



## BETWEEN DISCIPLINE AND DISCRETION Policies Surrounding Senior Subnational Appointments

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### About the Author

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### Overview<sup>1</sup>

Over the past few years, the calls for improved governance in Afghanistan, particularly at subnational level, have become increasingly urgent, as concerns over growing popular disaffection, an increasingly virulent insurgency and the corrosive effects of corruption have grown. However, it has proven difficult to operationalise the concept of “better governance” in ways that address the challenges the country is faced with, in particular when it comes to senior appointments. Over the years, there have been roughly three policy agendas that have sought to shape subnational appointment practices: an institutional reform agenda; a vetting agenda; and a stabilisation and outreach agenda. Although international actors have pushed all three agendas, there have also been strong local demands and constituencies which have helped shape (and in some cases redirect) policy agendas.

The first agenda, which centres on *institutional reform*, is guided by a technical view of state-building, which focuses on the establishment of institutions based on principles of merit and bureaucratic organisation. In this view, the dominant patterns of patronage that have traditionally guided appointment and service delivery practices should be replaced by formalised, merit-based procedures. The main local proponent of the institutional reform agenda has been the Independent Administrative Reforms and Civil Service Commission (IARCSC), with support from, among others, the World Bank and the EC. However, pressures and incentives to appoint people outside formal procedures have continually challenged the attempts to ensure merit-based appointments. Although the IARCSC was initially, among others, responsible for the merit-based selection of district governors, the Ministry

<sup>1</sup> The analysis in this paper is based on key informant interviews and observations, both in Kabul and in the provinces, over the course of several years, as well as on relevant published and unpublished documents, some with restricted circulation. I would like to thank those who have read earlier versions of this paper and who have provided valuable comments, which have greatly improved its content in terms of clarity and argument.

## Glossary

<i>khedmat</i>	service
<i>sarparast</i>	caretaker
<i>wali</i>	provincial governor
<i>woleswali</i>	district administrator, sometimes also called district governor
<i>waseta</i>	literally “connection”; someone on the inside of an organisation, who can help you

## Acronyms

ANDS	Afghanistan National Development Strategy
AREU	Afghanistan Research and Evaluation Unit
ASGP	Afghanistan Subnational Governance Programme
ASOP	Afghanistan Social Outreach Programme
IDLG	Independent Directorate for Local Governance
IARCSC	Independent Administrative Reforms and Civil Service Commission
JCMB	Joint Coordination and Monitoring Board
Mol	Ministry of Interior
PDPA	People’s Democratic Party of Afghanistan
UNAMA	United Nations Assistance Mission to Afghanistan
UNDP	United Nations Development Programme

of Interior successfully contested this as soon as the IARCSC sought to implement its mandate. The contest was not so much about the method of recruitment, but about who controlled the recruitment process with its accompanying opportunities for patronage, negotiation and enrichment. Although all government bodies responsible for the recruitment of governors and district administrators have since then sought to adopt some form of merit-based selection procedures, this has not fundamentally altered the appointment practices. It has, however, somewhat changed the nature of the manipulative processes.

The *vetting* agenda was strongly inspired by a growing disaffection among the Afghan population over the absence of accountability within the government, in particular for past crimes and present misbehaviour. A proposal for a vetting mechanism, which focused on senior appointments outside the scope of the IARCSC, was first articulated in 2005 as part of the government’s Action Plan for Peace, Reconciliation and Justice. The Cabinet adopted the plan, but it was not effectively implemented. It was only when the proposal was included in the Afghanistan Compact that a Special Advisory Board for Senior Appointments was established in September 2006. The Board, however, did not become operational until well into 2008. The processes surrounding the Board’s establishment and the formulation of its rules of procedure illustrate how the government, and in particular the President, has consistently adopted policies it is reluctant to implement. The unexpected resurrection of the Board in late 2008, on the other hand, shows how the process of joint policymaking and monitoring of policy implementation, most prominently through the recurring cycle of JCMB meetings,<sup>2</sup> can expedite the formal implementation of agreed policy—without necessarily addressing the underlying dynamics.

The third agenda, which focuses on *stabilisation and outreach*, is closely linked to the international counter-insurgency efforts and fits well with the Afghan patronage-based way of doing politics. It

<sup>2</sup> The Joint Coordination and Monitoring Board (JCMB) is the body that oversees the implementation of the Afghanistan Compact and the Afghanistan National Development Strategy (ANDS).

is an agenda that largely views the subnational government structure as a vehicle for relationship building and the distribution of privileges to leaders and communities that are considered loyal. The stabilisation agenda, if implemented thoughtfully, could potentially combine principles of merit, vetting and personalised politics, which would in turn help to address one of the most pronounced state-building contradictions in Afghanistan: the simultaneous pursuit of relationship politics and technical institution building.<sup>3</sup> However, in practice the stabilisation agenda is being pursued as a parallel track, separate from formal institution-building efforts and, in doing so, is increasing the existing institutional multiplicity.<sup>4</sup>

The study of policy processes surrounding governor and district administrator appointments, as described in this paper, illustrates a number of key dilemmas associated with trying to introduce some degree of formalisation in a highly informal and personalised political setting. These dilemmas include:

- The tension between relationship politics and agreed formal procedures, which is essentially a contest between discretion and discipline
- The problem of appropriately defining “merit”
- The limitations of policymaking when faced

<sup>3</sup> See Hamish Nixon, *Subnational State-building in Afghanistan* (Kabul: Afghanistan Research and Evaluation Unit, April 2008, 32-33; and Hamish Nixon and Richard Ponzio, “Building Democracy in Afghanistan: The Statebuilding Agenda and International Engagement” *International Peacekeeping* 14, no.1 (January 2007).

<sup>4</sup> Institutional multiplicity has been elsewhere described as “a situation in which different sets of rules of the game, often contradictory, coexist in the same territory, putting citizens and economic agents in complex, often unsolvable, situations, but at the same time offering them the possibility of switching strategies from one institutional universe to another. Often the interventions of the international community simply add a new layer of rules, without overriding the others. In such situations, the conventional political economy of state modernization - which suggests that if the state establishes an appropriate set of incentives and sends the correct signals political and economic agents will follow suit - is clearly insufficient.” Jonathan Di John, “Conceptualising the Causes and Consequences of Failed States: a Critical Review of the Literature” (London School of Economics: Crisis States Research Centre, Working Paper no. 25 (Series 2), January 2008).

with a highly fragmented and highly centralised government.

It also illustrates how policies and procedures do not necessarily change the rules of the game, but rather provide a different vocabulary for the various power struggles. Alternatively, as described elsewhere:

*It is not, as is sometimes implied (...) that the state is ignored in the ‘real’ power struggles that are taking place in a different arena in ‘society’, but rather that ongoing efforts at state-building and other changes in political economy are changing how power interacts with the structures of the state. As the organisations of the state are ‘built’, the institutions of the state continue to mediate power interests, but in changing ways and with different outcomes. As structures built on bureaucratic rules are created, the mediation of power and the aggregation of interests are conducted through the organisations and institutions of the state, but not necessarily according to these bureaucratic rules. Political power is not exercised in a progressively depersonalised, formalised and rationalised way through agreed ‘rules’. Rather, it continues to be exercised in a personal and patronage-based manner, but within the overall framework of bureaucratic rules.<sup>5</sup>*

This paper does not seek to argue that the current difficulties are essentially a clash between external values and imposed structures on the one hand and a patronage-based culture resistant to reforms on the other (the currently popular argument that Afghanistan “has never been governed” and does not wish to be). This study instead illustrates how the government—in particular the President and his entourage—have consistently sought to use senior subnational appointments and patronage-based politics in ways that have undermined a more formalised form of institution building, while paying lip service to the policies that their practices are undermining. It is thus more a matter of political strategy than of deep-seated culture. In the process, the government has disaffected large parts of the population who, in principle, are not adverse to the idea of reforms at all.

<sup>5</sup> Sarah Lister, “Understanding State-Building and Local Governance in Afghanistan” (London School of Economics: Crisis States Research Centre, Working Paper 14, May 2007), 6.

