

Subnational State-Building in Afghanistan



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About the Afghanistan Research and Evaluation Unit (AREU)

The Afghanistan Research and Evaluation Unit (AREU) is an independent research organisation based in Kabul. AREU's mission is to conduct high-quality research that informs and influences policy and practice. AREU also actively promotes a culture of research and learning by strengthening analytical capacity in Afghanistan and facilitating reflection and debate. Fundamental to AREU's vision is that its work should improve Afghan lives.

AREU was established in 2002 by the assistance community working in Afghanistan and has a board of directors with representation from donors, UN and other multilateral agencies, and non-governmental organisations (NGOs). Current funding for AREU is provided by the European Commission (EC), the United Nations High Commissioner for Refugees (UNHCR), the United Nations Children's Fund (UNICEF), United Nations Development Fund for Women (UNIFEM), the World Bank, and the governments of Denmark, Japan, Norway, Sweden, Switzerland and the United Kingdom.

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Table of Contents

Glossary	ii
Acronyms	iii
Executive Summary	iv
1. Introduction	1
1.1 Background and Rationale	1
1.2 Key Concepts.....	2
1.3 Research Objectives and Methodology.....	4
2. The Governance Context of Afghanistan	7
2.1 Social and Economic Context	7
2.2 Political and Institutional Context.....	9
3. State-Building in Provinces.....	14
3.1 Formal Institutions in Provinces.....	14
3.2 Provincial Governors and Provincial Administration	15
3.3 Provincial Development Committees: Coordination and Planning?.....	18
3.4 Provincial Councils: Representation and Accountability?	19
4. District Governance: Exploring the Government of Relationships.....	24
4.1 District Governors: The Gatekeepers	24
4.2 How Districts are Governed.....	26
4.3 Governors and “Contradictory State-Building”	32
5. NSP and CDCs: Changing Local Governance?	34
5.1 The National Solidarity Programme	35
5.2 Introducing the NSP	37
5.3 CDC Roles in Community-Driven Development	43
5.4 CDC Roles in Community Governance	48
5.5 Conclusions: CDCs in Local Governance	52
6. Conclusions and Recommendations	55
6.1 The Lack of Subnational Governance Policy	55
6.2 Implementation of Subnational Governance Programmes	57
6.3 Barriers to Reform and the Art of the Possible	57
6.4 Developing a Subnational Governance Policy.....	58
Bibliography.....	61
Recent Publications from AREU	65

Glossary

<i>Afghani</i> (or Afs)	official Afghan currency
<i>agir</i>	contracted civil service employee
<i>alaqadari</i>	rural or urban subdistrict
<i>arbab</i>	village leader; representative between community and central government; maintains communal property; can resolve disputes
<i>arbaki</i>	local militia linked to customary authorities
<i>beg</i>	large landowner
<i>hamaam</i>	public bath
<i>hauza</i>	subdistrict, historically often used for military or police organisation but without constitutional status
<i>jirga</i>	customary council/committee
<i>karmand</i>	permanent civil service employee
<i>khan</i>	large landowner
<i>malik</i>	village leader; representative between community and central government; maintains communal property; can resolve disputes
<i>manteqa</i>	area of living
<i>markaz</i>	“centre”, often refers to provincial municipality
<i>Meshrano Jirga</i>	upper house of the Afghan National Assembly
<i>mirab</i>	customary water rights controller
<i>nahia</i>	urban district
<i>pashtunwali</i>	customary Pashtun tribal code
<i>pir</i>	religious notable linked to one of the Sufi orders
<i>qaryadar</i>	village leader; representative between community and central government; maintains communal property; can resolve disputes
<i>qawm</i>	kinship group ranging in scope
<i>rish-i-safid</i>	elder, literally “white beard”
<i>sardar</i>	landowner
<i>shura</i>	customary council/committee
<i>Shura-i-Wolayati</i>	Provincial Council
<i>tariqat</i>	Sufi order
<i>tazkera</i>	National Identity Documents, or the department of the District Governor’s office responsible for issuing them
<i>ulema</i>	religious scholars
<i>woleswal</i>	District Governor/Administrator (sometimes spelled <i>uluswal</i>)
<i>wali</i>	Provincial Governor
<i>zamindar</i>	landowner

Acronyms

AIHRC	Afghanistan Independent Human Rights Commission
ANDS	Afghanistan National Development Strategy
ASGP	Afghanistan Subnational Governance Programme (UNDP)
ASP	Afghanistan Stabilisation Programme
CDC	Community Development Council
CDD	Community-Driven Development
CDP	Community Development Plan
DACAAR	Danish Committee for Aid to Afghan Refugees
DFID	Department for International Development (United Kingdom)
DRRD	Department of Rural Rehabilitation and Development (MRRD)
FP	Facilitating partner (NSP)
GoA	Government of Afghanistan
I-ANDS	Interim Afghanistan National Development Strategy
IARCSC	Independent Administrative Reform and Civil Service Commission
IDLG	Independent Directorate for Local Governance
IO	International Organisation
MoI	Ministry of Interior
MRRD	Ministry of Rural Rehabilitation and Development
NABDP	National Area-Based Development Programme
NDF	National Development Framework
NGO	Non-Governmental Organisation
NSP	National Solidarity Programme
OC	Oversight Consultant (NSP)
PAA	Provincial Administrative Assembly
PAR	Public Administration Reform
PC	Provincial Council
PRR	Priority Reform and Restructuring
PRT	Provincial Reconstruction Team
PSF	Provincial Stabilisation Fund (ASP)
SAF	Securing Afghanistan's Future
UNAMA	United Nations Assistance Mission in Afghanistan

Executive Summary

Since 2004, the Afghan government and its international partners have become increasingly aware that issues and challenges surrounding subnational governance in Afghanistan are crucial to national development, stability, and security. This period has also been a time of extraordinary change in subnational governance structures, with the election of Provincial Councils, the establishment of Provincial Development Committees (PDCs), increases in Public Administrative Reform (PAR) efforts, and the expansion of the National Solidarity Programme (NSP) into a large number of communities.

To assess the changes produced by these developments and reform efforts, and to address the need for an improved understanding of subnational governance, AREU conducted extensive field and policy research on subnational governance beginning in April 2005. This research built on prior AREU work on subnational administration, NSP and PAR. The research objectives were:

- To better understand how governance works in Afghanistan at subnational levels and in particular governance domains.
- To understand how governance is changing at subnational levels, particularly in response to programmatic interventions.

Fieldwork was carried out in six provinces over an 18-month period, and covered issues at the provincial, district and community level.

This synthesis paper presents findings from this research programme. It identifies and analyses key issues affecting state-building interventions at subnational levels, and their implications for current and future governance programming.

To date, state-building at subnational levels in Afghanistan has been characterised by the lack of a subnational governance policy.

Key Findings and Recommendations

The Lack of Subnational Governance Policy

To date, state-building at subnational levels in Afghanistan has been characterised by the *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. The NSP, the election of Provincial Councils, and the formation of PDCs all responded to particular dynamics and pressures, but did not emerge as part of a subnational governance framework that coherently connected resources, responsibilities and accountability. While a broad strategy is emerging through the ANDS process, this strategy is forced to accommodate the range of initiatives and activities that have been layered onto the subnational governance landscape over the past five years.

These initiatives have produced some very important gains in increasing the presence of the Afghan state in the provinces and districts of the country, but some fundamental aspects of the nature of that state remain unresolved. In such a situation, the management of expectations on the part of the population is made dramatically more difficult, and the perceptions of Afghan people are more vulnerable to the observed inadequacies of the overall framework.

Recommendations:

- The reform of different subnational governance structures in Afghanistan must be considered together. The Independent Directorate for Local Governance (IDLG) may present an opportunity in this regard if it can take the leading role in coordinating the disparate efforts at community, district, provincial and municipal level. It must do so in close collaboration with other institutions of the Afghan state and society. The IDLG must pay attention not only to the imperatives of

short-term stabilisation and security, but also dedicate sufficient material and intellectual resources to comprehensive policy development over the next few years.

- The most important aspect of this policy development process is not to do everything in one office, but to ensure that a more logical sequence of initiatives emerges. A crucial area for sequencing involves the determination of the relationship between representation, resources and accountability for elected bodies at all levels; the corresponding reform of electoral systems and calendars; and the holding of the next elections.

Implementation of Subnational Governance Programmes

National-level state-building initiatives produce a wide variety of outcomes due to the varied political, social, economic and institutional environments in the country, as well as the different actors responsible for implementation. The outcomes of NSP, particularly its governance implications, are therefore widely varying. The idea of a consistent, persistent, institution of the CDC that operates in the same way everywhere is not yet accurate. PDCs, introduced to bring consistency to a chaotic coordination and planning environment, in actuality range from quite effective to insignificant.

Recommendations:

- National-level state-building should not always be equated with uniform national-level programmes. New institutions should be given adaptive and open architectures to accommodate asymmetrical roles and development across the country and over time. The implications on that flexibility of any legislative action on CDCs should be carefully considered, and overly prescriptive solutions should be avoided in the short-term.
- The positing of a national policy choice between formal or informal systems is an artificial one, as both will invariably co-exist. Programmes should be oriented toward cre-

ating effective and viable alternatives to unsuitable aspects of the current governance arrangements; attempting to entirely replace such arrangements will only produce perverse outcomes.

