government-donor technical working group on PCs, while ensuring some means of PC input into it.
- Enable councils to link up with government and other (for example, PRT) data sources to improve monitoring and oversight.
- In the medium to long term, assess whether the current institutional location under the OAA allows the proper development of the councils as independent bodies.

3.33 **Districts.** There is a gap at the district level in terms of both an agreed overall institutional framework and the activities to strengthen existing institutions. The reform of District Governor Offices has not proceeded as planned under the PRR initiative. It is also unlikely that there will be any directly elected bodies at this level in the medium term. The appropriate structures and roles at the district level is a topic for decision by the proposed inter-ministerial commission (see para. 3.42 below). In the absence of an agreed framework, limited reform at this level is possible:

- District offices of line ministries should be included in intra-ministry deconcentration initiatives.

- It is not clear that DG Offices should be extensively strengthened in terms of staff numbers, given their limited role, the large number of districts and resource constraints. However, it is important to ensure that new procedures for selecting DGs on merit are followed in a transparent manner and that DGs are held accountable for their actions.
- Donor programs operating at the district level, and attempting to build institutions, should ensure that they are establishing consistent structures across the country. Impromptu donor initiatives at the district level, in the absence of a wider institutional framework, should be avoided.
- Promote district-level planning and service delivery processes as they begin to develop (for example, through NABDP), but ensure that planning at this level is kept relatively simple, with clear links both upwards and downwards, and that it is tied to allocated funding.

3.34 **Municipalities.** The municipal system faces numerous challenges as outlined in Box 3.2. These could begin to be addressed through a number of broad measures:

- Enact new legislation which clarifies the relationship of municipalities to the central and regional governing entities, while protecting their self-reliance. This should provide them with solid expenditure and revenue assignments, enhance capacity for providing local services sustainably, provide a clearer categorization of different local administrative bodies that should be created to manage different settlements, and establish real self-governance and downward accountability in line with the text and spirit of the Constitution.
- Clarify the functional roles and expenditure assignments governing service delivery for municipalities.
- Develop and implement service delivery frameworks for key municipal services including sanitation, solid waste management and maintenance of roads and drains to incorporate existing community, private sector, NGO and public sector operations as well as lessons from international experience.
- Formulate a comprehensive financing framework for municipalities which clarifies and rationalizes own-source revenue assignments; introduces measures to strengthen municipal revenue administration; and establishes a transparent rules-based system to allocate central transfers equitably and rationally among municipal jurisdictions.
- Develop improved budgeting, financial management and accounting systems, and institute measures to build capacity to administer these systems within municipal administrations.
- Introduce elections for mayors and municipal councils at the earliest feasible opportunity.
- Develop institutional measures to deal with the CDC-mayor interface, and to bridge the current gap between the bottom-up system for expression of community voice and planning and budget decision making.

### Box 3. 2: Municipal Challenges in Afghanistan

**Background:** Municipalities are remarkably autonomous, in spite of their reporting relationship to the Ministry of Interior and Ministry of Finance. They play a key development role, delivering services (municipal solid waste, sanitation, roads) and managing municipal/urban development.

**Intergovernmental relations:** Municipalities are governed primarily by the 2004 Constitution and the Municipal Law (2000), although the Public Finance and Expenditure Management Law (2005) also governs financial operations. However, the present legal framework is inconsistent and ambiguous. The Constitution visualizes a multi-layer intergovernmental system where the sub-national level includes provincial administration, district councils, municipalities, and village councils; but their interrelation is not stipulated. In contrast, the Municipal Law (2000) depicts a two-tier system, recognizing only municipalities which are obliged to report solely and directly to the Ministries of Finance and Interior (now IDLG) and the Council of Ministers (apart from Kabul Municipality); while ignoring villages or other small settlements. To mitigate this vacuum, many rural municipalities and villages have established informal “client” relationships with neighboring provincial municipalities.

**Financial status:** Municipalities are remarkably self-reliant, receiving no financial support from the central or sub-national government tiers (except Kabul more recently). Unfortunately, the revenue assignment framework is governed by several laws including the Municipal Law, the City Services Fees Law and the Safayi Tax Law and is thus vaguely defined. Under these circumstances, survival strategies of municipalities have included the introduction of a multitude of taxes, fees, and charges - many of them miniscule. Finally, where transfers have occurred (to Kabul Municipality) they have not been governed by transparent rules.

**Municipal functions:** The municipal functions and expenditure assignment frameworks are equally vague, governed again by several laws including the Municipal Law, the City Services Fees Law and the Safayi Tax Law. The ML describes functions most comprehensively but these are poorly defined, often confusing substantive and administrative functions, excluding some key functions (such as environmental management) and including some obsolete functions such as setting market prices – a throwback to the soviet era.

**Service delivery:** Most municipalities do have the organizational structure to deliver services. But local service delivery is extremely poor, a result of inadequate financing, poor capacity and the lack of service delivery frameworks. For example, the Kabul solid waste management system provides no public primary collection in the informal settlements, which cover 70 percent of the city and house 80 percent of its population. Instead, primary collection is private or community based. The municipality manages the secondary collection system, but waste collection rates are still lower than they should be due to capacity constraints of staff, routing, and vehicles. A framework is required to integrate public, private and community based systems.

**Finance and accounting:** The internal management of finance and accounting requires extensive attention. Financial statements are unavailable, a situation compounded by an inadequate Chart of Accounts. Records are inaccurate and there is little financial management and poor or no audit reports. The budgeting framework is incremental and bears no relationship to city needs.

**Accountability relationships:** Finally, the accountability relationships in the municipality are vague, resulting in a centralised, non-transparent organization. Currently, there is no clear hierarchy between the mayor and the council, so *de-facto*, the mayor runs the council. Mechanisms for community inclusion are in place through the *wakil-i-gozar* system. But this voice is not represented at the center and there is no forum for the development needs to be taken from the *gozar* and district level to the central level of the municipality for incorporation into the municipality’s broader development planning agenda. Finally, and most fundamentally, the fact that mayors and municipal councils are not yet elected critically constraints their potential as organs of accountable and efficient service delivery.

*Source:* Goga, Kopanyi, Chakravarty and Ibrahimi 2007.

3.35 **Community Development Councils.** The recent evolution of CDCs is summarized in Box 3.3. They now face three basic challenges: an existential threat deriving from the potential drying up of their funding as NSP comes to an end; a more robust definition of their role; and the question of which central agency takes ownership and responsibility for them. In order to address these challenges, the following steps should be taken.

3.36 First, CDCs need to secure a regular and reliable funding flow to resource local development activities which provide their *raison d'être*. The primary initiative here should be to establish a reliable, ongoing funding mechanism which gives them a source of dedicated funding which they can then allocate to local projects at their discretion. This should be distributed horizontally between CDCs according to a simple and transparent formula. Given international standards, and to ensure sustainability, the funding should be set at far lower levels on a per capita (or per CDC) basis than under NSP. A donor operation, underpinned by a multi-year commitment from more than one donor source, will probably be needed to put this system in place. A secondary initiative, equally important in the short term, should seek opportunities for steering funding which is meant to support sector-specific investments at the local or community level via CDCs or federations of CDCs.

3.37 Second, CDCs' roles should be consolidated on the basis of the new by-law, i.e.: (a) allocating their "own" funding, and planning and implementing local projects using this funding, with a similar role being played with respect to sector-earmarked funds; (b) a limited administration role, particularly in the areas of civil registration (e.g., birth and death registers) and land verification; (c) planning and allocation at the district or sub-district level where CDCs are able to federate or cluster; and (d) providing information on service delivery and governance to PCs to assist them with their accountability function. In general, CDCs should take on public good functions, and should not become involved in activities such as the selection of individual micro-finance beneficiaries, as this would entail risks of conflict of interest, nepotism and corruption. It is also important that CDCs do not become responsible for the governance and management of local service-delivery units (such as schools) in competition with bodies (such as school management committees) which have been specifically set up for this purpose.<sup>64</sup>

3.38 Third, the matter of "ownership" of CDCs at the central level will have to be settled within the central government by those agencies and ministries which have a core interest in this question. While it would be premature to make a substantive proposal, as a matter of procedure the best way forward would probably be to have this issue looked into and decided by the Inter-Ministerial Committee proposed below.

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<sup>64</sup> The allocation of general CDC resources to specific schools within their areas would, of course, be another matter – here CDCs have a legitimate role.

### Box 3.3: The Evolution of CDCs

Field implementation of the National Solidarity Program (NSP) began in August 2003 and, by the end of April 2007, the program had reached more than two thirds of Afghanistan's estimated 24,000 villages across all of the country's 34 provinces. The two stated objectives of NSP are: (a) to lay the foundations for strengthening of community-level governance; and (b) to support community-managed sub-projects for reconstruction and development.

CDCs constitute the basic building block to achieve the governance objective of NSP. They are supposed to be established as representative bodies through secret ballot election by both men and women. The election process that is called for is structured in such a way that promotes inclusiveness across spatial, occupational, gender, factional and ethnic sub-divisions within the village. Under NSP, the specific roles of the CDCs are to develop, in consultation with the wider community, a medium-term prioritized Community Development Plan (CDP), specific sub-project proposals that address one or more of the CDP priorities and are funded by the NSP block grant, management of sub-project implementation, and operation and maintenance as required.

The governance impacts of NSP were assessed during the mid-term evaluation by the University of York in 2005-06. The evaluation concluded that, in communities reached by NSP, there was significant evidence of: (a) empowerment of CDCs; (b) improved community relations; and (c) increased public faith in the system of government. (Ongoing analysis is likely to be less clear cut than this, which is not surprising in the Afghanistan context.) Case studies conducted as part of the evaluation found that, while their composition and functions varied considerably between communities, the CDCs are emerging as legitimate local governance institutions. Similarly, a recent study by CSIS (p.47) found that "the CDCs and tribal *shuras* are seen as more responsive to Afghan needs than provincial governments and provincial councils, and in many cases are the only sign of improvement villagers have seen in the past five years."