In order to more effectively respond to the indigenous calls for improved governance, while taking into account existing realities and dilemmas, the way forward seems to be:

- Maintain the principle of merit, but pursue simplified, locally relevant and more discretionary versions of merit-based selection procedures
- Place far greater emphasis on performance and on addressing unacceptable behaviour
- Seek the adoption of agreed “minimum governing standards” and ensure that these supersede other agendas.

This will obviously not be possible without thoughtful, sustained and coordinated international involvement.

### **Background to the Study**

This study on policy processes surrounding the appointment of provincial governors and district administrators is part of a series of studies by the Afghanistan Research and Evaluation Unit (AREU) that look at policymaking processes in post-9/11 Afghanistan. The studies seek to understand the nature and dynamics of policymaking in Afghanistan, in particular in view of the many international and Afghan actors and the complex relationships between dependence and sovereignty.

The studies are based on a fairly broad interpretation of policy (“a plan of action to guide decisions and actions”), which means that the process of policymaking is seen to include a wide range of actions, including agenda setting practices, policy formulation, decision-making, policy implementation and policy evaluation. The objective of the studies is to build understanding of the contents of the policy agenda, the processes by which policy has been made, as well as the underlying interests, discourses and practices that have driven it. The studies are founded on the assumption that policy is fundamentally political, not technical. By enquiring into how policy is made, the studies seek to open up space for informed political engagement and decision-making.

The selection of cases for this study draws on the sector structure of the Afghanistan National Development Strategy (ANDS) and seeks to

contrast between more political and contentious policy areas (such as governance or police reform) and the apparently more technical sectors (such as agriculture and health). The subject of this study—the appointment of provincial governors and district administrators—is part of the ANDS governance sector.<sup>6</sup> This study explores the relevant processes of policymaking, as well as the divergence between policies and practices. In the process, governance emerges as a largely political, rather than a purely technical matter, as it interferes with the distribution of power, access to resources and the rules as to who gets to decide what.<sup>7</sup>

The dominance of international actors in terms of shaping the policy agenda has been greater in other sectors—for instance in the agriculture and rural development sector—than has been the case in the current subject of study. Despite the allocation of considerable funds and technical assistance in the governance sector, as well as efforts by international actors to use their political influence, these interventions have had a relatively limited impact on the processes surrounding politically sensitive appointments. The current study explores why change has been so elusive.

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<sup>6</sup> The ANDS has little to say about appointments, other than simply referring to the process of Public Administration Reform, Government of Afghanistan, *Afghanistan National Development Strategy 1387-1391 (2008-2013)*, *A Strategy for Security, Governance, Economic Growth and Poverty Reduction* (Kabul, 2008), 61. The Afghanistan Compact is, however, more precise and contains two relevant benchmarks: one dealing with “a clear and transparent appointments mechanism (...) 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” and one stating that “merit-based appointments, vetting procedures and performance-based reviews will be undertaken at all levels of government”. *Building on Success, The Afghanistan Compact* (London: The London Conference on Afghanistan, 2006), 6.

<sup>7</sup> The term governance refers to the institutions and processes—both formal and informal—through which decisions affecting citizens are made (Sarah Lister and Hamish Nixon, *Provincial Governance Structures in Afghanistan: From Confusion to Vision?* (Kabul: Afghanistan Research and Evaluation Unit, 2006), 1). “Subnational,” in practice, refers mainly to the provincial and district levels. State-building refers to efforts to increase the importance of the state—its actors, structures and processes—in governance systems; i.e. to shift governance towards government (Nixon, *Subnational State-building in Afghanistan*, 3).

The first section of the paper provides an overview of the main currents in the field of subnational governance policy in Afghanistan after the fall of the Taliban. The second section describes the role of the *walis* (provincial governors) and *woleswals* (district administrators), the historical context and the practices related to their appointments. The third section describes the main policy

processes that have sought to formalise, shape and influence the appointments of provincial governors and district administrators. Finally, although the current study is mainly a descriptive exploration of policy processes, it concludes with a set of recommendations for shifts in emphasis that would help improve the impact of the current institution building efforts.

## 1. Policy Context

### 1.1 The push for improved subnational governance

Over the last few years, there has been an increasing realisation among policymakers of the importance of subnational governance within the larger reconstruction and state-building process in Afghanistan. This has resulted in a large, but rather divergent constituency pushing for “improved subnational governance” for different reasons and with differing opinions as to what this would entail. The result has been a wide range of interventions and pressures, often working at cross-purposes to each other and to existing practices. This has been particularly apparent in the area of senior subnational appointments. Efforts towards agreed policy frameworks have had very limited traction, often due to the conviction of actors that there were more important or pressing agendas than the one agreed upon.

Subnational governance has not always been high on the Afghan policy agenda. The Bonn process was initially Kabul-centric, focusing mainly on the establishment of a legitimate central government through a process of transitional arrangements and elections and through the re-assertion of the centre’s authority over local, often armed, strongmen. The provinces were largely seen as ungoverned spaces and few policymakers were aware that there were still functioning, albeit very rudimentary, administrative structures at almost all levels of subnational government. Research undertaken during 2002-2003 by AREU and the World Bank drew attention to the continued existence of government structures that could possibly be revived and strengthened, while stressing that the window of opportunity was limited. This led to an increased attention for subnational institutional reform from 2004 onward, particularly in the field of fiscal and

administrative management.<sup>8</sup> The focus of these interventions was almost exclusively technical.

At the same time, there were several developments that caught the attention of policymakers not directly involved in the technical aspects of state-building and institutional reform. These included a realisation of the need for effective local counterparts in the implementation of reconstruction and counter-narcotic programmes in the districts (these first surfaced in earnest in the run-up to the presidential elections in 2004) and growing concern over the spreading insurgency and popular disaffection. The expansion of ISAF outside Kabul, and in particular to insurgency-affected areas, increased international awareness of subnational realities and provided many of the international actors with a sense of urgency with regard to subnational governance. The election of a National Assembly, finally, reinforced political ties between the centre and the periphery by bringing local influential figures to Kabul and by providing additional access and lobbying points for delegations from the provinces. Furthermore, the lack of a clear mandate for the newly established provincial councils drew attention to the fact that there was no coherent vision on the relative roles and responsibilities of the main subnational bodies.<sup>9</sup>

<sup>8</sup> Anne Evans, Nick Manning, Yasin Osmani, Anne Tully and Andrew Wilder, *A Guide to Government in Afghanistan*, (Kabul: Afghanistan Research and Evaluation Unit and the World Bank, 2004). Anne Evans, Nick Manning and Anne Tully with Yasin Osmani and Andrew Wilder, *Sub National Administration in Afghanistan: Assessment and Recommendations for Action* (Kabul: Afghanistan Research and Evaluation Unit and the World Bank, 2004). Anne Evans and Yasin Osmani. *Assessing Progress: Update Report on Sub National Administration in Afghanistan* (Kabul: Afghanistan Research and Evaluation Unit and the World Bank, 2005).

<sup>9</sup> See for instance Sarah Lister, *Caught in Confusion: Local*

As Afghan criticism over misbehaving officials and the inclusion in the administration of alleged human rights violators and abusers of power—as expressed in the media and through polls and public expressions of discontent—became difficult to ignore, international military officials and diplomats increasingly emphasised governance as an issue with strong political and security ramifications. The Policy Action Group, a high-level crisis-management group consisting of ministers and international representatives, identified bad governance as one of the main factors contributing to the insurgency in the South and East shortly after its establishment in the summer of 2006. “Good governance,” in this view, was not just about how (i.e. according to which procedures) people were appointed, but more importantly about who was appointed and how this person behaved. In some cases this resulted in direct international insistence that a local official be changed—the most well-known example is the removal of the provincial governor of Helmand before the British deployment to the province—but on the whole it has resulted in more generalised calls for “better appointments.”<sup>10</sup>

This broad and varied constituency pushing for “improved subnational governance” has included senior Afghan government officials, international diplomats, ISAF generals and Afghan and international analysts. Many of them have been quite imprecise as to what “good governance” exactly entails or how it should be achieved. Policy discussions have tended to centre on improved service delivery (which would be achieved through capacity building), government-led outreach (which would be facilitated by the provision of resources) and better appointments. “Better appointments” however means different things to different people, as becomes apparent when studying the policies surrounding senior subnational appointments. The diverging criteria for good appointments—within the “good governance constituency”—have included

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*Governance Structures in Afghanistan* (Kabul: Afghanistan Research and Evaluation Unit, 2005).