Barriers to Reform and the Art of the Possible

There is a fundamental duality to the system of government in Afghanistan. On the one hand, a government of relationships operates through the system of provincial and district governors. It functions through a mixture of informal and formal gubernatorial powers over expenditures, coordination, appointments and control of access to state bodies and functions. This system has had important roles in managing the influence of local power-holders, in extending the reach of the Presidency, and in meeting various short-term counter-insurgency, counter-terrorism, and counter-narcotics needs. On the other hand, the primary formal mechanism for the delivery of services other than security to the population is through a system of vertically independent and highly centralised ministries. The interaction between these two systems has yet to receive sufficient attention.

Recommendations:

- The relationship between governors and police chiefs and the service-delivery arms of the government must be progressively defined and circumscribed in law and practice. This may have to occur at a varying pace in varying locations, and must recognise the importance of local leadership in producing results in the remote areas of Afghanistan.
- A central aspect of this process will be a balanced and gradual re-examination of the place of governors at both provincial and district level. This re-examination should not be seen as a weakening or a removal of governors, or simply a search for the “right” or “good” governors. It must instead involve an appraisal of the legal and actual power of governors in relation to the systems by

which they are made accountable to the population.

- Reform and deconcentration of service-delivery responsibilities of the service-delivery arms of the state should be designed to reduce the confusion caused by these co-existing forms of governance, formally integrating the role of governors with rationalised forms of service-delivery.
- Representative bodies involve aspects of both systems of governance, and can thus play a more important role in reducing the contradictions between the two. Strengthening both the representative basis and the monitoring role of subnational elected bodies should be a priority.

Developing a Subnational Governance Policy

The piecemeal state-building efforts of the past must be knitted together, and altered where necessary, into a fabric of subnational governance. This framework must be guided by coherent and nationally-agreed goals about the nature, role and reach of the Afghan state. This kind of holistic view cannot emerge through a single consultation, but must be arrived at through a series of carefully sequenced steps, and it must always consider the possibility of varying progress and future changes to the design. This process is not a matter of a single programme or a given institutional design, it is a journey toward a state in which legitimacy is gradually strengthened through effectiveness and accountability, reach is extended through legitimacy, and sustainability is gradually created through efficiency and steadfast support to a coherent and comprehensive vision.

Recommendations:

- A range of disparate subnational governance issues must be brought into a single policy-development framework. The institutional focus of this policy process should be the IDLG, in interaction with the partners outlined in the IDLG strategic framework.
- The IDLG must work to insulate this longer-term process from the demands of short-term security and stabilisation initiatives, and work to ensure that contradictions are minimised.
- Some issues that must be included in this policy include:
 - The number and nature of elected bodies, their access to resources, and the system by which they are elected;
 - The relationship between those elected bodies and the governors at provincial and district levels;
 - The eventual nature of provincial and national budgeting, and its relation to both elected bodies and governors should be developed before elections, even if not fully established;
 - The final status of municipalities, and the system of accountability for their important revenue-raising and service-delivery functions needs to be progressively narrowed and codified;
 - Planning at subnational levels must correspond to the resources available there and the procedures for allocating those resources. In the long run, consultative planning structures as presently being constituted will not substitute for the representative accountability brought about by elected representation; and
 - The role of PRTs and locally implemented governance initiatives in the overall strategy should be progressively subjected to this national policy process.
- The key to answering these questions is to establish a process by which they can be resolved in a sequence that is conducive to coherent policy.

1. Introduction

Issues and challenges surrounding subnational governance in Afghanistan are crucial to the country's development, stability, and security. The period since 2004 has been a time of extraordinary change in subnational governance structures. During 2005-06, Provincial Councils (*shura-i-wolayati*) were elected and seated, Provincial Development Committees (PDCs) were established, public administrative reform efforts reached some provinces and districts, and the National Solidarity Programme (NSP) – with its associated Community Development Councils (CDCs) – expanded into large numbers of communities throughout Afghanistan.

The centrality of governance and state-building issues to the development agenda of both the Afghan government and its international partners, in combination with the number and complexity of initiatives affecting subnational governance, have created a need for improved understandings of governance at subnational levels. There is a need to assess what changes the new developments have produced and will produce in the future. To address this situation, AREU conducted extensive field research on subnational governance over approximately 18 months from April 2005 to November 2006. This synthesis paper presents findings from that research.

The research on subnational governance has benefited from previous and parallel AREU work on subnational administration, the NSP, and public administration reform (PAR).¹ These research projects generated some important knowledge about technical aspects of subna-

tional administration, the implementation of specific programmes and reforms, and the challenges to both. These studies have since been supplemented by important work by other organisations, and combined they provide a broad overview of the evolving formal institutional landscape at subnational level.²

This report complements that knowledge with insight into the political dimensions of the introduction of new state structures at the provincial, district and community levels. It provides a picture of the interaction between state-building initiatives during the research period and the complex realities of Afghanistan. It is hoped that this picture will inform policy-makers about the outcomes “on the ground” of governance programming and state-building efforts, and help them to anticipate future challenges. It is also intended that this research can complement the ongoing process of developing a national policy and framework for subnational governance in Afghanistan.

1.1 Background and Rationale

An emphasis on governance in general, and democratic governance in particular, is now a central feature of development practice and discourse. Increasing attention is paid internationally to issues of local governance and community-driven development. Much of this attention, however, focuses on decentralisation or technical aspects of administrative reform – areas that are significantly complicated by the Afghan political, constitutional, institutional, economic, and security contexts.³ The contex-

¹ I.W. Boesen, *From Subjects to Citizens: Local Participation in the National Solidarity Programme*, Kabul: AREU, 2004; A. Evans, N. Manning, et al., *A Guide to Government in Afghanistan*, Kabul: AREU and the World Bank, 2004; A. Evans and Y. Osmani, *Assessing Progress: Update Report on Subnational Administration in Afghanistan*, Kabul: Afghanistan Research and Evaluation Unit and the World Bank, 2005; P. Kakar, “Fine-Tuning the NSP: Discussions of Problems and Solutions with Facilitating Partners”, Kabul: Afghanistan Research and Evaluation Unit (AREU), 2005; S. Lister and H. Nixon, “Provincial Governance Structures in Afghanistan: From Confusion to Vision?” Kabul: Afghanistan Research and Evaluation Unit, 2006; S. Lister, “Public Administration Reform in Afghanistan: Realities and Possibilities”, Kabul: Afghanistan Research and Evaluation Unit, 2006.

² See in particular World Bank, *Service Delivery and Governance at the Sub-National Level in Afghanistan*, Washington, DC: World Bank, 2007 and “An Assessment of Subnational Governance in Afghanistan”, Kabul: The Asia Foundation, April 2007.

³ United Nations Development Programme (UNDP), “Decentralised Governance for Development: A Combined Practice Note on Decentralisation, Local Governance and Urban/Rural Development”, New York: UNDP, 2004; and A. Evans, N. Manning, et al., *Subnational Administration in Afghanistan: Assessment and Recommendations for Action*, Kabul: AREU and the World Bank, 2004.

tual dimensions of subnational governance have received less attention in the international development literature than technical ones. At the same time, there is a broad recognition that context greatly influences the outcomes of subnational state-building initiatives. In fact, attempts to create governance institutions that are functional, legitimate and sustainable through external assistance have frequently failed, stagnated or produced perverse outcomes when confronted by the complex realities of post-conflict and conflict settings.

This attention to governance has been reflected in successive strategic frameworks for reconstruction and development in Afghanistan since 2001. The 2002 *National Development Framework* (NDF) identified good governance, administrative reform and financial management as key cross-cutting issues underlying development efforts in all sectors, a position reflected in the March 2004 update and re-costing exercise, *Securing Afghanistan's Future* (SAF).⁴ Both the *Interim Afghanistan National Development Strategy* (I-ANDS) and the *Afghanistan Compact* with the international community emphasise the need to improve governance across the country and at all levels of the state, highlighting issues such as local participation, improved subnational administration and service delivery, and local access to justice. The World Bank considers state-building to be "at the core of Afghanistan's reconstruction".⁵

The Governance, Rule of Law and Human Rights pillar of the I-ANDS sets out to "to establish the basic institutions and practices of democratic governance at the national, provincial, district and village levels for enhanced human development, by the end of the current Presidency and National Assembly terms".⁶ Most recently, the Independent Directorate of Local Governance

(IDLG) was established by presidential decree on 30 August 2007 to take broad responsibility for administration and creation of policy frameworks for subnational governance in Afghanistan.⁷

While significant progress has been made towards establishing new institutions, many issues remain in making subnational governance structures sustainable, coherent and effective enough to meet the I-ANDS goal. The revival of subnational administrative structures and recent changes still confront problems of persistent insecurity, informal power relations, corruption and patronage, and inadequate state capacity. Beyond these contextual difficulties, the development of legitimate and effective subnational governance will increasingly depend on a coherent strategy incorporating a shared vision of the role of subnational government entities in various sectors, and their relations with non-state actors and informal governance arrangements.

1.2 Key Concepts

Given the attention paid to governance issues internationally and in Afghanistan, it is worth clarifying the conceptual framework used in this research by briefly discussing the concept of governance as well as related concepts like decentralisation and state-building.