There are also indications that the presence of NSP correlates with the stabilization of a locality. MoE reports that there were 72 school attacks in 7 provinces in 1384 followed by 73 attacks in 26 provinces in the first half of 1385. Although NSP to date has constructed 196 schools in 18 provinces, only 5 cases of attacks on NSP-built schools have occurred – even though 52 of the NSP schools were constructed in the five provinces (Kandahar, Helmand, Ghazni, Khost and Balkh) which account for half of the school attacks. Even so, the deteriorating security situation has affected the ability of NSP to work in high risk areas.

A CDC by-law issued by presidential decree in January 2007 represents an important step towards consolidating CDCs as local governance entities mandated to be the entry point for village-level development activities. Key provisions of the by-law are that: (a) CDCs are neither an arm of the state nor part of the government administration; (b) their primary role is to plan, organize, implement and monitor development activities at the community level; (c) CDCs can form associations with other CDCs and can cooperate with government organizations at the provincial and district levels on governance and development issues; (d) CDCs have the administrative function of maintaining and providing data on births, marriages, deaths and ID cards to the district administration; and (e) CDCs will have a Community Development Fund – financed by the government, donors NGOs etc. -- to implement its Community Development Plan.

Source: Christensen and Olesen 2007.

3.39 **Provincial Reconstruction Teams.** As noted in Box 3.4, PRTs face a critical dilemma: trying to create the space for the Afghan state to develop while running the risk of undermining it. A number of steps may be identified in order to address this risk:

- Scale down PRT activities in relatively secure areas and begin to route the associated resources through government systems and budgets. PRTs should really only exist where security conditions make them absolutely necessary. The ESC should undertake a review of PRTs in terms of this criterion and begin to phase them out, or right-size them, accordingly.

- Each PRT commander should develop a condition-based plan for phasing out his/her PRT. These plans should be subject to scrutiny and oversight by the PRT ESC, which should stipulate a standard format and timetable for their production and monitor progress against it.
- PRTs should begin to move away from small-scale community-based projects, where the conflicts between local prioritization and governance and top-down PRT processes are likely to be most pronounced. Instead, their resources should be focused increasingly on large-scale, bulk and link infrastructure, where the need is obvious and process conflicts are likely to be fewer.
- Insofar as PRTs continue to provide resources outside the government budget, they need to ensure maximum alignment with it. This involves producing accurate and timely information on project costs etc., and ensuring that government inputs are accurately costed, particularly salary and operating costs once the project is completed. More generally, ESC should begin to provide regular aggregate budget and expenditure information on PRT activities country-wide.
- The ESC should issue a policy discouraging the poaching of government staff and provision of salary top-ups. An overall orientation supporting local institutions and people to learn by doing, even at the cost of time and quality, should be encouraged.

#### **Box 3. 4: The Role of PRTs**

There are currently 25 PRTs in Afghanistan, led by 13 different countries. They are dispersed widely throughout the country, covering both secure and insecure areas, but tend to be less concentrated in the central and northern areas than elsewhere.

The role of PRTs has attracted much comment and debate. According to the PRT mission statement: "PRTs will assist the Islamic Republic of Afghanistan to extend its authority, in order to facilitate the development of a stable and secure environment in the identified area of operations, and enable Security Sector Reform and reconstruction efforts." And the most recent edition of the PRT handbook emphasizes that "PRTs play a vital role in occupying the vacuum caused by a weak government presence and hence deterring agents of instability." In other words, PRTs have a broad mandate to pursue a wide range of military and development activities within their operational areas.

It's therefore not surprising that different PRT models have developed in different provinces, driven by variations in the conditions they face and different national leadership styles. In essence, however, PRTs do two basic development-related things: (a) they provide a protective home for bilateral donors and other government agencies which undertake development programs in the province; and (b) under the overall leadership of their commanders, PRTs identify and implement development projects funded from military budgets (e.g., the Commanders' Emergency Response Program for the United States) or occasionally development funds.

While it has not been possible to get comprehensive data on PRT budgets and activities, an examination of CERP expenditures over the past two and a half years indicates that: (a) the funding flows are substantial, with total expenditures exceeding US\$200 million over this period; and (b) the expenditures are distributed over a wide range of activities and sectors (including transport 25 percent, energy 17 percent and governance 15 percent). In addition, the funding approval process is not necessarily conducive to effective or rational programming of development initiatives. Typically, a US commander has discretion over sums of up to US\$50,000 per month, while larger projects must be sent up the line of command for approval. This process, along with short staff rotations, tends to favor a multiplicity of small-scale short-term projects over larger, bulky investments, irrespective of the development needs of the area.

PRTs execute their development activities through institutional modalities which operate outside and parallel to those of government. While they may consult with local officials, PRTs ultimately decide on development priorities and projects themselves, contract directly with companies to implement these projects, and provide supervision and oversight. This inevitably makes it difficult to align PRT-determined priorities with those of local communities, and to ensure that there is adequate recurrent funding to keep projects running. It is also difficult to strengthen the institutional systems of government if they remain unused and under-resourced. In fact, "government weakness" can become a self-fulfilling prophecy as skills are attracted away by PRTs and other agencies.

PRT leaders are aware of these risks and have taken a number of steps to manage them. Even so, the core PRT dilemma remains – and will continue as long as they retain their current institutional character. This does not mean there is no need for PRTs or that they should be disbanded overnight. But it does suggest that definite measures are needed both to manage their risks and to truly contribute to their stated mission/mandate – while moving steadily onto an institutional track which makes them increasingly redundant.

*Source: White and Lister 2007.*

## **F. Initial Procedural Steps**

3.40 The strategic framework and activities outlined above provide an agenda for strengthening the sub-national system in Afghanistan. This is one of the first attempts to focus comprehensively on the overall system and its institutional arrangements. As such, it is best seen as a basis for stimulating

dialogue within the government and with the donor community. This process has already started, with the dissemination and discussion of the background paper in Kabul in July 2007.

3.41 Since then, the Government of Afghanistan has moved to strengthen the central oversight of sub-national issues with the establishment of the Independent Directorate of Local Governance (IDLG), reporting directly to the President. The IDLG is essentially a merger of the structures of civil administration under the Ministry of Interior (excluding registration of births and deaths) and provincial relations (Provincial Councils) under the Office of Administrative Affairs (OAA). Its basic role is to supervise the affairs related to Provincial and District Governors, as well as municipalities (except Kabul). The Directorate is proposing to adopt a two-prong approach, focusing on: (a) short-term initiatives to address symptoms of poor governance in specific provinces and districts; and (b) longer-term solutions to deal with the root causes of poor governance in the sub-national system.

3.42 The establishment of the IDLG has been warmly welcomed in the donor community. In the past, a number of ministries had overlapping responsibilities for the various sub-national organs, and capacity to monitor and manage any given aspect of the sub-national system has been poor. In addition, ministries which are active at the sub-national level exhibit high degrees of bureaucratic and political rivalry, making it difficult to forge common perspectives on important reform initiatives. To be effective, the IDLG will need consistent political support from the President. It will also have to build up political credibility with the powerful and disparate interests working at the sub-national level, and the technical capacity to tackle complex institutional and policy issues. To support this effort, consideration should be given to forming an Inter-Ministerial Committee, chaired by the President or Vice President, with IDLG acting as the secretariat, to establish a framework for sub-national strengthening and reform. In the short to medium term, this should focus on providing clear direction for the evolution of the sub-national system. In the longer term, this sort of body could oversee a more thoroughgoing policy exercise, culminating in a new Local Government Law (a process which began some time ago, but which now appears to be in a state of suspended animation).

3.43 The IDLG warrants strong support from the donor community. In the past, donor activities at the sub-national level have been poorly coordinated. The extensive funding which flows to sub-national initiatives outside government systems has compounded this problem. Recent efforts to establish a donor working group on sub-national governance are therefore welcome. This provides a useful forum for formulating common donor views on sub-national issues and approaches, which should be fed into the Sub-National Governance Donor and Government Working Group under the ANDS mechanism. The IDLG should probably take over the chairmanship of this group from the IARCSC. One of its first tasks will be to set appropriate benchmarks for developing a clear policy framework for the sub-national system, and a strategy for guiding reforms, along the lines mentioned above.

## IV. MAKING GOVERNMENT ACCOUNTABLE TO THE PEOPLE

### A. Introduction

4.1 Afghan citizens have two channels through which they hold the government to account: the direct channel of elections and the indirect channel of checks and balances on the executive's abuse of power. These restraints on the executive are exerted formally by the National Assembly (NA), Control and Audit Office (CAO), and independent agencies at arm's length from government; while the media and civil society organizations (CSOs) comprise a less formally organized oversight mechanism. This chapter will mainly explore the latter indirect means of citizens' control over the executive i.e. public accountability, which requires the executive to explain and justify its decisions and actions to citizens, who can pose questions and pass judgments. Although very far from a reality in Afghanistan, the judiciary is meant to be protecting the rights of citizens (and the executive as well). As Afghanistan's political systems are still evolving, the media and CSOs have the potential to become important means of self determination and self expression, providing citizens the opportunity to engage more fully in political and economic decision making.

4.2 Public accountability is a critical element of PAR, whose objective is to bring security and services to the people. Through sharing of information and feedback between the government and citizens, reform's progress against its objectives can be checked by both on a continuous basis without waiting for the next election. Public accountability is closely linked to the other two elements of PAR that were discussed in the two preceding chapters. The executive's accountability is closely linked to the first PAR element (Building an Effective Civil Service, discussed in Chapter II) because it is the means by which the public puts pressure on elected and appointed public officials to serve the public's interest instead of their own. Government's accountability to its people is linked to the second PAR element (Local Governance and Service Delivery, discussed in Chapter III) because it is at local levels and through delivery of public services that citizens interact most often with Government.