<sup>10</sup> The President has regularly sought to defend himself against domestic criticism by claiming that the “foreigners” had forced him to make certain changes or had not allowed him to do so—frequently greatly overstating the influence of the international actors. However, there have been instances in which governors or other senior officials were changed or retained on the insistence of powerful international actors.

education and skills; local political standing; behaviour towards the population; loyalty to the government or the regime; and the ability and willingness to cooperate with international actors in reconstruction, counternarcotics, counterinsurgency or rule of law efforts.

## 1.2 Towards a comprehensive policy framework

The various state-building agendas and the increased push for improved subnational governance have led to a wide range of initiatives and structures, with ambiguous and often overlapping or conflicting mandates—particularly in the field of planning and coordination. There has been a great deal of confusion over the relative roles and responsibilities of the various subnational bodies. The role of the governors and district governors, for instance, in relation to the line ministry departments and the police has been highly ambiguous, while the responsibilities of the provincial councils and other representative bodies in relation to the executive has not been adequately articulated. Various policy research studies have documented these, and other, contradictions and ambiguities and all have consistently called for the formulation of a coherent vision and policy framework in the field of subnational governance.<sup>11</sup> The most recent AREU study on the subject maintains that:

*Governance policy, and the state-building initiatives that can be loosely said to form its operational basis, have been introduced and implemented in a piecemeal fashion, often driven by factors external to the search for the most appropriate and sustainable institutions for the Afghan context. More accurately, to date, subnational state-building in Afghanistan has been characterised by a lack of a subnational governance policy. Instead, disparate initiatives have been introduced in response to pressures related to the political transition, but without sufficient reference to their relation to the whole.*

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<sup>11</sup> See for instance Lister and Nixon, *Provincial Governance Structures in Afghanistan*; World Bank, “Service Delivery and Governance at the Sub-National Level in Afghanistan” (Kabul: World Bank, Report No. 40617, July 2007); The Asia Foundation, “An Assessment of Subnational Governance in Afghanistan” (Kabul: The Asia Foundation, 2007); and Nixon, *Subnational State-building in Afghanistan*.

*The piecemeal efforts of the past must now be knitted together, and altered where necessary, to form part of a fabric of subnational governance that is guided by coherent and nationally-agreed goals about the nature, role and reach of the Afghan state.”<sup>12</sup>*

The coherent policy framework is expected to tie together disparate planning and coordination initiatives; clarify relative roles and responsibilities; address some of the inherent systemic contradictions (for instance between the dual lines of authority of the line ministries and the provincial governors); and mitigate

the effects of what has elsewhere been called “contradictory state-building.”<sup>13</sup> This makes such a policy process not only a technical but also a highly political exercise. The efforts of the Independent Directorate of Local Governance (IDLG) to formulate a comprehensive subnational policy will be discussed in Section 3.4. For now, it suffices to say that the failure to include “temporary” subnational initiatives in the overall policy framework has resulted in the continued existence of two parallel policy tracks: one formal and “long-term” and one informal and “short-term.” This section is based on author’s interviews from May 2004 to December 2008.

## 2. Appointing Provincial Governors and District Administrators

### 2.1 A history of patronage relations

Outside the formal policy processes there are powerful other currents shaping the appointments processes—most prominently patterns of patronage and the forces of the political economy. Criteria for “good appointments” according to these agendas include affiliation to a certain faction, clan or ethnic group and the ability and willingness to accommodate (or undermine) the dominant political, tribal or economic interests in the area. And, because senior posts are generally used as political capital in negotiations and patronage relations, appointees are not necessarily selected for their eligibility, but are often awarded certain positions as part of a broader political and economic bargaining process, in which competence and future performance in the field of governance does not necessarily feature.

The subnational administration in Afghanistan has historically been used as a means to control and co-opt the disparate and often armed ethnic and factional groups in the country and to tie or subordinate them to the centre. Provincial governors and district administrators were central to this system and were selected for their personal loyalty or utility to the ruler.

PDPA rule (1978-1992) provided a brief interlude during which efforts were made to establish

a more “Weberian” bureaucracy, which also affected the nature of subnational appointments. And although this was largely uprooted during the Islamic State and the years of civil war that followed, it did leave behind a certain bureaucratic culture among former civil servants, as well as memories of a state that sought to provide for its population (through for instance coupons and pensions), even in remote areas. The post-Taliban government under President Karzai surprised many Afghans in that it largely reinstated the commander networks that held power before the Taliban, instead of seeking the support of the older networks of landowners, tribal elders and urban elites. This was particularly the case in the provinces and for the first few years, these commanders were practically given free rein to govern as they wished.

<sup>12</sup> Nixon, *Subnational State-building in Afghanistan*, 67 and 12.

<sup>13</sup> “Contradictory state-building” refers to the attempts to simultaneously achieve stabilisation through short-term crisis-management on one hand and long-term state-building on the other. The simultaneous pursuit of relationship politics and technical institution building, as is illustrated in the case of senior appointments processes, can be considered one of the most pronounced state-building contradictions in Afghanistan. See Nixon, *Subnational State-building in Afghanistan*, 32-33; and Hamish Nixon and Richard Ponzio, “Building Democracy in Afghanistan: The Statebuilding Agenda and International Engagement” *International Peacekeeping* 14, no.1 (January 2007).

## 2.2 Provincial governors and district administrators in the Karzai administration

Provincial governors and district administrators have been described elsewhere as the local “gatekeepers” with influence that far exceeds what they have been formally ascribed.<sup>14</sup> The importance of provincial governors and *woleswals* can be traced back to their historic roles as the ruler’s main local representatives and their position within the web of local and national patronage relations—a practice that continues to this day. Provincial governors and district administrators have thus been central to the government’s “politics of relationships” and the awarding of these positions to allies and potential rivals has been one of the main instruments of the current Afghan government to re-assert its authority and to strengthen its network.

In the early years of the Karzai administration the main contest over who appointed and controlled the local administration was between the centre and the periphery. A former high-level official at the Ministry of Interior recounted how during the first few years almost half of the district administrators were not even registered with the Ministry, let alone centrally appointed.<sup>15</sup> Officials tended to be the main local strongmen (or their proxies), often, but not always, with some form of central blessing from the President or one of his Vice Presidents. There were several informal districts with informal district governors.<sup>16</sup> Over the years, appointments became increasingly centralised. In 2004, a World Bank assessment reported a general acceptance that all senior staff positions were to be approved by Kabul, but that it was still the *de facto* rather than the *de jure*

power of senior officials in Kabul that influenced the approval of provincial appointments.<sup>17</sup> This is still the case.

Institutionally, the position of provincial governors and district administrators is ambiguous, particularly with regard to the question of whether they are part of the civil service or not. The IARCSC argues that these positions should be depoliticised and that at least the district administrators and deputy governors should be civil servants. Others argue that there should be at least a pool of trained and qualified candidates, to prevent the appointment of just anyone to these positions. The institutional ambiguity over the nature of these positions has resulted in considerable confusion over who is responsible for the appointments and according to which rules, while the political nature of the posts has meant that attempts to formalise and standardise the procedures have been resisted and, where possible, ignored by those involved in the distribution of positions.

The President remains a central figure in the appointments process. Presiding over a wide patronage network, he is constantly advised and petitioned by delegations and influential personalities seeking the appointment or removal of certain officials. It is a staggered system, in which the President’s entourage and advisers are equally approached and petitioned, resulting in a complex web of multi-layered negotiations, promises and pay-offs. Provincial governor posts feature most prominently in the national high-level negotiations, while district administrator posts tend to be subject to the twin dynamics of localised power play and political-economic network interests (often with a lobby at the central level). The process, as a result, is often quite messy with the various players questioning the other’s authority to introduce candidates. One of the main features of the senior subnational appointments process has been the reshuffling of provincial governors and district administrators, usually regardless of their performance. For instance, in three (out of four) districts in Nimruz the district administrator positions have since

<sup>14</sup> See World Bank, “Service Delivery and Governance at the Sub-National Level in Afghanistan”; The Asia Foundation, “An Assessment of Subnational Governance in Afghanistan”; and Nixon, *Subnational State-building in Afghanistan*.