Governance

Governance concerns ways of organising resources and responsibilities toward collective ends. At this broad level, governance can be defined as "the process whereby societies or organisations make important decisions, determine whom they involve and how they render account".⁸ All governance analysis therefore involves questions of process, participation, and

⁴ Government of Afghanistan (GoA), "National Development Framework", GoA: Kabul, 2003, 9-10; and GoA, "Securing Afghanistan's Future", GoA: Kabul, 2004.

⁵ World Bank, *Afghanistan: State Building, Sustaining Growth, and Reducing Poverty*, Washington, DC: World Bank, 2004.

⁶ Government of Afghanistan (GoA), "Interim Afghanistan National Development Strategy", GoA: Kabul, 2006, Vol. I, 122.

⁷ Independent Directorate of Local Governance (IDLG), "Strategic Framework", IDLG: Kabul, September 2007.

⁸ T. Plumptre, "What is Governance?" on the website of the Institute on Governance (Ottawa), www.iog.ca (accessed 25 February 2008).

accountability. The analysis of how governance takes place, however, is not meaningful without considering the context and domain that is being analysed. In short, one must always consider the question of “governance *where* and *for what?*” This research examines several subnational contexts – that is, how decisions are made and implemented that affect populations below the national level. The contexts that have been examined are the community, the district, and the province.

The “governance domain” refers to the collective ends that are the object of governance. These can include a broad range of public and quasi-public goods such as security, health and education; an enabling economic environment including infrastructure, social capital and regulation; and more intrinsic values such as justice, citizenship and legitimacy.⁹

This study focuses on several domains of governance based on two criteria:

- What types of decisions are currently made in a given subnational context?
- Which of these governance processes are likely to be changing given current interventions?

The domains that are the focus of the research were chosen from among those where subnational governance was both *active* and *changing* due to attempts at state-building interventions. On the provincial level, these domains are provincial development coordination and planning on the one hand, and representation and accountability on the other. At district level, they are primarily conflict resolution and justice. In communities, they are dispute resolution and community development, with some attention to related areas such as social protection.

Governance systems may differ depending on the domain considered. For example, the governance of security in a given context may involve local commanders, state security actors, and international military and police personnel, each with a mixture of goals, responsibilities and resources. The governance of health provision will be different, perhaps involving NGOs, provincial or regional health departments, international donors, and traditional local actors. *Governance* analysis thus goes beyond analysis of *government* to include a range of actors, structures and processes.¹⁰ It is this distinction that is important in helping understand better the outcomes of formal institutional state-building programmes when they are implemented in the real world, and the political economic factors that may support or hinder the success of such efforts.

State-building

State-building refers to efforts to increase the importance of state actors, structures and processes in governance systems: to shift *governance* towards *government*. It is the attempt to reform, build and support government institutions, making them more effective in generating the abovementioned public goods. Since governance systems are a configuration of resources and responsibilities, there will always be interests in both generating and resisting changes to that configuration. State-building is inherently *political* as well as *technical*. The gap between these political and technical dimensions can be compounded by the urgent imperatives of “post-conflict” reconstruction which reduce the ability to tailor programmes to local realities, and the easier transferability of technical lessons than complex political or cultural ones.¹¹ A major theme of this report is the interaction between the political and technical dimensions of state-building.

⁹ See, for example, I. Johnson, “Redefining the Concept of Governance”, Gatineau, Quebec: Canadian International Development Agency, 1997; and UNDP “Decentralised Governance for Development”.

¹⁰ For more on frameworks for postconflict state-building see M. Ottaway, “Rebuilding State Institutions in Collapsed States”, in J. Milliken, *State Failure, Collapse and Reconstruction*, Oxford: Blackwell, 2003.

¹¹ On the easier transferability of organisational and management lessons as opposed to political knowledge, see F. Fukuyama, *State-Building: Governance and World Order in the Twenty-First Century*, London: Profile Books, 2004.

Box 1.1: Decentralisation and subnational state-building

*Decentralisation is one area where technical “best practices” approaches come into contact with the political realities of the Afghan context. There is considerable consensus internationally that decentralisation is an appropriate way to improve local governance in many domains. Efficiency and responsiveness in the provision of public goods can improve by moving decision-making and resources closer to the affected public. Decentralisation can be political (decision-making), administrative (service delivery) and fiscal (resource allocation). It can also take different forms: in **deconcentration**, responsibility and resources are moved to local levels while retaining accountability relationships with the centre; **devolution** involves the transfer of authority to subnational units with some autonomy (e.g. in federal systems); and **delegation** involves the allocation of functions outside state structures (e.g. to NGOs and Quangos).¹²*

In Afghanistan, the appropriateness and applicability of different forms of decentralisation is complicated by several political and contextual factors. The first is the limited capacity of the Afghan state and its low degree of penetration to local levels. Without the generation of more state capacity at local levels and consideration of the effects of pre-existing governance at those levels, decentralisation may undermine both legitimacy and effectiveness.¹³ The second is that in Afghanistan there is considerable desire on the part of both government and citizenry for strong centralisation, in part because of historical legacies of fragmented power and fear of further fragmentation, and in part the result of centralised state structures that were not destroyed by conflict.¹⁴

One aim of this research was to analyse issues that emerge when state-building interventions in subnational governance contexts interact with the complex governance context of Afghanistan. The next section discusses how this translated into research objectives and methods, and the next chapter discusses that context and the initiatives examined in this research.

1.3 Research Objectives and Methodology

The primary objective of this research was to identify and better understand key issues affecting state-building interventions at subnational levels and their implications for current and future governance programming. This objective is about how governance works in subnational contexts, as well as how it is changing in response to programmatic interventions.

Objective 1: Understand better how governance works in Afghanistan at subnational levels and in particular domains.

Objective 2: Understand how governance is changing at subnational levels, particularly in response to programmatic interventions.

Research methods

The design of this research aimed to identify key issues in subnational governance with particular focus on changes taking place in relation to state-building interventions such as the National Solidarity Programme (NSP), the election of Provincial Councils (PC), the establishment of Provincial Development Committees (PDCs), and Public Administration Reform (PAR) including the Afghanistan Stabilisation Programme (ASP)

¹² See S. Lister, “Caught in Confusion: Local Governance Structures in Afghanistan”, Kabul: Afghanistan Research and Evaluation Unit, 2005.

¹³ In a 2003 survey, 75 percent of respondents noted local non-state mechanisms for decision-making were functioning in their communities. See Human Rights Research and Advocacy Consortium (HRRAC), “Speaking Out: Afghan Opinions on Rights and Responsibilities”, Kabul: HRRAC, 2003.

¹⁴ World Bank, *Afghanistan: State Building, Sustaining Growth, and Reducing Poverty*, Washington, DC: World Bank, 2004.

Table 1.1: Field research sites

Dates	Province	Districts	Communities
June-July 2005	Herat	Pashtun Zarghun Rabat-i-Sangi Zindajan Injil	1 community 2 communities 3 communities 2 communities
August 2005	Faryab	Almar Pashtun Kot	3 communities 2 communities
August-September 2005	Nangarhar	Surkhrod Rodat	4 communities 3 communities
June 2006	Paktia	None	None
August-September 2006	Bamyan	Yakawlang Waras	2 communities 1 community
October-November 2006	Badakhshan	Faizabad Ishkashem	4 communities 2 communities
Total:	6	12	29

and the Priority Reform and Restructuring (PRR) process. It also was designed to build on the technical studies of subnational administration carried out by AREU beginning in 2002 by introducing a political economic dimension to the analysis of subnational governance change.¹⁵

It therefore focused on the same provinces as those studies, with the exception of Kandahar, where security concerns prevented local governance research. Paktia was added to the field-work programme, but work was limited to the provincial context due to security concerns. The research thus focused on six provinces and several districts within each of those provinces with the exception of Paktia, where no district work took place. The intention was to have 12 sample districts, though these were not ultimately evenly distributed across provinces. The community level was defined in accordance with the definition of community in the NSP operations manual, meaning at times only part of a contiguous settlement corresponding to a single

CDC was visited.¹⁶ It is important to note that this selection was designed to maximise variation in local conditions within the constraints of security, but is not a statistically valid sample for quantitative analysis.

The governance domains selected reflected consultations with stakeholders prior to the research regarding areas of subnational governance of key importance and most subject to change under ongoing state-building interventions. In addition, a review took place after the first two field trips to refine the governance domains that the research focused on. Table 1.2 (next page) outlines these contexts and domains, and the interventions that formed the main focus of the research. The details of each of these programmes and interventions are introduced in the relevant sections of the paper.

The research objectives of exploring key issues in subnational governance and changes brought about by the interaction of interventions with

¹⁵ A. Evans, N. Manning, et al., *A Guide to Government in Afghanistan*; A. Evans, N. Manning, et al. *Subnational Administration in Afghanistan: Assessment and Recommendations for Action*; A. Evans and Y. Osmani, *Assessing Progress: Update Report on Subnational Administration in Afghanistan*, Kabul: Afghanistan Research and Evaluation Unit and the World Bank, 2005.

¹⁶ National Solidarity Programme, "Operations Manual", Kabul: Ministry of Rural Rehabilitation and Development, 2004, 6-7.