4.3 But public accountability is the least advanced among the three elements of Afghanistan's PAR strategy. The legal framework is uncertain and unenforceable, while the judiciary is virtually absent. Insecurity and intimidation prevent even oversight agencies from performing their functions in some provinces. In these places, law enforcement agencies cannot make arrests without agreement from the local strongman. Political interference—from members of the Cabinet, parliamentarians, and provincial counselors—hampers all stages of the Attorney General's investigation and prosecution process<sup>65</sup>. Members of the Afghanistan Independent Human Rights Commission were threatened when the Commission issued reports on abuse of power by those in the Government<sup>66</sup>. Large sums of donor assistance, almost three times what the Government itself earns in revenue, is spent on reconstruction activities; and about half of it flows outside the national budget<sup>67</sup>.

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<sup>65</sup> UNDP 2007b.

<sup>66</sup> See, for instance, statements from Human Rights Watch at <http://www.rferl.org/featuresarticle/2005/10/ac3308eb-df83-4738-9f6a-ef0b86e9a8fa.html> at Esfandiari 2005.

<sup>67</sup> In SY 1385, actual domestic revenues were \$580 million. Donor assistance to the core operating budget was \$380 million, to the core development budget \$320 million, and to the external budget \$743 million.

## B. Bringing Public Accountability to the PAR agenda

4.4 The direct election channel of public accountability was exercised in September 2005 when more than 6 million Afghans went to polls to elect the lower house of the National Assembly (*Wolesi Jirga*) and 34 Provincial Councils. The 249-member directly elected lower house, and the 102-member upper house (*Meshrano Jirga*) comprise Afghanistan's National Assembly (NA). Within four years of the Bonn Agreement, Afghanistan had had a Presidential election (2004), an elected National Assembly, and officially established bodies for oversight of the executive<sup>68</sup>.

4.5 While the direct channel of public accountability was developed quite quickly, the indirect channel had a necessarily slow start in Afghanistan's PAR agenda. In 2002, at the start of rebuilding Afghanistan, humanitarian and reconstruction needs were so immense and immediate, and government's capacity so sparse relative to the challenge, that the objective of donor-assisted reconstruction was to first get the system back on its feet before fine tuning its performance. Even the World Bank, which supported development of Afghanistan's public financial management systems, began funding treasury functions (2002) before turning its attention to a procurement law (2004). Thus, the extreme "capacity deficit"<sup>69</sup> inevitably ignored the "accountability deficit."

### Box 4. 1: The 2005 Parliamentary Elections in Afghanistan

The Joint Electoral Management Body (JEMB), consisting of 9 Afghan members, 4 international members plus the (non-voting, UN-appointed) Chief Electoral Officer had overall authority for the 2005 election. Actual implementation of the election was the responsibility of the JEMB secretariat, headed by the Chief Electoral Officer.

The technical and logistical challenges of conducting the elections were formidable. The Taliban had threatened to disrupt the election. A combination of international military forces, the Afghan National Army, the Afghan National Police, and the National Security Directorate provided election security.

The Electoral Complaints Commission, an official, independent body established by electoral law to handle electoral grievances, examined 5,397 registered complaints. Forty five candidates were rejected because scrutiny of their nomination found evidence of connection with armed groups, or for not giving up their government jobs. The Media Commission, set up under electoral law, had the mandate to ensure that voters had an opportunity to make an informed choice when they voted.

The strong performance of female candidates characterized these elections. The Afghan Constitution guarantees 27 percent lower house seats, and election law guarantees 25 percent Provincial Council seats for women. However 19 women in the *Wolesi Jirga*, and 29 women in Provincial Councils won their seats in their own right, and ended up not needing the quota provisions of the Constitution and election law.

Source: Wilder 2005.

4.6 Security and stability so overwhelmed reconstruction needs during the early days of reconstruction that it detracted government's and donors' attention from public accountability issues. Military assistance vastly outweighed developed assistance, at an estimated ratio of 10:1<sup>70</sup>; and this asymmetry was reflected in Government's strategies. Good governance was one of the three pillars of the

<sup>68</sup> The upper house is meant to have one-third of its members elected from within each of the Provincial Councils, one third from the District councils, and one third are to be appointed by the President. As district elections have not been held, and are unlikely to be held anytime soon, a Presidential decree was signed authorizing each provincial council to elect a transitional upper house member in addition to their regular member until district elections can be held.

<sup>69</sup> Cliffe and Manning forthcoming.

<sup>70</sup> Lockhart 2006.

National Development Strategy. But, the government's 2004 economic development strategy<sup>71</sup> concentrated only on the core of public administration, (the center of Box 1.1) by choosing security, an effective civil service, and good budget management among focus areas of governance, and omitting institutions of public accountability and the fight against corruption. Investment in media was clubbed with culture and sports, with the hope that these would help 'create an open society and revive the cultural diversity of the country.' The security sector received a high level of donor assistance (\$3.9 billion during 2003-06), with its major part (79 percent) remaining outside the core national budget. Developing security forces was essential to good security on the ground. But security forces' effective management and oversight by civil authorities, which was lost during the long period of conflict, was slow in returning. The Ministry of Defense's organizational restructuring and institution-building remained outside Government's reform arrangements. During these early years, the justice sector received very few resources<sup>72</sup>. Thus, the "security deficit"—like the capacity deficit—ignored the accountability deficit.

4.7 Donors' short-term reconstruction priorities were not compatible with the long-term effort required to build institutions of public accountability. For example, in the education sector, donors helped to reconstruct / rehabilitate 3,516 schools during 2002-2005<sup>73</sup>, but it was only in 2006 that school management committees for community oversight of schools became part of the sector's strategy, whose preparation was supported by donors. Many donors channeled their support through the external budget using NGOs and private contractors. The Control and Audit Office estimates the amount of donor assistance spent through NGOs and private contractors during the past five years to be about \$11 billion. Most of these funds have never been audited, while many audit reports have remained with donors only<sup>74</sup>.

4.8 Past social and cultural traditions partly explain the absence of formal accountability institutions during the conflict years and even before it. While Afghan society's traditions have included informal checks and balances, the first Constitution of 1923 did not introduce formal checks and balances on the King's powers. This was reinforced by the 1964 Constitution, which while giving the status of a Constitutional body to the traditional *Loya Jirga*, also gave the King the power to dissolve it. In the 1977 Constitution, the Party was the guarantor of power and all branches were accountable to the party, including the President. Throughout the turbulent times, the *Shari'a* continued to be the source of Afghan law. No elections were held during the Taliban period because (they explained) the *Shari'a* did not allow politics or political parties. Instead of an election, their leader's legitimacy came from *Bay'ah* or oath of allegiance in imitation of the Prophet and early Muslims.

### **C. Improving the Effectiveness of Parliament and the Judiciary**

4.9 Although formal oversight organizations have been set up, a broad understanding of their roles and functions is still evolving. These institutions are as much affected by institutional weaknesses as executive organizations: absence of clear legal framework, lack of understanding of legal provisions and organizations' mandates, and little coordination among government organizations. Insecurity deters the voice of dissent. In addition, a huge obstacle to these oversight organizations is citizens' general lack of

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<sup>71</sup> Islamic Republic of Afghanistan and International Agencies. 2007. The ADB, UNAMA, UNDP and the World Bank helped prepare the report *Securing Afghanistan's Future*. It can be seen at <http://www.adb.org/Documents/Reports/Afghanistan/securing-afghanistan-future-final.pdf>

<sup>72</sup> In World Bank 2005e, the Bank reported that during 2002-05, Government's expenditure on the justice sector (the ministry, Supreme Court and Attorney General's office) was less than 3 percent of what was spent on national defense, internal security, the National Directorate of Security in charge of gathering intelligence, Borders and Tribal Affairs, counter narcotics and mine clearance.

<sup>73</sup> Islamic Republic of Afghanistan, Ministry of Education 2007.

<sup>74</sup> UNDP 2007b.

trust in individuals and institutions. Respondents of a 2006 World Bank-sponsored survey in 32 provinces reported much higher trust in extended family and village elders than in central government, provincial governors and provincial councils. Given the years of conflict and the on-going resource-scarce environment which produces extreme competition for resources, it is almost impossible to get people to believe that decisions are made for objective reasons, rather than for personal, tribal, or ethnic ones. The perception is exacerbated when these organizations' members display their unwillingness to follow laid-down mandates and procedures.

4.10 During its first year, the National Assembly started asserting its role of oversight on executive power. It interviewed the nominees for Cabinet and rejected 5 out of the President's 25 nominations requiring him to make fresh nominations. It also rejected the President's nominee for Chief of the Supreme Court and three other nominations for the 9-judge bench. However, parliamentary scrutiny of the Government's budget and accounts has been impeded by NA members' unfamiliarity with presentation of public financial management information, and passing of the SY 1385 and SY 1386 budgets by the NA were delayed by several weeks. In SY 1385 parliamentarians refused to pass the budget until Government committed to raise civil servants' salaries and martyrs' pensions. The NA receives the annual report of audit of Government accounts from the Control and Audit Office, but it has no established system of scrutiny and response for audit reports. Although the Constitution provides for legislative scrutiny bodies, there is no parliamentary committee with a charter similar to that of a Public Accounts Committee to review the effectiveness of public expenditure. The media reported that when parliamentarians summoned a minister or head of independent agency, members spent most of their time resolving personal disagreements and ignoring issues of public interest.

4.11 The NA plays a role in controlling corruption. It oversees governance via its Complaints and Petitions Commissions that exist in both houses. The Commission in the upper house has the mandate to receive citizens' complaints on all matters, including those related to the executive's corruption and mal-administration. The Commission has the right to summon ministers for questioning or follow-up on issues raised by citizens. In general the Commission acts as a parliamentary ombudsman trying to solve disputes peacefully. For example, the Commission intervened when the issue of 1,200 prisoners serving prison time beyond their terms. However, its interventions carry the risk of violating the constitutional principle of separating state powers.