<sup>15</sup> Author interview, September 2008.

<sup>16</sup> The confusion over the official number of districts remains to this day, with the Central Statistics Office and IDLG using different figures. There are still districts that are not officially recognised by the central government and are governed by informal district administrators (often supported by the provincial governor). There is also continuous lobbying for the creation of new districts, particularly by minority groups or by populations that cannot access their district centres easily.

<sup>17</sup> Eklil Hakimi, Nick Manning, Satyendra Prasad and Keir Prince, “Asymmetric Reforms: Agency-level Reforms in the Afghan Civil Service” (Kabul: World Bank, Report No. SASPR-3, June 2004), 3.

2002 changed hands several times between four individuals only. Reshuffles were generally initiated after sustained local complaints and demonstrations had necessitated the removal of the local *woleswal* from the district.<sup>18</sup>

Provincial governors who are unhappy with the centrally appointed district administrators, or who are facing pressure not to accept the appointment, have a range of strategies they can employ. These include delaying the de facto deployment of the district administrator, withholding financial and practical support and locally appointing a caretaker administrator, or *sarparast*. Provinces with a high number of officially registered caretakers at the time of the research included Badghis (four out of six), Uruzgan (three out of five) and Paktika (seven out of 18), while there were several other districts with informal unregistered caretakers.<sup>19</sup> Although a *sarparast* is meant to be a temporary feature, there are several provinces that have

had a long succession of caretakers and a history of unclear appointment arrangements. Caretaker administrators are often a sign of a contested appointment process—the contest usually being between the governor and either the centre or the local strongmen (or both)—or of the difficulty of finding candidates who are acceptable to all parties and are willing to serve under difficult and dangerous circumstances. A further illustration of the high level of informality at district level is the fact that there have been at least two cases in the last two years of a relative replacing a district administrator who had been killed. These dynamics not only illustrate the difficulties involved in selecting, appointing and supporting the government’s main representatives in some of the most embattled areas of the country, but are also an expression of the widespread tendency to create ambiguity and to apply discretion wherever possible.

## 3. Influencing Political Appointments Through Policies

### 3.1 The three main policy agendas

Over the years there have been several attempts as part of the larger state-building agenda to formalise and standardise the appointment of governors and district administrators, and to establish a greater degree of transparency and predictability concerning who gets appointed and why. These attempts have been driven by three related, but separate agendas, which will be discussed in greater detail below:

1. The institutional reform agenda, which centres on merit-based appointments and clear and transparent procedures as the foundation of effective government. This agenda has prompted the IARCSC Appointments Board to

seek to apply merit-based selection procedures to the post of district administrators—an attempt that was contested and rather short-lived. The IDLG, which has since then been given the responsibility for district administrator appointments, has attempted to introduce some form of merit-based principles in its selection process, but the process remains highly political.

2. The vetting agenda, which aims to prevent the appointment of unpalatable candidates, either to ensure that justice is upheld, or because the failure to do so would threaten the legitimacy of the state. The vetting agenda was initially closely linked to the transitional justice policy process and prompted a push for the establishment of an advisory board for senior appointments—a proposal that was included as a benchmark in the Afghanistan Compact and since then has been half-heartedly implemented.
3. The stabilisation or outreach agenda, which aims to more effectively utilise the social outreach potential of governors and district administrators in order to strengthen the

<sup>18</sup> Author interviews with officials and leaders from Nimruz, February 2006-September 2008.

<sup>19</sup> July 2008 IDLG list of district administrators. The cited examples concern officially registered caretakers. The list also contained 22 districts with no registered *woleswal*, while there are also always a fair number of officially appointed district administrators who never reach their districts or are rarely present, due to their own reluctance, logistical difficulties or a lack of support. Most of these districts have a locally appointed informal caretaker.

***Box 1. Chronology of the main formal policy documents affecting the appointments of provincial governors and district administrators***

- December 2001: Bonn Agreement
- May 2002: Presidential decree establishing the IARCSC
- June 2003: Presidential decree amending and expanding the responsibilities of the IARCSC, mandating the establishment of the IARCSC Appointments Board
- February 2005: Cabinet approval of the Basic Civil Service Law
- December 2005: Cabinet approval of the Action Plan for Peace, Reconciliation and Justice, which includes a provision on an advisory panel for senior appointments
- January 2006: Adoption of the Afghanistan Compact, which includes provisions on the full implementation of the Action Plan for Peace, Reconciliation and Justice and on the establishment of a mechanism for senior appointments
- September 2006: Presidential decree establishing the Special Advisory Board for Senior Appointments
- December 2006: Presidential launch of the Action Plan for Peace, Reconciliation and Justice
- 2007: Parliament passes the Civil Servants Law
- Early 2007: Presidential decree re-authorising the Mol to appoint district administrators
- August 2007: Presidential decree establishing the IDLG
- September 2007: IDLG presents its Strategic Framework
- February 2008: IDLG presents its Strategic Work Plan
- April 2008: President approves the Special Advisory Board's rules of procedure
- September 2008: IDLG presents its Draft Subnational Policy

authority of the centre (which can be defined institutionally as the central government body or politically as the President and his entourage). This agenda played an important role in the establishment of the IDLG as an independent directorate with a mandate to address the “growing gap between the government and the people.” Clear appointments procedures and criteria for governors and district administrators were identified as a priority “in order to demonstrate positive change in government practices.”<sup>20</sup>

These reform and rationalisation efforts have been faced by some strong dynamics that have sought to keep the appointments processes ambiguous, personalised and subject to bargaining and patronage. The result has been an ongoing

confusion over who is formally responsible for the appointments of governors and district administrators and which procedures are to be followed. A string of contradictory decrees and policy documents, all with Presidential approval and usually issued in response to a strong lobby, have further complicated the situation. Box 1 provides a chronology of the main policy documents establishing or affecting the responsibilities and procedures with regard to provincial governor and district administrator appointments.

A brief overview of the history of the three relevant bodies—the IARCSC Appointments Board, the Special Advisory Board for Senior Appointments and the IDLG—and the policy processes that preceded and surrounded their involvement, will illustrate some of the fundamental contradictions and dilemmas involved in reforming political appointment practices.

<sup>20</sup> Independent Directorate for Local Governance, *Five Year Strategic Workplan 1387-1391* (February 2008).

### 3.2 The IARCSC and its attempts to implement merit-based appointments

The tension between the informal politics of patronage relationships and negotiations and the formal processes of institution building has been apparent from the beginning of the current state-building process. They surfaced during the negotiations surrounding the Bonn Agreement in December 2001. Efforts by the UN team to push for a lean, technocratic administration and a powerful civil service commission, that would vet all appointments down to the district level for integrity and technical competence, met with strong resistance from all participants. Instead, ministerial positions were divided on the basis of factional loyalties and the “realities on the ground”, setting the pattern for future appointment practices. In the end, agreement was reached on the establishment of a considerably watered down version of the Civil Service Commission, which was to have an advisory mandate only and which would provide shortlists for vacancies.<sup>21</sup>

The Civil Service Commission never provided shortlists and instead started focusing on institutional reform. This was confirmed by decree in June 2003, after which its name was changed to Independent Administrative Reform and Civil Service Commission. An IARCSC Appointments Board was established to ensure the application of merit-based recruitment procedures for all lower-level civil servants (Grade three and below) and to directly implement the merit-based recruitment of all high-level civil servants (Grade two and above). For the first few years, the IARCSC’s reach was quite limited and certainly did not extend beyond Kabul. The President continued to make governor and district governor appointments on the recommendation of the Ministry of Interior, as well as a wide range of petitioners and advisers. By 2006, however, the Appointments Board initiated a formal recruitment drive for district administrators and advertised a large number of positions. Candidates, including the sitting district

administrators, were to go through a scored interview process after which the applicant with the highest score would be selected. However, the effort was circumvented by the Ministry of Interior, who first bypassed the Appointments Board and ensured that its own candidates were appointed by the President. It then persuaded the President to issue a decree re-authorising the Ministry to take the lead in the appointments of district administrators.<sup>22</sup>

Where there has been IARCSC-led recruitment of district administrators—mainly in Kabul and some of the surrounding provinces—the process has suffered from a number of flaws very similar to those found in other merit-based appointment processes, as described by earlier assessments of Public Administrative Reform in Afghanistan.<sup>23</sup> These flaws included: positions not being properly advertised so that very few candidates applied; providing candidates with the questions beforehand; manipulating scores so that the candidate of choice (often the incumbent) was selected; providing unsuccessful candidates with a second chance; and appointing unsuccessful (but unopposed) candidates anyway—often in response to lobbying by influential actors. In other cases the interview board decided that the candidate who best fit the formal criteria (in terms of education, administrative experience and relevant knowledge) would not be able to withstand the practical challenges of the job. In these cases, instead of adapting the criteria to make them more suitable for the actual position, the scores were manipulated so that the candidate of choice could be selected.<sup>24</sup>

<sup>21</sup> See also World Bank, “Afghanistan. Building an Effective State. Priorities for Public Administration Reform” (Kabul: World Bank Report No. 42166-AF, 23 January 2008), 24; Barnett R. Rubin, “The Political Context of Public Administration Reform in Afghanistan,” background paper prepared for the World Bank (Kabul: World Bank, 2007).