Table 1.2: Contexts, domains and interventions studied

Subnational Context	Governance Domain	Interventions
Provincial	<ul style="list-style-type: none"> – Representation of interests and accountability – Development planning 	<ul style="list-style-type: none"> – Provincial Councils – Provincial Development Committees/Coordination Bodies – Afghanistan Stabilisation Programme (ASP) – Public Administration Reform (PAR)
District	<ul style="list-style-type: none"> – Justice/dispute resolution 	<ul style="list-style-type: none"> – ASP, District Governor and Court functioning
Community	<ul style="list-style-type: none"> – Community development – Dispute resolution – Community initiative labour and social protection 	<ul style="list-style-type: none"> – National Solidarity Programme (NSP)

existing governance contexts called for a primarily qualitative methodology. Specific qualitative tools used in this research included semi-structured interviews, focus groups, oral histories, subject biographies, and journalistic accounts (media monitoring). Specific subject groups included but were not limited to the following:

- Key informants: analysts; programme staff for NSP, ASP, PAR; the ministries of Rural Rehabilitation and Development (MRRD), Economy and Interior; donor, IO and NGO staff.
- Provincial officials: Governors, Deputy Governors, provincial line department staff, NSP Oversight Consultants, Afghanistan Independent Human Rights Commission (AIHRC); provincial IO, NGO and civil society representatives (NSP and non-NSP); provincial-level electoral officials.
- District officials: *Woleswals*, Chiefs of Police, prosecutors, Department of Rural Rehabilitation and Development; district NGO staff, NSP Social Organisers, non-NSP staff.
- Community Development Councils (CDCs).
- NSP and non-NSP community members, both male and female.

The research is based on over 200 interviews and focus groups. While every effort was made

to contact the appropriate individuals and groups in all fieldwork sites, this was not always possible. Key informants, officials, and community and CDC members were interviewed individually where possible, and focus groups were used with social organisers in each district. The community- and CDC-level data was coded and analysed using qualitative data analysis software according to an adaptive coding scheme, while the provincial- and district-level data was analysed and coded manually.

Limitations

Several limitations of the research are worth noting. In social-scientific terms, the units of analysis for this study are the province, district and community. This does not mean that the study is a *comparison* of provinces, districts or communities. Rather, it uses a range of provinces, districts and communities to explore key issues in subnational governance for each context, and describe the kinds of variation to be found within these contexts. Field visits were distributed over approximately 18 months, during which time subnational governance changes were ongoing; the data from one province may thus not be strictly comparable to that from another. Finally, the municipal context did not form part of the subject of this study, although research did include visits to municipal authorities in Faryab. There is an urgent need for more research on municipal governance.

2. The Governance Context of Afghanistan

The governance context in Afghanistan is an inter-related complex of features relating to its condition as a “post-conflict state” experiencing continued conflict, the prevalence of poverty and vulnerability, and regional illicit and war economies, the functional weakness of its state structures and penetrability of its borders, and long-standing fragmentation of power at the subnational level, exacerbated by the effects of recent conflicts.¹⁷ These features combine with unique ethnic, tribal, religious and social dimensions to generate a challenging environment for state-building interventions. These factors contribute to the dependence on and penetration by external actors, creating further effects for state-building activities that are often funded, designed and implemented by such actors.

2.1 Social and Economic Context

The persistence of armed conflict over the previous quarter-century in Afghanistan has had profound effects on Afghan society, driving many to leave the country, and leaving a population that is disproportionately young, and with less than a quarter of adults being literate.¹⁸ There are constraints on the availability of qualified Afghans to fill roles in formal governance structures, and a relative lack of successful capacity development within those institutions, be they the security forces, administration, public service organisations such as health and education departments, the National Assembly, or the judiciary. The porosity of Afghanistan’s borders and the involvement of regional and global actors in its conflicts have contributed to the wide availability of arms and,

in combination with a history of violent conflict, the normalisation of violence as a means of resolving disputes. The capacity of the state to provide security and hold a legitimate monopoly on violence is thus heavily restricted.¹⁹

The conflicts in Afghanistan have contributed to a politicisation of Islam and new institutional initiatives must consider interpretation by communities and religious figures in relation to local religious doctrine and practice. Historically, disputes are interpreted and mediated through Islamic lenses, and the increasingly internecine conflicts of the 1990s and beyond are no exception.²⁰

The politicisation of the multiple ethnic identities in the country is an important historical reality. Nevertheless, simple accounts of ethnicity in Afghan politics are insufficient, due to the complex coexistence of ethnicity with other tribal, communal, and patronage relations. Ethnicity itself is defined relatively, and has become increasingly mobilised through years of conflict: For example, the emergence of a Tajik identity is relatively recent and has been driven by conflicts in the 1980s and 1990s.

Tribal identity, important to some ethnic populations but not to others, operates in a segmented manner — meaning tribal affiliation has different effects depending on the scale and type of issue at stake, or the degree of territoriality of the tribe in question.²¹ In general, the observation that “the actual operating units of socio-political coalition among [rural Afghan] populations are rarely genuinely ‘ethnic’ in

¹⁷ See for example, B. Rubin, *The Fragmentation of Afghanistan: State Formation and Collapse in the International System*, Karachi: Oxford University Press, 1995.

¹⁸ United Nations Development Programme (UNDP), *Afghanistan National Human Development Report*, Kabul: UNDP, 2007, 160-162.

¹⁹ Research on the opinions of both the Afghan public and officials suggest that disarmament is perceived as a primary security and governance challenge in the country. See Human Rights Research and Advocacy Consortium (HRRAC), “Speaking Out”, A. Evans, N. Manning, et al., *Subnational Administration in Afghanistan*.

²⁰ J. Anderson, “How Afghans Define Themselves in Relation to Islam”, in R. Canfield, ed. *Revolutions and Rebellions in Afghanistan*, Berkeley: University of California, 1984, 266.

²¹ For a useful discussion of the relationships between ethnicity and tribe and the Afghan conflicts of the 1990s see B. Glatzer, “The Pash-tun Tribal System”, in G. Pfeffer and D. K. Behera, eds. *Concept of Tribal Society*, New Delhi: Concept Publishers, 2002, 167-181.

composition" remains true.²² Even the political unity of the Hazara community in the 1990s in the face of continued repression, has subsequently broken down somewhat, with competing factions evident in the post-2001 period.

In addition, ongoing conflict has depleted the social capital of communities, as populations have been displaced or poverty and economic distortions brought about by conflict as well as assistance have prompted migration within and outside the country. Despite these depredations, a wide range of social capital exists. In general, extended family and kinship, subsumed under the term *qawm*, underlie the primary forms of social capital in Afghanistan. Seen together "kinship norms, codes of honour (*nang*), and rules of *sharia* as locally understood, together with language and religious-sectarian distinctions and loyalties represent the essence of traditional political culture and popular consciousness in contemporary Afghanistan".²³ Finally, the social context in Afghanistan is affected by the degree of international involvement in military, political, humanitarian, reconstruction and development affairs. The presence of foreign military forces in both offensive and peacekeeping capacities, the introduction of rights-based and democratising processes, and the role of foreign non-governmental organisations and international organisations in service provision, all influence Afghan social dynamics in the areas of governance, religion, family life, and gender relations and roles.

Afghanistan's economic environment is complicated by its geographic location and borders, the effects of prolonged conflict, the historical

and continuing weakness of central or subnational state capacities in regulation, revenue collection and allocation, and intensive foreign involvement in the country. These factors have contributed to an economic context characterised by various types of economies — one study has identified "coping", "war" and "shadow" economies as the most important.²⁴

In such a context, the importance of patronage, non-monetised goods and services, remittance relationships, debt and credit structures, and involvement in informal or illicit economic activity, are very important in shaping incentives. These economic dimensions combine with the social dimensions of lineage, patriarchy, Islamic knowledge or religious charisma, and patronage to produce complex relationships of social control and determine patterns of economic opportunity. Traditionally patronage is used by local power-holders, known as *khans* or *arbabs*, to cement ties of lineage and political support, influence the practices of local councils known as *jirgas* or *shuras*, as well as provide some public goods.²⁵ These relations may exist in combination or in competition with networks maintained by religious leaders, either mullahs, *talibs* or *pirs*, who are members of lineages linked to the main Sufi schools, or *tariqat*.²⁶

The economic context is also heavily influenced by the dynamics of the assistance economy. This situation goes well beyond the distortions of the economy in the Kabul area. The current situation of service provision in many areas, and in particular health, is one of intensive non-governmental activity, with implications for the development of state provision and capacity.²⁷

²² R.L. Canfield, "Ethnic, Regional, and Sectarian Alignments in Afghanistan", in A. Banuazizi and M. Weiner, eds., *The State, Religion, and Ethnic Politics: Pakistan, Iran and Afghanistan*, Lahore: Vanguard Books, 1987, 76.

²³ M. Nazif Shahrani, "The future of the state and the structure of community governance in Afghanistan", in W. Maley, ed., *Fundamentalism Reborn? Afghanistan and the Taliban*, New York: NYU Press, 1998, 218.

²⁴ On coping, war and shadow economies see J. Putzel, C. Schetter, et al., "State Reconstruction and International Engagement in Afghanistan", Bonn and London: Bonn University and London School of Economics, 2003.