4.12 Parliamentary effectiveness is reduced by the absence of strong and effective political parties. Political parties suffer a major image problem in Afghanistan because people continue to associate them with communist or jihad-era political parties that played such a negative role in Afghanistan's tragic history. In the lower house, less than one-third of members are generally believed pro-government, and they are aligned to 13 political parties, factions and independents. Thus third party groups form the balance between pro and anti-government factions making legislation a challenging, time-consuming task, not to mention a potentially expensive one in an environment of high levels of graft and patronage expectations. During the first year of the National Assembly, many sessions had to be canceled for lack of a quorum because there was no party discipline to keep members in the house. This was in spite of NA members having to record their attendance in order to receive their salaries. More seriously, absence of political parties to aggregate interests resulted in the NA and Government becoming de facto political parties, an adversarial relation between the two, with parliamentarians attacking the Government instead of legislating<sup>75</sup>. In his January 2007 speech to the NA as it started its second year, the President had to reiterate several times that the NA could usefully consult with government officials, and give them healthy advice for improving their performance.

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<sup>75</sup> Wilder 2005.

4.13 Justice institutions are probably the least developed among formal oversight organizations. These include the Supreme Court, the Ministry of Justice, and the Attorney General's office. The legal framework's consistency needs to be urgently developed. Not only is applicable law in Afghanistan difficult to determine due to numerous regime changes, it is further complicated by the power, that the Bonn Agreement gave to the interim head of state, to issue decrees until a National Assembly was in place. Several hundred decrees were passed starting from early 2002 and until November 2005, when the NA first met. Stronger legislative capacity and skills in legislative methods and techniques will be required in the NA, the Cabinet and the Ministry of Justice. The legislative process, while being participatory, requires greater coordination between the Cabinet and the NA. Delays arise because of limited drafting capacity of Ministry of Justice staff, language differences with international experts, and lack of explanatory notes when presented to the NA.

4.14 A majority of Afghan citizens know little about the formal legal framework. Customary law prevails widely, and most disputes are settled in non-state forums<sup>76</sup>. But, customary law and informal justice systems are biased against women, who are not represented. At the same time, confidence in the formal justice institutions is low, and strengthening the sovereignty and integrity of the Afghanistan courts will require transparency of courts' operations and procedures, uniform application of law with predictable and credible decision-making, and courts' capacity to deliver services and manage resources. Some 330-360 functioning courthouses are required, each with a minimum of 2-3 judges and several prosecutors. The Supreme Court has approximately 1,350 official judge positions. Of these, 50 percent are currently occupied, and of that 50 percent one-third are estimated to have been educated to university standard. According to the Prosecutor general, 2,212 legal professionals are needed nationwide. Legal information, education and service are critical for the courts productivity and accountability. Many judges do not have access to legal texts, and simply apply their own version of *sharia* law to many disputes. The role of judiciary, especially the Supreme Court, in enforcing constitutionality of laws and regulations and reviewing legality of administrative decisions needs to be strengthened. The Supreme Court's interpretation of the Constitution is rarely available, and ignored even when it is. Especially with regard to Parliamentary vetting of ministers, it is unclear whether the NA also has the authority to dismiss a minister. The Supreme Court has ruled that the Constitution has not granted such power to the NA, but this advice has generally been ignored.

#### **D. Rethinking the Roles of Media and CSOs**

4.15 Historically, Afghan press had always been the domain of the state, and under Taliban rule, media became severely restricted. Radio Afghanistan was renamed Radio *Shariat* to reflect the Islamic fundamentalist values of the Taliban; and Television Afghanistan, believed to be a source of moral corruption, was closed down. The Ministry of Culture was mainly concerned with suppressing music for entertainment, and banning photographs and depiction of living things—including destruction of the Buddha statues at Bamiyan.

4.16 Considering this very low base from which media development started during reconstruction, its growth in volume is impressive. Today, nearly 350 publications are registered with the Ministry of Culture and Youth Affairs, many appearing in both Dari and Pashto, and with a majority operating from Kabul. Afghan print media is still a long way from financial independence, so newspapers are either closely associated with political and military factions, or depend on international donors for funding. Low literacy rates, lack of efficient distribution networks, almost non-existent culture of advertising in newspapers and difficulty in accessing many rural areas keep Afghanistan steeped in a culture of radio, on which the majority of the population depend for news and information. Radio in Afghanistan comprises

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<sup>76</sup> Barfield et al 2006.

the state-run Radio Television Afghanistan (RTA), which broadcasts from Kabul and 18 provincial stations; more than 50 local FM stations; a national radio show funded by Internews; international broadcasters BBC, Voice of America and Radio Free Europe; and stations and programming funded by NATO and US Coalition forces. Television has once again become the country's main source of entertainment, though even in Kabul only 25 per cent of families have a television and power blackouts are frequent<sup>77</sup>.

4.17 Recent tensions between the media and government are evidence that the media has started playing its role in public accountability. There was considerable media consternation at and opposition to the provisions of the new media law that can be potentially used to restrict the media's freedom<sup>78</sup>. It draws upon the constitutionally mandated supremacy of Afghanistan's religious beliefs over other laws to prevent dissemination of prohibited material. The new media law provides for a High Council of Media to keep track of income and expenditure of mass media, ensuring that they are overt and transparent. The Religious and Cultural Affairs Commission's recommendation on the High Council's composition is still in flux, but initial recommendations of the Commission omitted representation of both the media industry and civil society. The new law reiterates an independent commission for management and oversight of RTA, but the commission existing under the earlier law is inactive. So, currently the Ministry of Culture and Youth Affairs takes all decisions about RTA's management. The number of registered cases of journalists' intimidation rose from 45 in 2005 to 50 in 2006. Media leaders claim that these are gross under-estimates as most cases go unreported, and journalists' insecurity has resulted in their self-censorship. The Government in Kabul is concerned about who controls radio programming in the provinces and how safe each station is from the possibility of dissident elements gaining control. But the Government's determination of what are facts could result in one-sided reports. Sections of the media point out this law's contravention of Article 19 of the Universal Declaration of Human Rights, to which Afghanistan is a signatory. The Government had sought to introduce a clause in the newly passed amnesty bill immunizing all *jihadis* from prosecution that would force the media to honor the *jihadis* in any reports, but this was withdrawn.

**Box 4. 2: The Constitution and Media's Freedom of Expression**

Article 34 states that "freedom of expression is inviolable... [and] every Afghan has the right to express his thought through speech, writing, or illustration or other means, by observing the provisions of the constitution. The same article further gives every Afghan the "right to print or publish topics without prior submission to the state authorities in accordance with the law."

Freedom of expression is further strengthened by Article 7, which obliges the state to "abide" by international conventions to which Afghanistan are a signatory, including the Universal Declaration of Human Rights

But the freedoms enshrined in Afghanistan's Islamic constitution are also guided by Article 3, which stipulates that "in Afghanistan, no law can be contrary to the beliefs and provisions of the sacred religion of Islam."

4.18 As the media acquires capacity to play the public accountability role, the Government is also adjusting to having its actions being scrutinized by the media. Recently, the country's most popular TV channel has been locked in a standoff with the Attorney General after police raided its office following

<sup>77</sup> The Killid Group and Inter Press Services 2007.

<sup>78</sup> The bill has been passed by both houses of the National Assembly and needs to be endorsed by the President before it becomes law.

allegations of misquoting by the channel. The management of a weekly is in conflict with the Speaker of the NA after having alleged his misappropriation of a large sum of money. The concept of investigative journalism still has not taken root in large parts of the media and Government. Thousands of journalists and would-be journalists have been trained in donor-sponsored workshops, there are two journalists' unions and two media watchdog groups, but the current belief and training in universities still is that a journalist should reproduce the handed out communiqué. The situation of both state-run and private media is more sparse in the provinces than in Kabul. At least 9 provinces have no local media. A recent review of corruption articles that appeared during the last two years in five of Afghanistan's largest newspapers found that 90 articles had been published, but most of them had reproduced official news handed out by Government organizations<sup>79</sup>. Among newspaper articles about corruption, accountability of government institutions received marginal (0.82 percent) coverage. A 2006 media coverage survey showed that more than half (53 percent) of published information was attributed to Government sources, domestic and foreign; and civil society was a very small (8 percent) source of information. The media ignores thousands of *shuras*, associations and NGOs as news sources; nor do these groups use the media to voice their concerns<sup>80</sup>.

4.19 The communication gap between media and CSOs is partly due to the current role of CSOs: more that of project implementer than defender of public accountability. International humanitarian aid programs had continued during the years of conflict and drought. These were implemented by international organizations that lacked knowledge and expertise and needed a local partner to implement their projects. Many international organizations eagerly sought "implementing partners" and found Afghan CSOs, most of which were located in Peshawar in Pakistan, well equipped for this task. Comprising returning refugees that had been educated in their host countries, these CSOs had the 'capacity' that donors sought. The CSOs, on their part, found it comparatively easy to work in their own and familiar regions of Afghanistan, and many were motivated to contribute to their country's reconstruction. Demands of the donor community and their emergency aid programs led to relocation of Afghan NGOs from Pakistan to Kabul and mushrooming of several new Afghan NGOs all over the country, who carved their own niche in delivering much-needed humanitarian aid throughout the country while following international organizations' policies and practices. The private sector, being hostage to the vagaries of insecurity, provides few opportunities, and donors' compensation is much higher than civil service salaries. So, a majority of Afghan CSOs continued to work as contractors or "implementing partners" of the donor community<sup>81</sup>.