<sup>22</sup> Serge Michailof, “Assessment of Progress Made in the Implementation of Merit-based Appointments in the Afghan Civil Service,” (2007), 16; World Bank, “Service Delivery and Governance at the Sub-National Level in Afghanistan” (Kabul: World Bank, July 2007), 19; and author’s interviews with IARCSC officials, September 2008. The decree re-authorising the Ministry of Interior specified that recruitment was to be done by a panel chaired by the Minister of Interior and that the panel would review candidates suggested by the provincial governors.

<sup>23</sup> See Michailof, *Assessment of Progress Made in the Implementation of Merit-based Appointments*; World Bank, “Afghanistan. Building an Effective State,” 31-2; and Sarah Lister, *Moving Forward? Public Administration Reform in Afghanistan: Realities and Possibilities* (Kabul: Afghanistan Research and Evaluation Unit, 2006), 9.

<sup>24</sup> Author interviews May-December 2008.

### **Box 2. Suspicion of merit-based appointments**

*Like many ethnically and politically fragmented societies, Afghan traditional society often finds it difficult to accept merit-based appointment as a fair process to select its civil servants. In a context where there are no reliable performance evaluation mechanisms, personal links emphasizing loyalty and reward for political support are still widely perceived as a “fair” or even the best way to appoint civil servants. Such tendencies increased during the long period of conflict, with worsening ethnic and political fragmentation. The whole merit-based selection process is therefore subject to considerable suspicion: for many in the bureaucracy, it is in the best of circumstances widely perceived as a “blind” and irresponsible decision making process; in the worst cases it is viewed as just a new device to appoint cronies.<sup>1</sup>*

<sup>1</sup>Michailof, *Assessment of Progress Made in the Implementation of Merit-based Appointments in the Afghan Civil Service*, Kabul: 2007, Consultant Report for IARCSC, 4.

The main substantive argument between the IARCSC and the Ministry of Interior—other than the reluctance of the Mol to cede control of what had been a lucrative responsibility—was whether the recruitment process was at all appropriate for selecting suitable district administrators. This was partly linked to a general suspicion of merit-based appointment processes, as described below in Box 2. In the Mol’s view, moreover, district administrator positions, particularly in areas of high insecurity, were politically too sensitive to be left to the “blind processes of the Appointment Board” and to what was perceived as the “incompetence of commissioners ready to appoint people no one knows about.”<sup>25</sup> This led the Mol to (successfully) argue that the position of district administrators should be treated as political appointments, like the provincial governors. IARCSC commissioners, however, continue to disagree with the fact that they are no longer responsible for the appointment of district administrators, arguing that district administrators should be considered civil servants.<sup>26</sup>

Some form of Mol-led merit-based recruitment continued during 2007, but it was not very systematic. In Faryab, for instance, there was a major overhaul of the district administration in April 2007, which included both district administrators and district police chiefs, after all the incumbents had been called in for interviews. The changes prompted a flurry of lobbying activities in the provincial capital and in Kabul by those who had lost their job. Subsequent enquiries

have shown that several of these officials have since then been reappointed.<sup>27</sup> A similar round of interviews in Farah as part of a merit-based recruitment process in 2007 did not result in any changes in the district administration and even those who had refused to go for interview kept their positions. When asked why this had been the case, a local official commented that it was not easy to find people who were able to serve in such a difficult environment.<sup>28</sup>

The responsibility to recruit governors and district administrators was transferred to the IDLG at its creation in August 2007. The IDLG has since then incorporated principles of merit-based selection in its recruitment process. It claims to interview all candidates and to score them according to criteria including loyalty (to the Constitution and to the President); management skills; ability to deal with local communities; ability to liaise with international partners and to attract development assistance; and the absence of links to drugs, crime and corruption.<sup>29</sup> The actual appointment

<sup>27</sup> Author interviews with provincial and district officials from Faryab, February 2007 to November 2008.

<sup>28</sup> Author interviews with provincial and district officials from Farah, September to November 2008.

<sup>29</sup> In its new (draft) subnational policy framework, the IDLG has additionally proposed to adjust the educational requirements: district administrators should now be “at least literate” (and that their literacy should be tested) and deputy governors should have at least high school education. Provincial governors would not need to meet any formal requirements. According to their ranks, however, provincial governors and district administrators should formally have at least a university degree (respectively a Masters degree for governors and a Bachelors degree for district administrators, as laid down in the civil service law). A browse through the list of educational backgrounds of current district administrators suggests that some of the incumbents have

<sup>25</sup> Michailof, *Assessment of Progress Made in the Implementation of Merit-based Appointments*, 16.

<sup>26</sup> Author’s interview with IARCSC officials, September 2008.

practices, however, remain very much the same: selection processes are followed until they are interfered with (by those who can), while political and patronage considerations continue to be paramount, as will be discussed in Section 3.4.

### 3.3 The principle of vetting and the slow start of the Advisory Board on Senior Appointments

The power sharing that took place at Bonn and the continued distribution of government positions along factional lines, often to people who are considered responsible for much of the violence in Afghanistan, has led to recurrent calls for some form of vetting. The call for vetting is principally different from the push for merit-based appointments, although it is related. Vetting does not necessarily concern the qualifications needed for the position in question, but defines what disqualifies candidates from holding (senior) positions in general. The main policy process has been the decision to establish an independent body to advise the President on senior political appointments. The establishment of such a body was first proposed in 2006 as part of the Action Plan for Peace, Reconciliation and Justice.<sup>30</sup> The assumption behind the proposal was that the President was in principle in favour of reforms and, in particular, of “better appointments,” but that he was unable to withstand the pressures he was under. The advisory board was intended to help the President identify suitable candidates and withstand pressure.

Addressing legacies of past violations (the transitional justice agenda) has been, and continues to be, controversial. Initially, the dominant narrative among international actors after Bonn, with the US and the Special Representative of the UN Secretary General Lakhdar Brahimi as the main proponents, was that Afghans preferred peace over justice and that transitional justice was an external agenda, based on western notions of what was considered acceptable. The findings

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somehow acquired honorary degrees along the way.

<sup>30</sup> Government of Afghanistan, *Action Plan for Peace, Reconciliation and Justice* (2006), 7. The action plan stipulated the “establishment of an Advisory Panel for Appointments to advise the President on senior political appointments which are outside the scope of the Civil Service Commission.”

of a national consultation on transitional justice conducted by the Afghan Independent Human Rights Commission (AIHRC), however, showed otherwise and persuaded the UN and several donor countries that there was a broad indigenous demand for justice, in particular with regard to the removal from office of the perpetrators of crimes and human rights violations.<sup>31</sup> Canada, the Netherlands and the European Union were among the most active donors supporting the transitional justice process. An informal joint committee, with representation from the President’s Office, AIHRC, UNAMA and the donor community, set about drafting an action plan based on these findings. The plan was approved by Cabinet in December 2005, after some delicate discussions about the wording on accountability for past actions, and formally launched by the President a year later in December 2006. The implementation of the Action Plan has however been half-hearted at best and international and government support for the agenda has waned in the face of a deteriorating security situation and an increasingly assertive lobby by those claiming to represent the interests of the mujahiddin.<sup>32</sup>

A joint core group, initially led by the UNAMA human rights unit and the EUSR Office, further developed the proposal for the establishment of an advisory body. The various draft documents show fluctuating ideas on the mandate and composition of the panel, the positions it should advise on and the status of its recommendations. The panel’s mandate was either conceived as a vetting mechanism that would do background checks on proposed candidates or as a body that would keep a roster and could suggest new candidates, thus strengthening the President’s ability to move beyond existing personal and patronage relations. The various drafts reflected the fluctuating influence of the two UNAMA pillars

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<sup>31</sup> Afghan Independent Human Rights Commission, “A Call for Justice. A National Consultation on Transitional Justice” (January 2005). Vetting was proposed as the second best option, after criminal prosecutions.