²⁵ B. Rubin, *The Fragmentation of Afghanistan: State Formation and Collapse in the International System*, Karachi: Oxford University Press, 1995, 41-44.

²⁶ A. Oleson, *Islam and Politics in Afghanistan*, Richmond: Curzon Press, 1995, 36-52.

²⁷ On the structure of health provision, see R. Waldman, L. Strong and A. Wali, "Afghanistan's Health System since 2001", Kabul: Afghanistan Research and Evaluation Unit, 2007.

Similarly, programmes such as NSP and other rural development initiatives involve complex contracting relationships, complicating fiscal relationships between the state and communities and diluting the accountability of such relationships. The effect of aid flows on state capacity is also increasingly an issue of debate.²⁸

2.2 Political and Institutional Context

The Afghan political context is characterised by formal state centralisation combined with actual fragmentation of power among a variety of local and regional actors.²⁹ This fragmentation has been expressed in recent AREU work in terms of the distinction between the *de jure* and *de facto* state.³⁰ This model emphasises the divergence between formal and actual governance in Afghanistan. Formally speaking, there are 34 provinces in Afghanistan divided among 398 rural districts, although that number has not been definitively ratified by national institutions despite its determination being a short-term benchmark in the Afghanistan Compact.³¹

There are approximately 217 municipalities, divided among 34 provincial municipalities comprising the capitals of each province, and an unclear number of rural municipalities, often but not always corresponding to the seat of district government. The number of rural communities or villages in Afghanistan is a matter of interpretation. The Central Statistics Office counts 40,020 rural villages, however, the National Solidarity Programme considers the number of communities to be 32,769 for the purposes of establishing Community Development Councils.³²

Provincial government consists of the line departments of the main sectoral ministries, the Provincial Governor's Office, the elected Provincial Council, and in some provinces the local offices of other agencies such as the National Security Directorate (NSD), the Afghanistan Independent Human Rights Commission (AIHRC), or the Independent Administrative Reform and Civil Service Commission (IARCSC).

Districts are currently the lowest level of formally recognised administration in Afghanistan. There are three grades of districts, in theory based on population and geographic extent. In practice, however, this grading system has not been consistently applied across the country. Their administrative structure reflects that of the province, consisting of a District Governor, or *woleswal*, and district offices of some central ministries, the number of which is a function of the district grade. The number of these departments can vary from only a few – such as Health, Education and Rural Rehabilitation and Development – up to as many as twenty. In addition, there is typically a police department and a prosecutor in each district. Currently not all districts have primary courts.

Municipal administration is led by mayors, the most important of whom are currently appointed by the President of Afghanistan. Municipalities have functional and service-delivery responsibility mainly for urban services, and revenue collection responsibilities. Larger (provincial) municipalities are divided into urban districts (*nahia*), and have varying representative systems sometimes including

²⁸ See H. Nixon, "Aiding the State? International Assistance and the State-building Paradox in Afghanistan", Kabul: Afghanistan Research and Evaluation Unit, 2007.

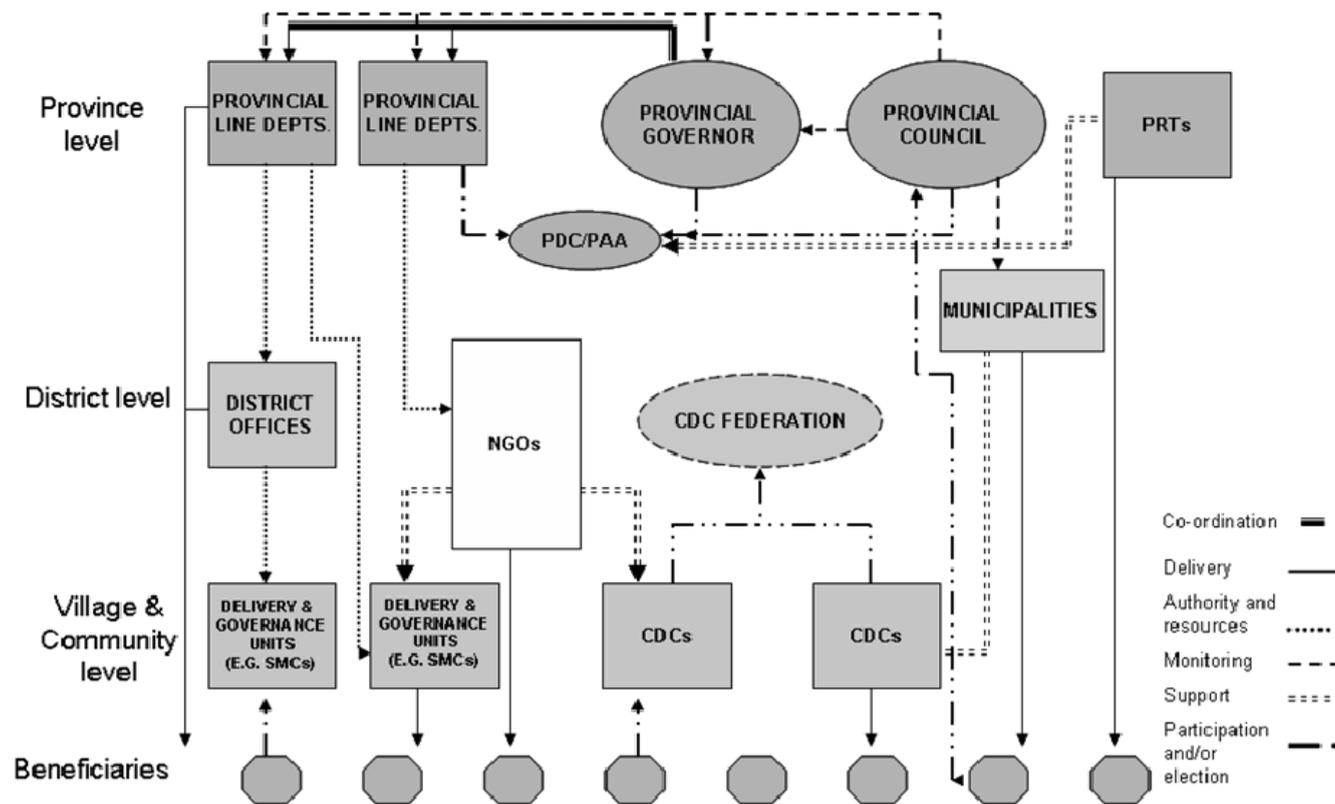
²⁹ For a historical review of centre-periphery relationships see B. Rubin and H. Malikyar, "The Politics of Center-Periphery Relations in Afghanistan", New York: New York University, 2003.

³⁰ See A. Evans, N. Manning, et al., *A Guide to Government in Afghanistan*, Kabul: Afghanistan Research and Evaluation Unit and the World Bank, 2004.

³¹ The Central Statistics Office, cited in World Bank, *Service Delivery and Governance at the Sub-National Level in Afghanistan*, vi, notes 364 districts. To the 7th meeting of the Joint Coordination and Monitoring Board in February 2008, the Afghan government reported 398 districts.

³² This discussion of formal institutions draws on the World Bank, *Service Delivery and Governance at the Sub-National Level in Afghanistan* and The Asia Foundation (TAF), *An Assessment of Subnational Governance in Afghanistan*, Kabul: TAF, 2007.

Figure 2.1: Current formal governance institutions



Source: World Bank, 2007

neighbourhood representatives (*wakil-i-goza*) held over from pre-war administrative systems. Kabul Municipality has exceptional status, with the Mayor holding a cabinet post, but other municipalities are theoretically overseen by the newly formed IDLG via the provincial governors' offices. As noted above, this study did not address municipal governance.

Local and community governance

During the twentieth century, the central state would in many areas have a local interlocutor in the form of a *khan* or *malik* or *qaryadar*. The identification of that individual was based on

different criteria and methods in different places: In some cases they would be appointed from the outside, but in most they would have a pre-existing leadership role through heredity, property or some combination of both.³³ In most cases, *woleswals* maintain some kind of semi-formal advisory councils or liaise with *maliks*, *arbabs* or *qaryadars* where these remain significant figures. Historically, formal state structures extended at times to the subdistrict (*alaqadari* or *hauza*) level. In 2005-06, an area of settlement referred to as *manteqa* was reported by some district level officials as important in framing, for example, security policy at sub-district level.³⁴

³³ For discussions of local governance patterns in Afghanistan see for example R. Favre, *Interface Between State and Society: Discussion on Key Social Features affecting Governance, Reconciliation and Reconstruction*, Addis Ababa: AIZON, 2005; and B. Rubin and H. Malikiyar, "The Politics of Center-Periphery Relations in Afghanistan".

³⁴ AREU interviews, Nangarhar and Herat (2005-06). For a concise discussion of these concepts, see R. Favre, *Interface Between State and Society*.

Community governance in rural Afghanistan thus remains largely informal and varies widely across the country. There are certain general types of institutions and actors that play a role in most but not all communities. These can be, roughly-speaking, divided into individual actors, collective decision-making bodies, and behavioural norms and customs, often mediated through individuals such as *mullahs*, or collective bodies such as *jirgas*, *shuras*, and *jalasas*.