4.20 There is deep mistrust for "NGOs" as a group, making it hard for civil society groups in general to transition from their current role of donors' sub-contractors to honest brokers of public accountability. NGOs are largely perceived by the population as a foreign phenomenon that has gained control over the money meant for Afghans<sup>82</sup>. This mistrust extends to Afghan NGOs as well. Arising partly from misplaced frustration and out of jealousy for NGOs' access to resources, blame for wasting development aid sometimes gets directed at NGOs. As others in similar post-conflict circumstances, the Government resents the level of international resources that flow to NGOs and private contractors in Afghanistan. Owing to a 2-year freeze on NGOs' registration, and to avoid the stigma attached to the term NGO, many civil society groups registered themselves as Social and Cultural Organizations taking advantage of the 2002 law that provided for such organizations to register with the Ministry of Justice.

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<sup>79</sup> Delesgues and Torabi 2007.

<sup>80</sup> The Killid Group and Inter Press Services 2007.

<sup>81</sup> Padamsee 2004.

<sup>82</sup> Moore 2005. According to Ministry of Finance information, between January 2002 and September 2004, 45.5 percent of donor funding went directly to the UN; 28.5 percent went directly to the Afghan Government; 16.4 percent went directly to private contractors; and 9.6 percent went directly to NGOs. These statistics do not reveal the total percentage of donor assistance that ultimately went to NGOs, as the UN or Afghan Government often re-program funding through NGOs.

4.21 Having worked for long as “doers” within a rigid structure, CSOs may themselves find it hard to transcend from their current role to becoming custodians of the voice function. Afghanistan had little or no tradition of formalized community participation in political decision-making or development planning, either at the national or local level. “New democracy” starting with the Constitution of 1964 was mostly a “democracy from above” without involving local communities<sup>83</sup>. Civil society groups were not included in the Bonn political process: individuals’ initiatives led to the creation of the Afghan Civil Society Forum that took place in parallel to the Bonn process. During the 2005 parliamentary elections, civil society groups played a valuable role in civic education by going out into communities to explain the electoral process but these tasks were performed on behalf of the Chief Electoral Officer and the messages were not something that the CSOs themselves had developed. Women’s involvement in discussion and debate is impeded in traditional arrangements as *shuras* (see Box 4.3) have a patriarchal structure. Because youth groups lack professional contacts, they are rarely counted among CSOs.

#### Box 4.3: The Universe of Afghanistan’s CSOs

Civil society is the sphere of institutions, organizations, and individuals—located between the family, the state, and the market—in which people associate voluntarily to advance common interests. The four main types of CSOs currently observable in Afghanistan are: Community Development Councils (CDCs), *Shuras*, Non Governmental Organizations (NGOs) and Social and Cultural Organizations (SCOs). In general, NGOs are perceived to make profits while SCOs do not. Where they are registered sometimes turns out to be the only differentiation between CDCs (registered with MRRD), NGOs (registered with the Ministry of Economy), and SCOs (registered with the Ministry of Justice). However, some organizations are registered with more than one ministry!

Community Development Councils (CDCs), also known as Village Organizations (VOs), were created to implement the National Solidarity Program (NSP). Project funds up to \$200 per family could be allocated to communities for infrastructure related community projects, but applications for those funds had to come through CDCs, representing 25 to 30 families. Lacking the capacity to build CDCs, the Ministry of Reconstruction and Rural Development (MRRD)—the line ministry for the NSP—contracted 20 facilitating partners to take responsibility for creating CDCs in one or more province. As of 30 April, 2007, 16,753 CDCs had been in 279 districts, and registered with MRRD.

*Shuras* are seen, in most parts of the country, as functional local decision-making mechanisms. Their membership is comprised almost wholly of male village elders, who are not elected. *Shuras* do not represent the younger cohorts in the population, “alternative thinkers”, and the less-well-to-do. Because donors typically implement their projects through CSOs, any *shura* that wants to become eligible for a grant becomes registered as an NGO or SCO.

Non Governmental Organizations (NGOs), of whom 2000 are registered in the Ministry of Economy’s Registration Department. A large proportion of them are construction organizations not fitting any conventional definition of a CSO, or “inactive storefronts” or “briefcase NGOs”. The number of “real” civil society organization among NGOs may be any figure between 150 and 400. A smaller number of international NGOs (333) are also registered with the Ministry of Economy. There was strong internal pressure on Government to adopt a more controlling stance towards NGOs. With representation from the CSO community, a working group drafted a law for regulating NGOs’ activities, but since 2003 the draft law remained untouched for more than two years until NGOs’ registration responsibility was transferred to the Ministry of Economy and the new minister had a less adversarial approach towards NGOs. Registration of NGOs also remained frozen during this two year hiatus.

Social and Cultural Organizations (SCOs) comprise political parties as well as associations, unions, and tribal *shuras*—in addition to a smaller number of project-based CSOs, of which 242 are registered with the Ministry of Justice. As NGO registration had been frozen in 2005 and to avoid the stigma which got attached to the term NGO, many CSOs have been registering themselves as SCOs.

Source: Ayrapentas 2005.

<sup>83</sup> Boesen, 2004.

4.22 CSOs' capacity to play the role of monitoring government is not fully developed. Although some government reports and external evaluations are available online, few CSOs themselves have the capacity to analyze the reports and inform the public, and fewer are willing to take the risk. In Afghanistan, the international community continues to monitor the Government, and only a few umbrella CSOs monitor the development community. CSOs rarely lobby the National Assembly or the executive. The first exception to this happened when Afghanistan's two major CSOs together exerted pressure on government for Afghan SCOs to be allowed to receive funds from non-Afghan donors. The second instance was when CSOs lobbied the President and Supreme Court to release a journalist who had been condemned to life imprisonment for criticizing Islam<sup>84</sup>. In a recent survey of 678 CSOs in 22 provinces, a majority of respondent organizations reported fund-raising as their main need. They also cited advocacy as a main need along with communication of all types – from travel to electronic<sup>85</sup>. Security conditions not only threaten the opportunities for international NGOs to assist in developing Afghan civil society, but are also diminishing the ability of local NGOs to enhance their own capacity and legitimacy. Last year 24 NGO personnel were killed. This year, although the number of fatalities is currently less, the number of attacks on NGO staff has dramatically increased. Local perceptions about association with internationals, particularly the Provisional Reconstruction Teams, are adversely affecting the security of NGOs.

4.23 Given their different geneses and orientations, there is no clear answer as to which amongst the current civil society organizations have the highest potential for being effective participants in local level governance—in district level planning and prioritization, as well as monitoring of services. There is a large gap between the mandate of a traditional community *shura* and a local community development association. *Shuras*' traditional roles have been more reactive than proactive: their main focus is on problem solving, including the resolution of local conflicts. Religious leaders and networks have always played a prominent role as civil society forces in Afghanistan, but the question is how the Taliban experience may have affected traditional Islamic leaders' potential as forces in civil society.<sup>86</sup> CDCs, being elected bodies and having more women's representation than traditional *shuras*, could potentially evolve into local governance organizations.

4.24 The CDCs themselves have asked to be considered as village councils, and to be involved in the planning process. A CDC conference took place in Kabul during November 10-15, 2007, bringing together 450 delegates from all provinces, over a third of whom were women. Some evaluations have found evidence of CDCs' future potential because NSP communities have far more tools than non-NSP communities for envisaging problems, linking priorities, and planning<sup>87</sup>. Some argue that while the NSP has delivered actual results on the ground, the advocacy of those with political stakes in the NSP, and NGOs that functioned as implementing partners may have been overstated. Others point out that more than half of CDC members are local elites, and dominance by traditional leaders and local elites may deter community participation. And once CDCs become 'part of the establishment', they will be much less the 'voice of the people' than they are now and they will potentially compete with existing authority structures at the village level. It also remains to be tested how CDCs perform outside their currently limited remit of planning and implementing small infrastructure projects, and with less funding than provided under NSP.

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<sup>84</sup> Delesgues and Torabi 2007.

<sup>85</sup> Ayrpentas 2005.

<sup>86</sup> Harpikven et al, 2002.

<sup>87</sup> See Christiansen and Olesen 2007. This was one of the background papers commissioned for the report.

## **E. Increasing Information Flows and Transparency**

4.25 Timely and reliable information is the basis of public accountability, and Government and donors can demonstrate their commitment to transparency by effecting greater information flows within government and from the government to the outside. Weak communications, the steep learning curve of parliamentarians, and relatively undeveloped CSOs make it quite impractical to expect that either parliamentarians or civil society groups can even demand the required information, let alone analyze it to hold government to account. Therefore, rather than waiting for CSOs to demand information, government can open up spaces into which civil society can come in later. Indeed, in many successful experiences of developing social accountability, it has been the government or international agencies that were the ones who took the first initiative<sup>88</sup>.

4.26 The overall objective of these information flows initiated by Government will be to create conditions that encourage public scrutiny of government actions. The interventions will have to be in one or two selected areas, and in topics of significant resonance in society. Worldwide, independent budget analysis is a common task of many CSOs. In Afghanistan, budget information, including execution rates, exists from the impressive achievements in public financial management, but that information is not available in real time on the Finance Ministry's website. Even if it were, citizens, lacking access to the internet, would not find it useful. However, citizens would be able to access the information if Government made printed copies freely available at provincial governors' offices, district level offices and in mosques. The technical language of budgets could be a deterrent to the average citizen. The government could draw upon the experience of the Malawi Economic Justice Network, which in a young democracy with weak checks and balances in public financial management systems, simplifies technical materials, such as the national budget and PRSP, and is widely distributed. Government could also telecast hearings of parliamentary committees probing specific issues, at the same time issuing instructions that government officials are bound to answer parliamentarians' questions. Opening up the Pakistan parliament's Public Accounts Committee hearings to the media greatly increased public interest and participation in government performance. Afghan ministers have presented their programs during Accountability Week and then answered questions. They could occasionally be interviewed in radio shows, in a format similar to the e-GAMES forum of Hungary but adapted to the status of communications in Afghanistan. Public procurement is a substantial fraction of the GDP, so the government could adapt from Mexico's Social Witness of Public Procurement program, which has significantly reduced the costs of public contracts and increased the number of bidders participating in procurement processes.