<sup>32</sup> This lobby is largely made up of former Northern Alliance commander networks and has a particularly vocal representation in Parliament. Its proponents maintain that the internationally backed transitional justice and reform agendas are intentionally designed to rid the government and security forces of the mujahiddin, by accusing them of crimes they have not committed, and that such signs of disrespect should be punishable.

(respectively the human rights section within the political pillar and the governance section within the reconstruction pillar) that were sometimes pulling in different directions. The political side pushed to include as many politically sensitive appointments as possible, lumping together security, judicial and administrative appointments, while the governance side sought to ensure institutional consistency by establishing a body whose mandate would not interfere or overlap with that of other organs. As a result, the list of positions to be reviewed by the panel fluctuated, sometimes including deputy ministers, judicial appointments, local police chiefs, local heads of the National Security Directorate, and district administrators, while at other times, depending on the drafters and their considerations, they were omitted. The inclusion of provincial governors was, however, never contested. Another illustration of the diverging positions was the composition of the board. The governance experts, very briefly, proposed that the board consist of a number of high-level officials (for instance a vice-president, a cabinet minister or a speaker of Parliament) in an attempt to ensure its political weight. This, however, disregarded the fact that such a set-up was likely to consolidate, if not exacerbate the influence of patronage networks on the appointments process, and the proposal was dropped.

During the drafting of the Afghanistan Compact in late 2005, the UN and several international donors pushed for the inclusion of the advisory board.<sup>33</sup> However, it was only much later that the signatories realised that the establishment of the board, which was to be completed within six months, was the first Compact benchmark and that the failure to meet it would reflect badly on the whole process. There were protracted discussions between the President's Office and the major donors, in particular UNAMA and the EU, in the run-up to the deadline on the format and composition of the panel. The main points of contention were the number of panel members appointed by the President and whether the panel should include an international member. In the end a compromise was reached—no international

<sup>33</sup> It was phrased in quite general terms as “a clear and transparent appointments mechanism” for all senior level appointments. The full implementation of the Action Plan for Peace, Reconciliation and Justice was also added as a benchmark. (*The Afghanistan Compact*.)

and two out of five members to be appointed by the President—just in time to meet the deadline. It is telling that the composition of the panel (in particular who appoints and thus controls the members) proved much more important than the mandate and responsibilities of the body, indicating a contest between two conflicting agendas: one seeking to control, the other seeking to ensure independence.<sup>34</sup>

The Special Advisory Board to the President for Senior Appointments was established by decree on 17 September 2006. Its rules of procedure were only approved in April 2008 and during its first one and a half years the board was barely operational. The ambiguous Compact language—the panel was to be established within six months, to be implemented (sic) within 12 months and be fully operational within 24 months—had provided ample opportunity for slippage. Furthermore, the drafting of the board's rules of procedure had reopened discussions on its composition and institutional set-up, with the President's team pushing for the inclusion of several senior government officials selected by the President.<sup>35</sup> The international partners resisted the changes, arguing that these would threaten the independence of the panel, and pointing out that the Afghan government could not unilaterally change what had been jointly agreed in the Compact. In April 2008, the original terms of reference were approved with relatively minor amendments.<sup>36</sup>

In July 2008, almost two years after its establishment, the board had been consulted on only ten high-level appointments. However, by November 2008, things started to gain momentum. The ANDS Secretariat reported that the board had been consulted on 75 appointments, which for the first time also included provincial governors (three) and district administrators (23).<sup>37</sup> Several

<sup>34</sup> The suggestion by the international side to include an international member in the panel was intended to increase the panel's independence and to decrease its vulnerability to political pressure. The President's Office would however have seen this as an attempt to increase international control of high-level appointments.

<sup>35</sup> Author's interviews, September 2008.

<sup>36</sup> The board's composition had remained unchanged, but it had been moved to the President's Office while the positions the panel was to be consulted on now included district governors and excluded provincial NDS chiefs.

<sup>37</sup> ANDS Secretariat reports to the Joint Coordination and

factors have worked together to revive this body, which at the time seemed almost beyond salvaging. These factors included:

1. The sustained threat of publicly being called to account at the regular high-level JCMB meetings<sup>38</sup>
2. The fact that at least one influential personality in the President's entourage in 2008 started to actively support the cause of the Board
3. The subnational policy drafting exercise by the IDLG during the summer of 2008, which clarified the legal obligations surrounding senior subnational appointments, making it more difficult to ignore them.

The IDLG has however indicated that it does not intend to continue to consult the board on provincial governor appointments, as will be explained in more detail below, indicating that the board's struggle for recognition of its role is far from over.

### 3.4 The IDLG's dual role: short term stabilisation and long term institution building

The Independent Directorate of Local Governance was established in August 2007 by merging the Ministry of Interior's structures of civil administration (excluding registrations of births and deaths) and the Office of Administrative Affairs' department of Provincial Relations into an independent body. Afghanistan's history has seen several variations on the Directorate for Local Governance—whether independent, within the Ministry of Interior, or under the president's or prime minister's office—and the decision to establish, split, merge or move the department has always been primarily politically motivated, reflecting the desire to more effectively control

or reach out to the periphery.<sup>39</sup>

The IDLG is in essence a hybrid body in that it combines two potentially contradictory functions. Its first function is to rationalise and synchronise the subnational governance policies and to improve the performance of subnational government along the lines of an institutional reform agenda. Its second function is social and political outreach, which is firmly rooted in the traditions of relationship politics and patronage. This function is heavily influenced by the joint counterinsurgency agenda of the Afghan government and the main troop contributing nations, as well as the desire of the current administration to regain popular support in the run-up to the Presidential elections, currently scheduled for August 2009. IDLG's stabilisation agenda is described in the organisation's central narrative as that it aims to address the “growing gap between the people and the government” through improved security and service delivery and activities that “reconnect the people with the government.” Such activities include government-led patronage and the distribution of resources to loyal local leaders. The duality of function is also reflected in the technical assistance the IDLG has received: UNDP through its Afghanistan Subnational Governance Programme (ASGP) has provided the main guidance and technical support to the policy drafting exercise, while the Asia Foundation supported the pilot of IDLG's Afghanistan Social Outreach Programme (ASOP).

The two functions of the IDLG—one technical and one political—have been kept largely separate. This is illustrated most clearly by the fact that IDLG's comprehensive subnational policy makes no mention of the organisation's outreach programs, despite the fact that they involve the establishment of new subnational structures, such as the district-level community councils.

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Monitoring Board in July and November 2008.

<sup>38</sup> The Joint Coordination and Monitoring Board (JCMB) is the body that oversees the implementation of the Afghanistan Compact and the Afghanistan National Development Strategy (ANDS). It consists of all the main donors and government bodies and meets three to four times a year under the co-chairmanship of UNAMA and the head of the ANDS Secretariat. The Special Advisory Board has regularly been on the agenda as a benchmark that was not being adequately met.

<sup>39</sup> Several interlocutors pointed out that a similar move to separate the local governance department from the Ministry of Interior was made by President Karmal in the 1980s in order to have more direct control over the subnational appointments. The separation of the IDLG from the Mol has led to confusion on the nature of the relationship between provincial governors and district administrators with their local police chiefs. In the past police chiefs were generally under the *de facto* command of the governors and district administrators—a situation the IDLG is seeking to consolidate—while the Mol argues that they now have their own separate chains of command.

The IDLG maintains that it is unnecessary to include these programs in their policy, as they are only temporary interventions (they are to be replaced by local elected bodies in 2010). Instead of starting to address the “state-building contradiction” by formulating a comprehensive policy framework that can accommodate both the long-term institution building efforts and the short-term crisis management, the IDLG is now actually embodying the contradiction. Its outreach activities threaten to undermine the efforts to clarify the roles and responsibilities at the subnational level.