In some communities individual power-holders play important governance roles. These may be *maliks*, *arbabs* and *qaryadars* that retain authority through a combination of community acceptance and linkages to formal authorities. Historians and anthropologists have noted the wide divergences in the motivations, loyalties, legitimacy and effectiveness of such local leaders during other periods.³⁵ In other areas local commanders have gained influence during two decades of conflict through their role in *jihād* or a combination of protection and predation.

There has been much discussion of collective decision-making bodies in the Afghan context, and debate continues over the precise boundaries of concepts such as *jirga*, *jalasa*, and *shura*. *Jirga* is often presented as an archetypal and immemorial “Afghan” institution, the central traditional means of local governance, particularly among sedentary Pashtun populations, but in some form among both nomadic and non-tribal groups as well: “The *jirga* unites legislative, as well as judicial and executive authority on all levels of segmentary society. By means of its decisions, the *jirga* administers law”.³⁶ A *jirga* is generally understood as a gathering of male elders to resolve a dispute or to make a decision among or between *qawm* groupings according to local versions of *pashtunwali* or tribal

codes. It is thus a flexible instrument with an intermittent and varying rather than a persistent membership. Petitioners to *jirgas* may represent themselves or make use of advocates, and for disputes between family or larger *qawm* groups sometimes a third party, known as a *jir-gamar*, is called in to assist in decision-making.

Some key features of the *jirga* are its conformity to segmentary patterns, its generally ad hoc nature, and its reliance on local enforcement if necessary. During the twentieth century, however, a pattern of contact between state institutions and *jirgas* began to appear — either as state functionaries used *jirgas* to communicate policies or as they referred disputes to them in place of formal institutions of justice, which remained highly suspect in the eyes of most local populations.

In non-Pashtun areas, similar meetings may be known as *jalasas* or *shuras*, each conforming to the local types of customary law.³⁷ In the latter case, there is conceptual overlap with the concept of a local council of elders with more persistent membership and leadership under a mullah, *malik*, *wakil*, or other figure. In addition, during the 1980s and the 1990s, many NGO programmes established local *shuras* to manage local input to specific development activities, a new phenomenon that has frequently been conflated with more “traditional” structures. In addition, the Peshawar-based mujahidin parties introduced varying changes to local self-government, either along the lines of *shuras* or elsewhere through the imposition of more hierarchical party and commander-based structures.³⁸ In part as a result of these dynamics, the traditional antipathy for the involvement of a centralised state in local areas by an independent periphery has been tempered by an

³⁵ For example, see the distinction between *bay* and venal *arbabs* drawn by Barfield in Kunduz during the 1980s. T. Barfield, “Weak Links in a Rusty Chain: Structural Weaknesses in Afghanistan’s Provincial Government Administration”, in R. Canfield, ed., *Revolutions and Rebellions in Afghanistan*, Berkeley: University of California, 1984, 175.

³⁶ W. Steul, *Pashtunwali*, Wiesbaden, Germany: Franz Steiner Verlag, 1981, 123.

³⁷ For a discussion of procedural and substantive variations in legal concepts by region, see International Legal Foundation (ILF) “The Customary Laws of Afghanistan”, New York: ILF, 2004.

³⁸ L. Carter and K. Connor, “A Preliminary Investigation of Contemporary Afghan Councils”, Peshawar: Agency Coordinating Body for Afghan Relief (ACBAR), 1989.

increased recognition of the need for a strong state to counter-balance the local commanders empowered through years of conflict.³⁹ In one sense, the creation of CDCs has quite explicitly built upon this conflation of persistent local councils with intermittent dispute resolution and decision-making meetings by attempting to introduce representative and inclusive principles to the creation of local councils.

The Constitution, the I-ANDS and the Afghanistan Compact

The 2004 Constitution of the Islamic Republic of Afghanistan provides for increasing representation at subnational levels through the election of representative bodies at village, district, provincial and municipal levels.⁴⁰ In September 2005, elections were held for Provincial Councils and in November the same year these were seated. Elections have not taken place for any of the other bodies called for, however, and at the time of writing there were no firm public plans to do so. Outside the constitutional framework, the establishment of PDCs and the expansion of the National Solidarity Programme and the creation of CDCs have altered the institutional landscape considerably. More recently, the National Area-Based Development Programme (NABDP) has turned its focus to establishing planning bodies at district level.

In addition, programmes of reform and support for pre-existing and new institutions have been introduced. These include the Afghanistan Stabilisation Programme (ASP), USAID initiatives such as the Afghanistan Local Government Assistance Programme (ALGAP), and more recently UNDP's Afghanistan Subnational Governance Programme and USAID's Local Government and Capacity Development. Most recently, the Inde-

pendent Directorate of Local Governance (IDLG) has been formed with responsibility for "provincial governors, district governors, Provincial Councils, and Municipalities except Kabul Municipality."⁴¹

The introduction of the I-ANDS and the Afghanistan Compact at the January 2006 London Conference marked the end of the transitional process governed by the 2001 Bonn Agreement. The I-ANDS is the interim version of a comprehensive five-year strategy for the country's long-term development to be fully elaborated by mid-2008. The Afghanistan Compact represents a commitment by the Afghan government and international community to implement and resource the I-ANDS. These two documents now form "the framework for policy, institutional, and budgetary coordination and will remain the partnership framework linking Government and the international community with regard to the utilization of external assistance aimed at economic growth and poverty reduction".⁴² The broad principles guiding this framework include: enhancing government ownership, harmonising donor and government policies, and improving development outcomes and service delivery by building capacity, improving information and coordination, and sharing accountability.

The Compact and the I-ANDS are structured around three pillars: 1) security; 2) governance, rule of law and human rights; and 3) economic and social development. These pillars are divided into eight sectors, and there are five cross-cutting themes. The Compact identifies short-term and long-term benchmarks for Afghan government and its partners to meet in support of the I-ANDS and its eventual full successor strategy.⁴³ While the I-ANDS acknowledges the need for more attention to subnational governance, it

³⁹ C. Noelle-Karimi, "Village Institutions in the Perception of National and International Actors", Bonn: ZEF-Bonn University, 2006, 2.

⁴⁰ Constitution of the Islamic Republic of Afghanistan, Articles 138-140.

⁴¹ Independent Directorate of Local Governance (IDLG), "Strategic Framework", 4. The operational meaning of an elected body, the Provincial Council, being supervised by an appointed executive institution, is unclear at the time of writing.

⁴² Government of Afghanistan (GoA), "Interim Afghanistan National Development Strategy", Vol. I, 179. The Afghanistan Compact and the I-ANDS are available at www.ands.gov.af.

⁴³ For a brief review of the structure, opportunities, and shortcomings of the I-ANDS and Compact framework as it relates to statebuilding, see H. Nixon, "Aiding the State", 11-13.

does not lay out any specifics, instead focusing on a general commitment to more effective, accountable and representative institutions “at all levels of government” (See Box 2.1).

The I-ANDS stresses state-building as defined in the first section of this report, but does not give clear signposts regarding an overall policy on subnational governance – for example, what relative resources, responsibilities and roles different subnational units should have in respect to service delivery, resources, representation and accountability. In this sense, the ANDS process has not yet substantially altered a subna-

tional governance policy environment that is reacting to events and programming rather than building towards a coherent vision of formal subnational governance. At the same time, by avoiding issues surrounding the interaction of the political and technical dimensions of state-building initiatives, and not emphasising social accountability through civil society, the strategy does not fully recognise the complexity of governance, as opposed to government, in Afghanistan. More work is needed to clarify a policy and a coherent framework for subnational governance in Afghanistan, both within and in parallel to the ANDS process.

Box 2.1: Subnational governance in the I-ANDS and the Afghanistan Compact

The I-ANDS “political vision” for Afghanistan in SY 1400 (2020) includes the following provisions relating to subnational governance:

- *“A State in which institutions are more accountable and responsive to poor people, strengthening their participation in the political process and in local decision-making regardless of gender or social status”;*
- *“A National Assembly . . . that ensures that the needs and interests of all provinces and districts are represented at the national level”;*
- *In accordance with the Constitution (Articles 138-140), the existence of “elected assemblies at the national, provincial, district and village levels”;*
- *“An effective, accountable and transparent administration at all levels of Government” that can “operate effectively to optimize the coordination of national development priorities”;*
- *A functioning physical and institutional justice framework which adequately protects the rights of citizens in “all provinces and districts”; and*
- *“Women will constitute an increasingly important voice in Afghan society and politics”. (I-ANDS, Vol. I, 15-16)*

These goals are supported in the Afghanistan Compact, which commits the Afghan Government and its international partners to:

- *“Give priority to the coordinated establishment in each province of functional institutions – including civil administration, police, prisons and judiciary”;*
- *“Establish a fiscally and institutionally sustainable administration for future elections”;*
- *Fully establish within 24 months “a clear and transparent appointments mechanism . . . for all senior level appointments . . . as well as for provincial governors, chiefs of police, district administrators and provincial heads of security”;*
- *“Review . . . the number of administrative units and their boundaries . . . with the aim of contributing to fiscal sustainability. (Afghanistan Compact, 3-6)*

3. State-Building in Provinces

The challenge of improving governance through institutional change in Afghan provinces has thus far been approached in a piecemeal fashion. New structures such as Provincial Councils and Provincial Development Committees (PDCs) have been created, and administrative reform and support efforts have taken place. The result, however, has not been an overall strengthening or clarification of the formal institutions of state, but rather simply the creation of a confusing and incoherent array of institutions with unclear responsibilities, resources, and relationships.⁴⁴

These efforts did not emerge into a vacuum. As previous AREU work indicates, a skeleton structure of civil servants persisted in many areas after 2001, despite unclear working responsibilities, habits, and often unpaid salaries.⁴⁵ Between 2001 and 2005, there were many varied efforts to improve representation, coordination and planning, and administrative functioning. There was immense variation in the governance outcomes of these state-building efforts. These new structures were introduced into environments with varying customary governance patterns, often with remnants of traditional systems overlain with newer ones resulting from conflict or a history of activity by NGOs.