4.27 Better information flows—even among government organizations—can bolster anti-corruption efforts. For example the police and the Office of Bribery and Anti-Corruption in the Ministry of Interior have no obligation to inform General Independent Administration against Corruption (GIACC) or the Attorney General's Office that a corruption case is being investigated. The Auditor General has also drawn the President's attention to the lack of communication between organizations and overlapping responsibilities for fraud and corruption, which contribute to the current ineffectiveness. In the absence of a central tracking system, overall statistics on corruption complaints and cases under investigation are not available and figures provided by one agency are contested by others. The current confusion is fuelled by the large number of complaint mechanisms at all levels without there being any guidelines or laid-down procedures of how these should be addressed or managed.

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<sup>88</sup> See Ackerman 2005, 34-35.

#### **Box 4. 4: Innovative Public Accountability Initiatives**

Hungary's e-Games (Government Assessment, Measuring and Evaluation System) could be modified to the Afghan context. This is a sophisticated forum integrated into the Hungarian Government's internet portal, allowing citizens to interact with each other and ministers in real time. Users cannot be anonymous; they are identified by their real names. They can assess each other's comments with positive and negative points, providing a value judgment on every user's participation. Aggregated points show a picture of public opinion. In addition to value judgments, the number of contributions to the topics forum leads to a popularity index. Public officials are users but cannot comment on the opinions expressed by citizens. Ministers are regularly invited to chat with citizens at a predefined time. The responses during these online "office hours" as well as their contributions, are measured by points from the users.

In Mexico, a "social witness" participates in government procurement as an observer. The social witness is a representative of the civil society, which is recognized for its professional and ethical approach. (S)he works with the individuals and organizations participating in the bidding process. The social witness can make recommendations to enhance transparency and increase efficiency of the procurement process. After the contracting process is completed, the social witness releases a public testimony describing what (s)he observed during the process and making recommendations for future improvement.

*Source: Caddy, Peixoto and McNeil 2007*

4.28 Donors can support the transparency agenda by intervening opportunistically while being sensitive to the country's history, culture and politics. They could:

- Encourage the Government to move beyond the legal basis of public accountability and corruption, and to initiate a few practical steps. GIACC has been established in June 2004 with the mandate to coordinate all anti-corruption efforts in the country. The government presented an Anticorruption Roadmap Paper (which had been drafted with several international partners) at the Afghanistan Development Forum in April 2007. However, there was little follow-up or action on the recommendation of this report. In August 2007, the NA ratified the UN Convention Against Corruption. The current anti-corruption law, which pre-dates the formation of the NA, is considered suspended. Now that Transparency International has included Afghanistan in its world-wide rating and ranking of countries' Corruption Perceptions Index, publicizing this information by the Government can start a debate on the subject.
- Help gather baseline information in critical areas such as poverty reduction and service delivery. This has begun in the health sector. As reported in Chapters I and II, health outcomes are being tracked according to the models being used to deliver health services. This can enable an informed decision about what models are most suited to different sectors. The World Bank, EC and ADB have also helped implement the National Risk and Vulnerability Assessment. In addition to supporting critical surveys in a scattered way, donors could help strengthen the Central Statistics Organization which could then start implementing these and service delivery surveys.
- Stress a communications component in each of their projects, and provide information on their own projects: objectives, expenditures and results achieved. On its external website, the World Bank publishes details of all contract awards as well as the rules governing them. It also provides detailed implementation updates of all its projects.
- On a selective basis, encourage participatory monitoring of their own projects. The National Solidarity Program requires that CDCs, assisted by facilitating partners, monitor progress of

project implementation based on a few selected key indicators; and the information be made available to communities by CDCs through regular briefings and information sharing. A community participatory monitoring system, being piloted, will monitor procurement, financial management, implementation and maintenance of the subprojects as well as facilitating partners' performance.

- Allow better information flows among themselves and in critical areas such as narcotics control. For example, Afghanistan is now responsible for 93 percent of the total global illicit opium production, and drug-related activities are the dominant source of corruption. Corruption in counter-narcotics efforts has inadvertently contributed to making the drug industry stronger (more consolidated, with fewer, powerful players with strong political connections) and parts of the Government severely compromised. Greater information sharing and consensus between the USA and UK (lead donor for counter-narcotics) can help strengthen the fight against narcotics.

4.29 Systematic and comprehensive implementation of a broad-based, long-term agenda is unrealistic in Afghanistan: because of the unstable security situation, the Government's lack of capacity, and its limited reach outside Kabul. For government organizations and donor agencies this translates into seizing entry-points and opportunities as they arise. But this asymmetric (or opportunistic) approach can also be very inefficient, if everyone pulls in different directions. That's why it is so important for the government to have a clear idea of priorities at any point in time: what must be done now, and what can wait until later. Donors must be willing to work within this framework, and support the government's priorities. PAR priorities and a 12-point agenda to implement them are discussed in the next chapter.

## V. A TWELVE-POINT AGENDA FOR PUBLIC ADMINISTRATION REFORM

5.1 This report has made the case that public administration reform in Afghanistan is both very important and very difficult: very important because it will provide the Government of Afghanistan with the capacity to respond to popular demands for good governance and improved service delivery; very difficult because of the inherent challenges of institutional change, especially in the current political and security situation in Afghanistan. PAR in Afghanistan is nothing less than rebuilding an effective state after more than two decades of conflict and administrative decay.

5.2 Afghanistan's experience over the past five years, as well as lessons from other fragile states, provide some clues about how to go about public administration reform. The resulting challenges, and possible responses, have been discussed in some detail in previous chapters of this report. This chapter attempts to distil the main points into a twelve-point agenda. There is nothing magical or immutable about this list. It is simply intended to help shape the PAR debate within the Government of Afghanistan and with the donor community – with the objective of speeding up progress on reforms and realizing tangible benefits over the next 5-10 years.

***(1) Recognize that PAR is a long-term task – which will require persistent effort over time, as well as innovative approaches to improve service delivery in the short and medium terms.***

5.3 It will inevitably take time to build up the capacity and credibility of the state in Afghanistan. That is why it is important to initially limit the role of the state to core functions in line with existing capacity. This is consistent with the Government's commitment to a "lean state" and the use of non-governmental delivery mechanisms in some sectors (such as health). Experience in Afghanistan and elsewhere shows that successful innovations in service delivery can be implemented – even in an environment of poor overall outcomes and when systemic problems are still to be resolved.<sup>89</sup> These innovations should be evaluated carefully over time – to help define the appropriate role of the state in different sectors and hence the priorities for PAR in different line ministries. This bottom-up approach should constantly challenge the top-down directions of PAR. The real litmus test must be: how will these reforms contribute to better governance and service delivery?

5.4 In many ways, the opportunistic approach adopted under PRR is still very much relevant to Afghanistan today. It is impossible to implement a broad-based, long-term agenda in a comprehensive systematic way – especially in a country like Afghanistan where capacity is very weak and the government has limited reach outside Kabul. Rather the framework for reform must be comprehensive and coherent, and short-term actions must be consistent with that framework. At any point in time, there must be a clear idea of priority areas requiring attention, and those which can be sorted out later.

5.5 PAR in Afghanistan is often equated with civil service reform. Indeed, civil service reform is essential to build a professional, merit-based bureaucracy – which can deliver public services in an effective and efficient manner. But this should not be equated with building a strong, centralized bureaucracy in Kabul. Much of the reform effort will have to be directed at deconcentrating line ministry authority to provinces and districts, and improving the capacity and coordination of government activities at the sub-national level. Similarly, civil service reforms are unlikely to work unless there are ways for the Afghan people to express their demand for public services and hold the government accountable for

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<sup>89</sup> For a review of relevant experience from India, see World Bank 2006a. A similar example from Afghanistan, simplifying the process of vehicle registration in Kabul, is provided in Chapter II, Box 2.10.

results. Hence the importance of broader reforms to strengthen the role of parliament and the effectiveness of the judiciary, and to involve civil society and communities in decisions affecting them.

**(2) *Provide strong political leadership and effective coordination to implement the PAR agenda.***

5.6 Because PAR is a broad-based effort, it must be led from the top with effective coordination across institutions. This leads to the following recommendations:

- Strong leadership is needed from the President – to provide a clear message about the direction of reform and to manage conflicting political interests. The President should personally take responsibility for explaining the importance of the reforms to Parliament and the public at large, and also reporting on the results achieved.
- Important issues need to be discussed and decided at Cabinet level (the Cabinet’s PAR Sub-Committee provides a convenient vehicle) to build a consensus view even when different interests are being advocated by different agencies. Implementing agencies should also report back to Cabinet on a regular basis on progress made and issues to be addressed.
- Instead of attempting to implement reforms in all ministries by itself, IARCSC needs to increasingly focus on guiding and overseeing ministries’ implementation, while allowing ministries take responsibility of their own respective reforms (see Message 5 below).

**(3) *Ensure that donor support is adequate and consistent with the PAR framework set by the Government of Afghanistan.***

5.7 Although Afghanistan has received large amounts of development assistance since the fall of the Taliban, very little of this has been directed specifically at the PAR agenda. Indeed, it is hard to know exactly how much assistance has been received for PAR, given the different categorizations used by different donors, and the difficulty of separating PAR components from projects with broader objectives. Getting a better picture of donor support for different parts of the PAR agenda would be useful in itself. But even more important is effective coordination of donor assistance by the Government of Afghanistan, in line with its own PAR priorities. This should be done within the overall framework provided by the I-ANDS and the Afghanistan Compact. Responsibility for donor coordination should then be delegated to the relevant government agency: for example, IARCSC for civil service reform and IDLG for sub-national reform.