In the area of appointments, the IDLG is faced with similar contradictions: on one hand, it seeks to improve the appointments processes, while on the other hand it needs to safeguard and respond to the discretion of the President. For the first year of its existence, the IDLG appointed provincial governors and district governors without referring them to the Special Advisory Board, which at that time was still paralysed by discussions on its mandate and composition. It did, however, subscribe to the implementation of a “transparent and merit-based national appointments mechanism” for provincial governors and district administrators in both its Strategic Framework (September 2007) and its Five Year Strategic Work Plan (February 2008), describing this as a priority in order to demonstrate positive change in government practices. However, in September 2008, when presenting its draft subnational governance policy, the IDLG made a U-turn stating that the Special Advisory Board would vet all candidates for the posts mentioned in the Afghanistan Compact benchmark, *except provincial governors*, and that provincial governors will “continue to be political appointees.” The move was a reflection of the President’s continued reluctance to allow a body that he does not fully control to interfere in politically crucial appointments, particularly in the run-up to an election. With the draft subnational governance policy not yet approved by Cabinet, the IDLG has started introducing candidates for both positions—provincial governors and district administrators—to the Special Advisory Board, but it intends to exclude provincial governors from the process once the policy has been passed.

The changing position on who should be involved in the appointments of provincial governors

illustrates the difficult position the IDLG is in. On one hand, its mandate to draft and implement a coherent policy framework and its dependence on donors for funding (in particular for its outreach programs) means that it can hardly ignore agreed procedures once they have been clarified. However, on the other hand, its position as the President’s outreach organisation precludes it from seriously infringing on the President’s discretion to appoint whomever he wants.

It should then come as no surprise that the appointments record of the IDLG shows a mixed scorecard. During the first 15 months of its existence, the IDLG appointed around 20 provincial governors. A little less than half of them could count as “new profile appointments,” coinciding with the IDLG’s stated intention to demonstrate the government’s commitment to reform. These governors tend to be educated, with a professional, military or NGO background; they are often English speakers and in several cases relatively young. Some of them have performed relatively well or have had unremarkable tenures, while others have been replaced rather swiftly (in particular Ghazni has seen a high turnover of provincial governors), suggesting that they lacked the necessary weight or skills despite their level of education. On the other hand there was a considerable number of appointments that were made according to the “old rules,” where candidates with known questionable backgrounds or with limited relevant experience were appointed based on perceived loyalty, political pressure or factional negotiations. Three out of the five governors who had served as provincial governor under the Karzai administration before (often in multiple provinces), had at some point been forced to leave their post due to serious allegations of misconduct. The fact that this did not preclude their reappointment indicates that the IDLG has not been able to break the pattern of recycling problematic—but loyal—governors. Other intended or rumoured appointments were never made, presumably after the President or other influential actors indicated that the incumbent should not be touched, and changes of governors remain surrounded by intense political lobbying and often months of rumours and negotiations.

## 4. Dilemmas and Challenges

### 4.1 Main challenges and dilemmas

The discussion of the policies and dynamics surrounding senior subnational appointments, as presented above, illustrate some of the main challenges and dilemmas confronting the current reform and stabilisation efforts. These include, among others:

- The fact that policies and procedures do not necessarily change the rules of the game, but rather provide a different “vocabulary” for the various power struggles
- The way in which the main contest is not so much about what the rules should be, but whether there should be rules in the first place and whether they need to be followed, which in essence is a contest between discipline and discretion
- The limitations of the current operationalisation of merit
- The difficulties of policymaking with and within a highly fragmented and highly centralised government.

The nature and implications of these challenges will be explored in more detail below.

### 4.2 The tension between discipline and discretion

Institution building and reform, as we know it, focuses on establishing and changing rules and thus presume a certain level of discipline and formality—as it is only when behaviour follows rules, that changing the rules will help change behaviour.<sup>40</sup> However, a system based on patronage and negotiations tends to be by definition informal. It is crucial that a patron is able to act with discretion and to implement, disregard or bend rules as seen fit, otherwise there is nothing to negotiate about. This tension between discipline and discretion has been clearly played out in the policies surrounding senior appointments, and the general tendency to ignore, bend and manipulate

<sup>40</sup> For a brief discussion on discipline and formality see Eklil Hakimi, Nick Manning, Satyendra Prasad and Keir Prince, “Asymmetric Reforms: Agency-level Reforms in the Afghan Civil Service” (Kabul: World Bank, June 2004), 8-9.

the rules, when considered necessary. This is most clearly illustrated in the President’s reluctance to subject the selection of provincial governors to any form of agreed process and in the fact that agreed procedures in the selection of other officials are regularly overruled or ignored.

Obviously, all institutional systems allow for a certain level of discretion, particularly at the highest level, just as most institutions accommodate the simultaneous existence of both formal rules and informal practices. It becomes problematic, however, when the formal procedures and the informal practices are at cross-purposes with each other, particularly when they represent competing agendas with powerful backers. The result is an institutional system that has no dominant leading principles and in which decisions and policies are constantly made, revoked, modified and ignored. As a result, the Afghan government and its international backers have, over the past seven years, not been able to come up with a system, whether it be discretionary or based on formal procedures (or a combination of both), which leads to high-level appointments that are considered appropriate by the majority of the stakeholders—not least the Afghan population. The struggle to reform appointment practices and to move from discretion towards more discipline is not simply a contest between Afghan culture and Western Weberian standards. Although the concept of *waseta* (connection) permeates Afghan society,<sup>41</sup> there is at the same time a broadly shared conviction that the government is there to do *khedmat* (service) and that ideally it should treat all its citizens equally. There is thus a strong indigenous demand for more institutional neutrality, but as long as this is not implemented across the board, the dynamics of patronage and *waseta* remain dominant.

<sup>41</sup> The concept of *waseta* (literally: connection) describes a system in which it is assumed that in order to be given a government service, an appointment or a favourable ruling, you will always need a person on the inside: a *waseta*. For this reason, it is seen as only fair that positions are divided somewhat proportionally among the various solidarity groups.

### 4.3 The value of “merit” in appointments

There has been a consistent call among Afghans from all parts of society for merit to be more important than relations in the appointment of senior government officials.<sup>42</sup> However, the currently favoured “merit-based selection procedures,” which lean heavily on candidate ranking based on standardised interviews and formal educational standards, do not necessarily ensure the selection of appropriate candidates for the job and are potentially problematic for positions where personality and personal relations are actually crucial assets. The fact that merit-based recruitment implies and even encourages the hiring of “strangers” is viewed with suspicion in a society where social relationships often provide the best framework for enforcing socially acceptable behaviour (although, on the other hand, people often ask for outsiders to be appointed to senior local positions, as they are expected not to be involved in the local power struggles). Further complicating the situation is the suspicion that reforms and merit-based appointment procedures are designed to favour certain groups or are in essence an attempt by internationals to increase control over the appointment process—and to get their friends appointed and their enemies removed.

The current operationalisation of “merit” is strongly biased towards formal education and managerial skills, which on its own is not sufficiently relevant for the contexts in which governors and district administrators usually have to operate: great political and tribal complexity and the threat of brutality and violence by either local strongmen or insurgents (or both). As the most visible sign of government presence in the district, the lightly guarded district administrators’ offices are regularly attacked and several district administrators are killed each year. As a result it is difficult to find people willing to serve in insecure or remote areas, unless they are protected by their own clan or faction or have political or economic reasons for wanting to be in that place.

Although there is considerable support for the idea of “educated outsiders” as provincial

governors and *woleswals*, this tends to be based on the implied assumption that such candidates will be less factional and less corrupt, and that they will be able to effectively represent local interests in their dealings with other government and development actors. Many communities have however found that, although these outsiders may be less violent or predatory than some of the most feared local strongmen, they tend to be equally indifferent to their needs or unable to represent them. They are also often, fairly or unfairly, perceived as being equally corrupt. This illustrates one of the most important lacunas in the efforts towards a more merit-based system of government: the absence of any form of effective performance-based evaluations. As a result, governors and district administrators are routinely recycled despite popular complaints, obvious incompetence or abuse of power. It remains to be seen whether the Special Advisory Board on Senior Appointments will be able to address such practices.