3.1 Formal Institutions in Provinces

As briefly noted in section two above, the formal institutions of provincial government include the Governor's Office, the departments of various ministries, and the office of some independent agencies of the government such as the Afghanistan Independent Human Rights Commission (AIHRC) and the Independent Afghanistan

Improving governance in Afghan provinces has been approached in a piecemeal fashion... The result has been the creation of a confusing and incoherent array of institutions with unclear responsibilities, resources, and relationships.

Reform and Civil Service Commission (IARCSC). There are now elected PCs, and coordinating bodies for the departments known as PDCs.

The ministerial departments have responsibility for service delivery in areas such as policing, health, rural development, and education. They receive a quarterly allocation determined in the budget request of the central line ministry, and in almost every case have no significant local powers of resource re-allocation, appointment, or programming. The ministries represented, their staffing, and the size of the Provincial Governor's office, discussed next, is in theory a function of the provincial grade — I, II, or III depending on size and other factors. Recent research has shown large discrepancies in approximate per capita spending across provinces, and also shows little correlation between salary and non-salary expenditures, undermining service-delivery performance in key areas such as health and education.⁴⁶

The Governor's office in each province has had the dual role of representing the President and reporting to the Ministry of Interior. While formally the Governor's role is a coordinating one, exercised through a Provincial Administrative Assembly (PAA) or the similar Provincial Development Committee (PDC), governors also enjoy

⁴⁴ See S. Lister, "Caught in Confusion: Local Governance Structures in Afghanistan", Kabul: Afghanistan Research and Evaluation Unit, 2005; and S. Lister and H. Nixon, "Provincial Governance Structures in Afghanistan: From Confusion to Vision?" Kabul: Afghanistan Research and Evaluation Unit, 2006.

⁴⁵ A. Evans, N. Manning, et al., *Subnational Administration in Afghanistan: Assessment and Recommendations for Action*, Kabul: Afghanistan Research and Evaluation Unit and the World Bank, 2004.

⁴⁶ World Bank, *Service Delivery and Governance at the Sub-National Level in Afghanistan*, 33-34.

powers over expenditure approval and appointments that, as the World Bank has recently noted, contradict the vertical structure of line ministries.⁴⁷ As the President's representative, and often a significant power holder in his or her own right, the Governor intervenes in planning, expenditure and procurement, disputes, municipal affairs, and other issues affecting the province. This contradiction not only represents a systemic contradiction, but also shows how a political structure of appointments and power distribution led by the office of the President co-exists alongside ongoing technical attempts to improve the coherence of subnational institutions through state-building interventions.

Provincial Councils (PCs) were elected in 2005 simultaneously with the National Assembly, with an unclear mandate comprising advisory, conflict resolution and oversight roles. A Provincial Council Law has been ratified, after modification to earlier versions to strengthen PC monitoring functions. These councils are elected from a province-wide constituency on a single non-transferable vote with a reservation of one-quarter of seats for women. Issues surround the resources available to them, whether they represent their constituencies effectively, and their relationships to provincial government and provincial planning bodies and processes that have also been established in recent years.

Provincial Development Committees (PDCs) are not constitutionally mandated but were established to bring order to a range of disparate coordination and rudimentary planning activities that sprang up around the country since 2003, and to create a structure for provincial input into national planning processes such as the ANDS. They are formally the responsibility of the Ministry of Economy and chaired by the Provincial Governor or his representative. The practical capacity of the PDCs varies; the range of quality of provincial plans emerging from them attests to this variation. It is not yet clear

in the long term how the planning function of PDCs will link with the budgeting process, which is highly centralized, nor exactly how they should relate to the PCs or to the Provincial Administrative Assemblies.

3.2 Provincial Governors and Provincial Administration

Provincial governors play important roles beyond their coordinating mandates, often related to their status as local representatives of the Presidency. The Provincial Governor is the subnational locus of a "government of relationships" that reaches to district level and below. For precisely that reason, the provincial governorships are highly valued positions that have been used as carrots to gain the cooperation of locally-based strongmen, just as ministerial and other central government posts have been used to co-opt regional warlords. In other cases, less prominent governors have been appointed, but with the purpose of using relationships to deal with crises and achieve stability, counter-terror or counter-narcotics goals in given provinces. This "government of relationships" is more prominent in areas where the immediate concerns of stabilisation, insurgency and counter-narcotics are the most acute, represented among the case provinces by Paktia, Nangarhar and Badakhshan. In addition, it seemed to be most important where strong tribal networks and relationships formed the primary means for the Provincial Governor to influence local events, as in Paktia and Nangarhar.

The provision of relatively unaccountable funds to reinforce relationships through governors has been an important feature of this system of governance. These funds include so-called "operational funds" or "hospitality money" (Box 3.1 on next page), as well as portions of Commanders Emergency Response Funds (CERP) given to or directed by governors towards particular beneficiaries.⁴⁸ The provision of such

⁴⁷ World Bank, *Service Delivery and Governance at the Sub-National Level in Afghanistan*, 31-32.

⁴⁸ B. Stapleton, "A means to what end? Why PRTS are peripheral to the bigger political challenges in Afghanistan", *Journal of Military and Strategic Studies* vol. 10, no. 1 (2007).

Box 3.1: Governing relationships: Hospitality⁴⁹

One manifestation of the governor's place in the political "government of relationships" is in the provision of an independent budget, sometimes known as "hospitality money", to governors in provinces based on their size and the problems they face in terms of insecurity, intended to be used in supporting the appropriate clients. This term, while not official, echoes the historical role of hospitality in securing patronage relations in Afghanistan.⁵⁰ This money, delivered during the research period through relatively opaque channels of the Ministry of Interior, may have amounted to US\$100,000-200,000 per month.

In Paktia, the case province where this system seemed to be most significant, the funds were used to convene meetings of tribal leaders. In other provinces of the southeast region, the funds have been used for these leaders to travel to Kabul to lobby the Office of the President directly. In general, without good data, it can be assumed that the role of "hospitality money" is primarily to encourage local leaders to support the Governor and in turn the central government's efforts to meet stability, counter-terror, and counter-narcotics goals. The research was unable to determine what systems of accountability exist to monitor the use of these funds. One source noted that governors paid a significant kickback to the Ministry of Interior on receipt of the money, and that in fact only some 20-30 percent of the money may be spent in the provinces in question.

A concern raised by some respondents was that the lack of accountability regarding these funds provided other actors with a kind of ammunition to constrain the reform efforts of governors. In one province, informants noted that despite the generally positive impression of the decency of the Governor, his use of these funds provided the means for police chiefs in particular to threaten him with revelations about its use when reform efforts placed their own positions at risk.

funds can counteract efforts to build accountable institutions and reform provincial and district governance. In 2005 and 2006, these funds still represented an important aspect of the dual system of government, though it is important to note that the reliance on such funds is reported to have diminished in 2007.

Public Administrative Reform and the Governor's Office

Similar contradictions have troubled formal state-building efforts focused on provincial and district administration. One prominent example was the Afghanistan Stabilisation Programme

(ASP). ASP, to be led by the Ministry of Interior, began in 2004 with an ambitious agenda of infrastructural development, provincial block grants, and administrative reform of provincial and district governors' offices.

The purpose of ASP was to link the central government to the provinces, the provinces to the districts, and the districts to the villages. (Provincial Official, Herat, September 2005)

When it began, ASP had components for administrative reform as well as district infrastructure development, and a block grant for development projects, but it soon became predomi-

⁴⁹ AREU interviews, Paktia and Nangarhar (2005).

⁵⁰ See, for example, hospitality by tribal *khans*, B. Rubin, *The Fragmentation of Afghanistan*, 41.

nantly focused on infrastructure projects. In Herat, in 2005, ASP had funded through its District Infrastructure Development window the construction of five district governors buildings and refurbished others, but had not initiated significant administrative reforms within any of those offices.⁵¹ In Bamyan it was noted that this window of ASP was building district infrastructure without it fitting into any coordinated plans for maintenance and staffing.⁵²

The block grant, known as the Provincial Stabilisation Fund (PSF), consisted of US\$1 million per province for use in development projects largely at the discretion of the Governor's office. As it happened, such funds were only distributed to six provinces in 2004, and it has been supposed by some that the primary aim was to provide a kind of "slush" fund to secure support in advance of the 2004 Presidential election, a contention supported by the fact that the promised \$34 million dropped off after the election, and in the end only six provinces received the PSF. In Herat, the only case province where the PSF had been delivered at the time of research, it had funded the construction of some schools. In theory, the process of project selection was to involve delegates to the Constitutional Loya Jirga or department heads, the Provincial Governor, the central line ministry and the Ministry of Interior. Respondents noted, however, that ASP projects were chosen more by "frequency of petition" by local officials or consultative *shuras* than coherent planning with line ministries.⁵³

The experience of the ASP demonstrates the difficulty of a purely technocratic approach to state-building at the subnational level, when this agenda co-exists with the Governor's role in maintaining or creating relationships with individual officials and local power-holders. While it did not yet play a prominent role in the case provinces, similar contradictions appear to have affected a different public administration

reform effort, the Priority Reform and Restructuring (PRR) programme. In cases of PRR in Governor's offices or line departments, the programme was very much focused on salary increases over the replacement of personnel or redefinition of their roles.