5.8 Most of the donor support for PAR is in the form of technical assistance. The main challenge now is how to manage TA so that there is sufficient to fill competence gaps in the short term, while replacing it with less costly and more manageable in-country-grown and national capacity over time. Initially, many had believed that the gap-filling need for civil servants’ competence would last 2-3 years, and that short-term imported consultants would simultaneously train and coach their replacements while performing in-line functions. However, these assumptions proved to be overly optimistic. Furthermore, the higher salaries paid to externally-funded consultants and advisers have attracted some of the best talent away from the government and bid up the cost of scarce talent in the country. Therefore, in the future, more attention will have to be given to the objectives of TA, with a clearer distinction between gap filling and capacity development. Donor funding of salary top-ups for civil servants will also have to be carefully managed and phased out over time (see Message 4 below).

**(4) Match higher salaries from the new pay-grade scheme with other civil service reforms – to improve government performance and service delivery.**

5.9 The new grade structure's purpose is to bring formality into civil service management by reducing inconsistencies and scope for arbitrary actions. It will do so by linking grades to jobs, qualifications and responsibilities; and de-linking them from longevity in position. The new pay scales are intended to attract, retain and motivate well-qualified staff. The new scales, ranging from \$100 to \$650 per month, although significantly higher than the present scales, are still less than what donors pay and may be inadequate to draw skills into the top levels of the civil service. Upon receiving higher salaries, civil servants will not automatically start performing better. (If this were the case, then each across-the-board pay increase for civil servants in different countries would result in citizens' noticing an increase of public servants' performance.) The following cautions are advised in implementing the new grade-pay structure:

- Draw upon the lessons of PRR. The same issues that overcame the earlier exercise could also engulf implementation of the new scheme. With elections scheduled in Afghanistan in less than two years from now, the same pressures that led to units making superficial PRR-restructuring plans, abandoning the rigorous recruitment process, and migrating *all* existing staff to higher pay scales—could equally derail any logical and systematic roll-out of the new scheme.
- Recognize that IARCSC is undertaking a task of magnitude and complexity that it has never encountered before. Although line ministries will be in charge of re-grading the majority of civil servants and assigning them to new grades (because the bulk of the civil servants are in the lower grades), it is the IARCSC's responsibility to sequence the new structure's roll-out among ministries, providing guidance to ministries on technical issues and solving problems as they arise, enforce merit-based recruitment in the lower grades, while managing the workflow of its own Appointments Board for recruitment in the higher grades. The Commission is yet to prepare an implementation plan in discussion with the line ministries where this scheme will be implemented. To add to its duties, in advance of implementation, IARCSC will have to draft laws and regulations, help formulate the process of what to do with those who don't qualify, and communicate throughout the process with the public and civil servants on the objectives and progress of reform.
- Donors' response to the new grade-pay structure has the potential to distort it. Proposed salary levels for the upper grades will be well below levels in the "second civil service" directly paid for by donors. Because of the continuing scarcity of qualified human resources, donors are likely to continue funding salary top-ups to civil servants from project budgets.

**(5) Re-examine the IARCSC's role – to focus on core functions and reduce conflicts of interest within its structure.**

5.10 The Commission's mandate both overloads it and creates conflicts of interest, as described in paragraphs 2.21 and 2.22. The Commission is overloaded by having responsibility for making civil service management policy, guiding ministries' implementation, monitoring reform's progress and conducting civil servants' training—in addition to typical service commission functions of high-level recruitment and hearing appeals against administrative actions. The potential conflicts of interest arise because it reports to the executive while being expected to play a check and balance role. Both of these come in the way of IARCSC's effectiveness.

5.11 A thorough restructuring of the Commission may not be possible in the short term, and especially not now as it embarks upon the huge challenge of leading the implementation of the new grade pay structure. But some short-term steps could alleviate the problem:

- To demonstrate the IARCSC’s “independence,” the Cabinet Sub-Committee’s and PAR Steering Committee’s supervision of the Commission could be explicitly limited to its policy-making functions, and excluded from appointments and appeals.
- Both the Appeals Board and the Civil Service Institute could be distanced from the Commission’s own line structure. It is not proposed that they be immediately detached from the Commission as many Administrative Tribunals and many civil servants’ training institutes are. Rather, they could have ‘staff’ reporting arrangements to the Commission’s Chairman instead of the current line reporting arrangement. In such a lay-out, the Commission would continue to provide administrative support to these two units, but they would report directly to the Chairman. Distancing the Appeals Board will have the advantage of upholding its credibility with civil servants whom it is meant to serve. Distancing the Civil Service Institute, currently buried three layers deep within the Commission’s structure, will allow it to negotiate with donors for their support. This is the area of Afghanistan’s civil service management that needs the most immediate assistance, but those needs tend to get subsumed within the more general needs of the Commission.
- Clarifying the respective roles and responsibilities of Office of Administrative Affairs (OAA) and IARCSC in civil service management, and especially in finalizing ministries’ *tashkeel* (establishment).
- Donors that support civil service management could design their projects so that IARCSC’s role is more of a facilitator than project implementer. This will not only reduce strain on an already overloaded IARCSC, it will allow line ministries to take control of their own human and financial management functions as is intended in the Compact and I-ANDES.

**(6) Monitor progress on PAR – and be willing to rethink reforms when they’re not meeting their goals.**

5.12 The Government and IARCSC now have a systematic and well-thought out approach to PAR’s first element: civil service reform<sup>90</sup>. The Compact benchmarks make clear what is to be achieved; while the Government’s PAR Strategy, the ANDES-assisted sector strategy, and the costed civil service implementation plan have formulated how this can be achieved over the next three years. Continuous monitoring of progress in civil service reform will be important so that the Government can revise direction as necessary, report on progress to various stakeholders and also reassess the attainability of different goals and benchmarks. The IARCSC is leading the Government’s effort on civil service reform. It is in the Commission’s interest, therefore, to not wait until the end of the Compact period to discover that civil service targets had not been met, and instead regularly check: What progress has already been achieved? What else needs to be done to meet the Compact’s targets?

5.13 Thus, IARCSC needs to establish a monitoring system that produces, on a regular basis, findings that are judged valuable by ministries, the PAR Steering Committee, cabinet and donors. It also needs to monitor line agencies’ compliance with government wide rules and regulations. Towards this, the World Bank has assisted IARCSC take stock of what part of reform goals have already been achieved, and

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<sup>90</sup> Benchmarks and indicators for the second and third element have not yet been developed.

suggested tools for IARCSC's monitoring activities. The following tactics could be helpful for IARCSC to perform its monitoring task:

- IARCSC needs to become the powerful champion within Government that generates line ministries' demand for monitoring civil service reform. Because of ministries' lack of awareness, their demand to understand how well or not they are performing their own restructuring and personnel management is weak. IARCSC needs to make available the tools and their potential uses, and also create incentives for ministries to monitor—perhaps by highlighting successes in Government forums and actively reaching out to ministries through training, workshops and guidance.
- The structural arrangements to monitor PAR should be clarified and strengthened. Currently the Administrative Reform Secretariat, headed by a Director is responsible for monitoring PAR and also to serve the secretariat for the PAR Steering Committee. This potentially asks one line unit of the Commission to judge the performance of the whole Commission and its Chairman's leadership. Also, it does not have the profile to influence other ministries, or to attract donor resources.
- The monitoring system should not be over-engineered; rather the emphasis should be on reliable data systems. What is required is a set of intermediate benchmarks leading up to the Compact's targets. Locally developed and well-understood indicators are more likely to be utilized rather than borrowed or expert-developed indicators that do not reflect the program's characteristics. The need for ministries to report on their compliance with new personnel guidelines and regulations could be reinforced through an appropriate government regulation and procedures.

***(7) Develop a clear policy framework for the sub-national system -- and a strategy for guiding sub-national reforms.***

5.14 Without a clear policy framework, initiatives to improve sub-national governance and service delivery will remain piecemeal and often at odds with each other. While the Constitution and other legislation provide a legal framework for a number of sub-national institutions, this tends to be broad and ambiguous, and often begs more questions than it answers about who should be doing (and is accountable for) what, the resource flows that are necessary for the effective exercise of powers and functions, and the implementing mechanisms that need to be put in place. Two directions of reform stand out:

- In order to reduce systemic contradiction, strengthen and consolidate the role of the Provincial Governor's Office in the areas of planning and coordination, while limiting its functional, budget and operational authority to deliver services, which falls under the Provincial Departments.
- In order to enhance accountability, strengthen the oversight and supervisory role of the Provincial Councils, to provide checks and balances on the activities of the delivery agencies.

5.15 The recent decision to improve the central oversight of sub-national issues with the establishment of the Independent Directorate of Local Governance (IDLG) is a welcome move. In the past, a number of ministries had overlapping responsibilities for the various sub-national organs, and capacity to monitor and manage any given aspect of the sub-national system has been poor. In addition, ministries which are active at the sub-national level exhibit high degrees of bureaucratic and political rivalry, making it difficult to forge common perspectives on important reform efforts. Donor coordination has also been weak, with extensive funding flowing to sub-national initiatives outside government systems.

5.16 Next steps on sub-national issues should aim to:

- Build up the political credibility of ILDG with the powerful and disparate interests working at the sub-national level, and the technical capacity of IDLG to tackle complex institutional and policy issues. To this end, consider forming an Inter-Ministerial Committee, chaired by the President or Vice President, with IDLG acting as the secretariat, to establish a framework for sub-national strengthening and reform.
- Build on recent efforts to improve donor coordination through the Donor Working Group on Sub-National Governance and the Sub-National Governance Donor and Government Working Group under the ANDS mechanism. The IDLG should probably take over chairmanship of this group from the IARCSC. One of its first tasks should be to set appropriate benchmarks for developing the sub-national policy framework and reform strategy.