Another criticism of the current merit-based selection procedures is that they are too rigid and formalistic. Given the political nature of the governor and district administrator positions, and the importance of personality and personal relations, selection procedures will need to allow for a certain level of discretion. This discretion will however need to be limited by “minimum governing standards” relating to past behaviour, as well as performance once the officials have been appointed. This implies a need for improved feedback and redress systems for public grievances, as well as improved bureaucratic oversight.

### 4.4 The paradox of centralised fragmentation

The oscillating policies surrounding senior subnational appointments, as described above, result from the fact that the Afghan government is simultaneously highly fragmented and highly centralised, with all the different government bodies and interest groups seeking to strengthen their positions and to further their separate agendas through presidential approval and legal backing. A study of the relevant legislation and policy documents on the recruitment of governors and district administrators (see Box 3 for an

<sup>42</sup> As illustrated in the often cited expression that *zawabet* (skill) should be considered over *rawabet* (relationship).

**Box 3. What the main policy documents say about which body is responsible for provincial governor and district administrator appointments**

- June 2003: The decree on the responsibilities of the IARCSC states that *IARCSC is responsible for the appointment of all civil servants of grade 2 and above (which includes district administrators)*
- February 2005: The Basic Civil Service Law confirms that the IARCSC Appointments Board is responsible for the recruitment of high-ranking civil servants
- December 2005: The Action Plan for Peace, Reconciliation and Justice includes a provision on the establishment of a *panel* to advise the President on senior *political appointments, which are outside the scope of the IARCSC* (positions are not specified)
- January 2006: The *Afghanistan Compact* commits to the establishment of an appointments mechanism, whose mandate *includes provincial governors and district administrators*
- September 2006: The Presidential decree establishing the Special Advisory Board for Senior Appointments states that the *panel is responsible for provincial governor appointments, but not district administrators* (these remain under the purview of the IARCSC)
- 2007: The Civil Servants Law clarifies that all civil servants in grade 1 and 2 (which includes district administrators) shall be selected by the Appointments Board (language is ambiguous) and approved by the President
- 2007: The *authority to recruit district administrators is returned to the Ministry of Interior* by Presidential Decree
- August 2007: The IDLG is established and mandated to “supervise the affairs relating to” *provincial governors and district administrators*, which is taken to mean that the IDLG is responsible for their appointments
- September 2007: The IDLG Strategic Framework states that provincial governors and district administrators are to be appointed through a transparent and merit-based national appointments mechanism
- October 2007: Presidential decree stating that the IDLG rather than the IARCSC is to work with the President to appoint deputy governors and district administrators
- February 2008: IDLG Strategic Work Plan singles out the development of clear appointments procedures and criteria for provincial governors and district administrators as a strategic priority for the first year
- April 2008: The Rules of Procedure for the *Special Advisory Board* state that *both provincial governors and district administrators* are within the panel’s mandate
- September 2008: The IDLG Draft Subnational Policy document reaffirms the role of the Special Advisory Board, but *excludes provincial governor appointments* from its scope, stating that provincial governors will “continue to be political appointments”. The draft policy has not yet been approved by Cabinet.

overview) reveals a sequence of conflicting and overlapping decisions, all made or approved by the President. It is, paradoxically, this centralisation of personalised decision-making that increases the randomness of the policy process, as many of the decisions are made in response to lobbying efforts rather than based on a coherent vision or policy.

International actors are also part of this process. Instead of forwarding a coherent joint policy based on a shared agenda, they often find themselves lobbying the President or his entourage in order to acquire a sufficiently high-level signature, signifying “government buy-in” and “Afghan ownership,” at each step of the way. This may well be one of the fundamental misunderstandings of the joint state building project: the President or other members of the government are seen by internationals to be signing up to a vision or program of reform when they are often in essence responding to the lobbying effort by a patron or client whose wishes need to be heeded or humoured.

#### 4.5 The role of the policy process and its limitations

On one hand, the current study illustrates the relative futility of reform policies in the face of half-hearted government buy-in. On the other hand, it also shows how policy processes gain a dynamic of their own and sometimes do affect the behaviour of government bodies and individuals, despite their reluctance and the existence of strong incentives not to comply. A case in point is the Special Advisory Board, which was revived when it seemed beyond salvaging. However, although there has been modest success in getting an important policy implemented, this does not necessarily mean that the underlying dynamics will be transformed. It thus remains to be seen to what extent the Board will be able to address some of the dynamics surrounding the government’s appointment practices, in particular the tendency to use senior subnational positions as prizes and bargaining chips, particularly in the run-up to the elections. It is likely that the current patterns will continue: high-level discretionary decisions for the strategic positions and some form of formal process, although possibly manipulated, for the positions that matter less.

## 5. Conclusions

There are no easy answers to these dilemmas. It is clear that the current process of joint policy formulation is a rather blunt tool with which to seek to transform the dominant political and economic competitions. It is also clear that the current understanding of institution building, with its emphasis on formalised and standardised procedures, does not necessarily lead to fair and transparent appointment processes, as intended. At the same, the realisation that “skipping straight to Weber”<sup>43</sup> might not be the best solution for Afghanistan, should not lead to simplified conclusions along the lines that Afghans have “never been governed” and that they “have

<sup>43</sup> The expression is taken from Lant Pritchett and Michael Woolcock, “Solutions when the Solution is the Problem: Arraying the Disarray in Development” (Center for Global Development, Working Paper 10, September 2002). It refers to efforts to quickly reach service delivery performance goals by simply mimicking the organisational forms of a well-functioning state (while ignoring why and under what circumstances these organisational forms developed the way they did).

their own system” that they prefer. Although patronage and personalised politics have been an important part of Afghan society and political culture for several centuries, they are currently being instrumentalised in a way that is considered unpalatable by large parts of the population and there is a strong popular demand for change.

For the current institution building efforts to have more impact, the following shifts in emphasis should be considered:

- Allow for a certain level of discretion in the selection of candidates rather than strict adherence to standardised procedures, while making sure that the discretion is circumscribed by agreed “minimum governing standards”
- Redefine merit, allowing for more locally relevant criteria
- Institutionalise bureaucratic supervision over

political appointments and the performance of the officials once appointed—unacceptable behaviour should be acted upon

- Seek to establish a functioning system for the registration and redress of public grievances
- Establish an administrative service, allowing for a new generation of career government officials

Central to the success of these interventions is the adoption of some form of agreed “minimum governing standards,” which should be indigenously and locally relevant. These standards may lean more towards criteria such as bravery, the ability to mediate and the absence of *zalem* (cruel, oppressive) behaviour, than the formal criteria of education and managerial background. They should not only be applied at the selection stage, but should more importantly serve to evaluate performance and to define unacceptable behaviour. Examples of unacceptable behaviour by subnational government officials include involvement in arbitrary detentions in order to extort money, widespread illegal taxation, violent targeting of local opponents and the intentional surrender of territory to insurgents.<sup>44</sup> The standards need to be minimalistic enough to realistically supersede other agendas and to ensure that a failure to act would reflect badly on all parties. The adoption of such minimum governing

standards is unlikely to happen without sustained and coordinated international involvement.

The described interventions remain relevant, regardless of who is in power in Kabul. It would be a mistake to view the current fragmented and centralised system as solely linked to the current President and to assume that a possible change in office would automatically lead to major changes in this field. The nature of the current election campaign points toward the continued domination of relationship politics and the distribution of privileges and positions, regardless of who wins the election. International actors who wish to further a reform agenda are thus well advised to learn the relevant lessons from the past seven years.

Finally, international actors would be well advised to stop acting as if they are dealing with already de-personalised government institutions, where the adoption of policies and procedures will automatically lead to the intended changes in behaviour and corporate culture. Instead, interventions should be more strategic and better calibrated and should take into account that in a relationship society the question is not only *what* needs to be done, but also *who* (which individuals, rather than which body or department) is expected to do so and what the incentive would be.

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<sup>44</sup> Currently governors and district administrators can be involved in such activities without necessarily losing their job or the support of (their patrons in) the central government. Those who happen to be removed from their positions, and who have sufficiently powerful backers, are usually reappointed.

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