***(8) Strengthen the performance of the main service delivery institutions by improving their organizational structures – and providing adequate resources to do their job.***

5.17 Line ministries will have to ensure that their functions are properly divided between their central offices and Provincial Departments. In a number of cases, this is likely to involve the deconcentration of various powers and functions from the central to the provincial level. In fact, in some cases this is already underway (e.g., teacher recruitment). The pace of such deconcentration will be determined, among other things, by capacity constraints – although it should be recognized that, in the absence of functional deconcentration, capacity at the sub-national level will not be built. Ultimately, functional deconcentration drives capacity building, not the other way around. This leads to the following recommendations:

- Decisions on the division of functions between central and provincial offices should be built into the organization plans being prepared by line ministries as part of PRR and integrated into the new pay and grade reform process.
- Any deconcentration process should be crafted flexibly and opportunistically enough to allow different ministries to implement service delivery models which are most conducive to success in their sectors. Centralized authority may be more relevant in the health sector, for example, which relies more on contracting out to NGOs for service delivery.
- Ministries should not reject asymmetric approaches, and rather seize opportunities as they arise. MRRD, for example, has deconcentrated certain functions, including procurement, to its provincial office in Kandahar, and this experiment seems to be working well.
- The extent to which line ministries deconcentrate will need to be moderated by the degree to which this risks capture of Provincial Departments by Provincial Governors. There is little point in trying to improve organizational efficiency through vertical deconcentration if this makes delivery agencies more vulnerable to horizontal power which inhibits operational effectiveness.

5.18 Improvements in organizational structures need to be matched by the provision of adequate resources for key organs of sub-national governance and service delivery to play their roles. Initially, this means meeting basic needs for training, IT, offices, communications etc. It should be possible to meet some of these needs on a modular basis, i.e., to define a package of “basic needs” equipment for Provincial Councils, for example, and to roll this out to PCs across the country. Over the longer term, it means moving towards a more equitable distribution of fiscal resources across the country. The specific conditions of Afghanistan make this uniquely challenging: there is an understandable tendency to

concentrate expenditures in those areas most vulnerable to security threats, and the large off-budget flows (through PRTs etc.) distort distributional outcomes, whatever efforts are made in respect of the core budget. Arguably, this is a second generation issue which can only really be addressed once greater stability and predictability are established in vertical and sectoral flows. But it is ultimately an important question which cannot be neglected indefinitely.

**(9) Address the particular issues facing municipalities and CDCs: the most autonomous elements of the sub-national system of governance and service delivery.**

5.19 Municipalities have been established under law, as important and self-sufficient local service delivery and governance entities. CDCs were established as community-level vehicles to deliver infrastructure in rural areas under NSP and have since started to take on a wider range of local governance functions. A common feature of these entities, which distinguishes them from provincial-level entities, is that, in principle, the elected authority in the municipal or community area is itself directly responsible for service delivery in that area. In other words, they do not suffer from the accountability and autonomy problems characteristic of other sub-national institutions.

5.20 However, they do confront significant issues of their own. In the case of municipalities, the following measures are needed:

- Enact new legislation which clarifies the relationship of municipalities to the central and regional governing entities, while protecting their self-reliance. This should provide them with solid expenditure and revenue assignments, enhance capacity for providing local services sustainably, provide a clearer categorization of different local administrative bodies, and establish real self-governance and downward accountability in line with the text and spirit of the Constitution.
- Formulate a comprehensive financing framework for municipalities which clarifies and rationalizes own-source revenue assignments, introduces measures to strengthen municipal administration, and establishes a transparent rules-based system to allocate central transfers equitably and rationally among municipalities. This should be matched by improved budgeting, financial management and accounting systems, and capacity to administer these systems within municipal administrations.
- Introduce elections for mayors and municipal councils at the earliest feasible opportunity. Institutional measures should be developed to deal with the mayor-CDC interface, and to bridge the current gap between the bottom-up system for expression of community voice and top-down planning and budget decision making.

5.21 For CDCs, the following three issues need to be addressed:

- CDCs need to secure a regular and reliable funding flow to resource local development activities which provide their *raison d'être*. The primary initiative here should be to establish a reliable, ongoing funding mechanism which gives CDCs a source of dedicated funding which they can then allocate to local projects at their discretion. This should be distributed between CDCs according to a simple and transparent formula. Given international standards, and to ensure sustainability, the funding should be set at far lower levels than under NSP.
- CDCs' roles should be consolidated on the basis of the new by-law, i.e.: (a) allocating their own funding, and planning and implementing local projects using this funding; (b) a limited administrative role, particularly for civil registration and land verification; (c) planning and allocation at the district or sub-district level where CDCs are able to federate or cluster; and (d) providing information on service delivery and governance to PCs to assist them with their

accountability function. In general, CDCs should take on only public good functions, and not compete with other local governance bodies (such as school management committees).

- The matter of “ownership” of CDCs at the central level will have to be settled within the central government by those agencies and ministries which have a core interest in the question. The best way forward would probably be to have this issue looked into and decided by the Inter-Ministerial Committee proposed above.

**(10) *Demonstrate Government’s will to fight corruption.***

5.22 The public has little trust in leaders and government institutions. Despite positive rhetoric, Government has not initiated action in the face of widespread and entrenched corruption. Although the Bonn accord stressed accountability of public organizations, the political process that followed stressed representation from all quarters above accountability, and peace before justice. Opium production rose substantially in 2006 and 2007 from previous levels, and Afghanistan is now responsible for 93 percent of total global illicit opium output. Institutional disarray and in-fighting within government, and lack of strong government leadership to confront corruption has resulted in the widely held view is that corruption is being ignored or tacitly allowed. This report recommends:

- Initial implementation of meaningful yet feasible short-run measures. This would mean emphasizing improvements at sector and agency levels instead of spending too much effort and resources on preparing an impressive strategy. This could focus on a few agencies where the public interacts most frequently with service providers. In these agencies, the number of steps, signatures and visits could be reduced. Computerization, communication with the public, and replacing the head of the organization worked well in the motor vehicles licensing office.
- Clarifying institutional arrangements so that different agencies involved in anti-corruption work harmoniously. The current state of institutional coordination and weak criminal justice system provide few prospects of investigation and prosecution. Predictability of Government’s actions, and pro-actively sharing information with the media and civil society organizations will demonstrate government’s will. Enforcing ministries to respond to audits and involving Ministry of Finance in the response to audit reports will allow it to play a stronger oversight role.
- Strengthening the leadership of institutions involved in the fight against corruption, which must meet high ethical and professional standards. Much more can be done to go after key actors in the drug industry (larger and medium drug traders, and their sponsors inside and outside government). Even if weaknesses in the justice sector make prosecution and conviction very difficult, officials associated with the drug industry should at least be removed from their positions in government, which would send a strong signal of government commitment to address the drug issue.

**(11) *Build public trust in parliament and the judiciary – so they can provide formal oversight in an effective and credible manner.***

5.23 Public trust in government organizations is currently low; there is need to quickly gain public confidence. These organizations, having high visibility, have the best chance to demonstrate that they themselves are abiding by the rules of the game, and win people’s trust.

5.24 In the National Assembly, work is needed to build parliamentarians’ understanding of their actual role, including how they can constructively contribute to law-making and oversight of the executive.

Particularly, Budget Committee members' comprehension of how Government budget and accounts are reported needs to be strengthened.

5.25 In the justice sector this report recommends:

- Recognizing that security strengthening measures are only partially effective without accompanying strengthening of rule of law. Even a well-trained police force cannot enforce law without a functioning criminal justice system. Rather, those responsible for security could become the sources of injustice. Strengthening coordination between the NA and Cabinet can improve legislative capacity.
- Starting small and scaling up. Infrastructure projects can have limited impact without institutions, but judges need courthouses and legal texts. Both judicial reform and infrastructure creation should focus on the major cities because that is where the formal justice system is most used and most needed. Focus judicial reform on provincial rather than district courts. An improved provincial court could provide a check on as-yet unreformed district courts throughout the province. However, constructing courts, and appointing sufficient trained judges will take time. What needs to be established much sooner is the role of the judiciary, and especially the Supreme Court, in enforcing constitutionality of laws and regulations, and reviewing legality of administrative decisions.
- Supporting non-state dispute resolution. Traditional conflict resolution mechanisms such as *shuras* can reduce conflict because they are more focused on negotiating and mediating disputes rather than the adversarial win-lose outcomes of the formal court system. Moreover, this may be all that is available for many years.

**(12) *Provide credible information on government programs and performance – and open up government processes to public scrutiny and participation.***

5.26 The media and CSO sectors in Afghanistan are still finding their feet. Donor support can help to develop their capacity and effectiveness over time. But, in the area of public accountability, their role is very much dependent on their access to official information and their ability to provide feedback on government performance. Donors should support government initiatives to improve transparency, building on innovations in donor-funded projects, while being sensitive to the country's history, culture and politics. In particular, donors could:

- Encourage a public debate about corruption and practical steps that can be taken to fight it. GoA should take the lead, possibly using the new rankings of Afghanistan in the TI Corruption Perceptions Index to inform the debate.
- Support efforts to gather baseline information in critical areas such as poverty reduction (such as through the National Risk and Vulnerability Survey) and service delivery (as is done in the health sector). In particular, donors could help strengthen the Central Statistics Organizations capacity to do this survey work in a more systematic manner.
- Build communication components into their own projects, and provide public information on project objectives, expenditures and results achieved.
- Encourage public participation in project planning and implementation, by providing project information to affected communities and involving them in project decision making. The National Solidarity Program already requires CDCs to monitor project implementation based on a

few selected key indicators; and also to make that information available to communities through regular briefings and information sharing.

- Improve information flows among donors in critical areas such as narcotics control.

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