The rules of PRR are that if someone passes the examination, then their salary will go up. (Deputy Provincial Governor, 2005)

The heads of three departments were "PRR'ed", and now receive a salary of around 10,000 Afs per month. The same people were appointed again, mainly due to their relationships with high officials, and they have not introduced any changes to their systems. I myself was approved for PRR without an examination as I was proposed by the governor and there was no competition. (Deputy Provincial Governor, 2006)

In two case provinces, the Governor was alleged to have interfered in PRR decisions, opposing the replacement of certain personnel. In addition, in one case province, it was observed that the partial or incomplete application of PRR salary scales in a given provincial line department was creating internal problems in that office.

Governors' offices themselves noted the contradiction between the relationship dimension of governance and the technical one. Some provincial governors or deputy governors noted that having all appointments approved by line departments in Kabul limited their ability to coordinate and appoint competent local staff or retain those they wanted.

These problems are frequently compounded by understaffing according to the existing *tashkil*, the staffing establishment detailing the number of sanctioned posts at each grade level. In Bamyan, only five of 18 posts in the Governor's

⁵¹ AREU interviews, IO and provincial officials, Herat (June 2005).

⁵² AREU interview, IO official, Bamyan (2004).

⁵³ AREU interview, IO official, Herat (June 2005).

office were filled at the time of fieldwork. Badakhshan was at the other end of the spectrum, with 73 of 82 posts in place. Low government salaries were consistently given as the primary cause for understaffing, suggesting that effective pay and grade reform remains a crucial challenge to increasing subnational capacity in government offices.

The long-term institutional health of provincial-level administration will eventually depend on further clarification of the role of the Provincial Governor in relation to the executive, the provincial line departments, the Provincial Council, the budget process, and expenditure processes. In this clarification, it will be important to consider the balance between formal responsibilities, availability and sources of resources, and the systems of accountability – both upward and downward – in place for Governor’s offices.

3.3 Provincial Development Committees: Coordination and Planning?

During the period of research, considerable changes were introduced at the provincial level to improve planning and coordination among the different line departments and the Governor’s office. While Provincial Councils (discussed below) were given some role in this regard, the principal mechanism was to be the introduction of Provincial Development Committees (PDCs), established by a decree approved by the government in November 2005.

The role of PDCs, as outlined by the decree, includes coordination and communication among government departments, with Provincial Councils, and between the government, NGOs, international organisations and Provincial Reconstruction Teams (PRTs). They are also tasked with planning responsibilities, including establishing a provincial budget – though in fact no such budget is currently foreseen. Other PDC responsibilities include approving provincial de-

velopment plans and public and private investment strategies, and supervision of counter-narcotics work. The decree states that the Governor or his representative chairs the PDC, while the local Department of Economy should provide secretariat services, though resources for that were not specifically identified.

As noted in an earlier AREU briefing paper, the planned organisational structure of PDCs entailed some potential complications or contradictions.⁵⁴ Probably most important are a potential duplication of responsibilities with elected Provincial Councils. The relationship between the two bodies is left unclear. The provincial Department of Economy is to serve as a “central office of the development committee” but has limited capacity to do so, and it is unclear where the Ministry of Economy and the Provincial Governor exactly divide their duties in relation to PDCs. Even the membership of the PDC is not clear, with some variation being observed in the inclusion or not of Provincial Council members and the role of international actors.

The research behind this report, about half of which took place prior to the order establishing PDCs, demonstrated that these bodies were in most cases not being introduced into a vacuum. In all the case provinces some form of coordinating forum had been in place before a PDC was introduced, but the nature, origins and effectiveness of such bodies varied widely. In Herat in 2005, bi-monthly meetings took place among the department heads and the Governor, with representatives of donors or implementers involved in projects also invited. The results varied, with the Provincial Health Office establishing with NGOs and the PRT a system for clinic project selection that allowed donors to build “off-budget but on-plan” clinics. Meanwhile, the Herat education department still noted a lack of coordination among the providers of school construction funds (ASP, PRT, NSP) and the Ministry of Education.⁵⁵

⁵⁴ For a more thorough discussion of the PDC establishment process and issues with their formal constitution, see S. Lister and H. Nixon, “Provincial Governance Structures in Afghanistan”, 9-11.

⁵⁵ AREU interviews, PRT, Provincial Departments of Health and Education, Herat (June 2005).

In Faryab and Nangarhar, the PDC was preceded by Provincial Coordinating Bodies (PCBs) that met monthly, but these did not work well. In both provinces, weak leadership by the provincial governors was evident, and efforts were led by either UNAMA or PRTs. In the absence of domestic leadership, it was noted that these meetings could be for “information sharing” at best, and one official noted that “there is a need to create teams, not support only individuals” in establishing coordination mechanisms.⁵⁶ In Paktia, where the PDC was not operational at the time of research, the late Governor held weekly meetings with the department heads in the province and invited UN and other agencies working in the province to attend.

In provinces where PDCs had been established at the time of fieldwork, their roles and functioning varied. In Badakhshan, the PRT and the Governor’s office had established a system of coordination meetings to develop a provincial development plan beginning in 2005. While the staff of the Governor’s office admitted that the resulting provincial development plan lacked prioritisation and costing, its existence oriented coordination efforts heavily to the Governor’s office and very much placed the newly formed PDC in a secondary or duplicative role, particularly as the Department of Economy did not seem to have taken up a leadership role in running the PDC.⁵⁷

In Bamyan, by contrast, a bi-weekly or monthly meeting of the PDC had become established by late-2006, including heads of departments and Provincial Council members. Here the Department of Economy had been very pro-active, adding a defined membership role for the Provincial Council into its plan for the PDC, thus locally clarifying one of the major ambiguities in the enabling orders. This relatively successful coordination effort was achieved despite considerable understaffing in the Department of Economy, which with only 9 of 17 staff in place

noted that “we have a Grade III *tashkil* but Grade II work”.⁵⁸

PDCs can be seen as an attempt to standardise a response to the tension of sectoral expenditure at subnational levels and the supposed coordinating and planning functions of the Provincial Governor’s office. They were introduced into an ambiguous and changing environment complicated by pre-existing efforts at coordination and the establishment of PCs in November 2005. PDCs appear highly dependent on the cooperation of governors, and their role in planning and budgeting beyond coordination remains unclear. A potential way forward for instituting a role in relation to budgets can be found in the provincial budget pilots underway in Balkh, Panjshir, and Kandahar, and to be expanded in the 1387 budget process. The deep contradiction between provincial-level planning and a budget set at the centre remains, however, even if partially mitigated by these efforts.

We have a plan, but no budget. We prepare annual plans, short-term plans, long-term plans, but nobody can give us money to implement them. (Deputy Provincial Governor, 2006)

3.4 Provincial Councils: Representation and Accountability?

When Provincial Councils were seated in November 2005 after their election in September, their legal and regulatory framework had not yet been created. The formation of this new subnational representative body reflected pressure to meet an already delayed constitutional requirement to form both subnational representative bodies and the upper house of the National Assembly, the *Meshrano Jirga*, which was to be partially drawn from subnational representative bodies. PCs were the only subnational elected body elected at the same time as the lower house of the National Assembly.

⁵⁶ AREU interviews, IO officials, Faryab and Nangarhar (August and November 2005).

⁵⁷ AREU interview, Provincial Governor’s office staff, Badakhshan (October 2006)

⁵⁸ AREU interview, Provincial Department of Economy staff, Bamyan (September 2006).

Consequently, the roles and functions of the Provincial Councils remained unclear before and even for some time after the election. In June 2005, Herat PC candidates were frequently approaching the Joint Electoral Management Board (JEMB) office for information about the role and especially the compensation of PC members.⁵⁹ The functions eventually determined for the Provincial Councils were participation in provincial development planning, monitoring and appraisal of other provincial governance institutions, and participation in conflict resolution, the elimination of customs contrary to the law and *sharia* or human rights standards, environmental protection and the reduction of illicit drug activity.⁶⁰

This varied and vague list of responsibilities reflects the rush to find a role for a body that was created without a clearly defined place in an overall framework of subnational representative institutions. In particular, this lack of a framework raises a number of key issues for the roles and capabilities of the councils.

Issues with PC roles: Planning and budgeting

The first issue is the lack of a framework defining provincial planning and its relation to budgets and the absence of a mechanism for monitoring the administration. In particular, it is necessary to clarify the relationship between the Provincial Councils, the PDCs, and the governors' offices. In the two case provinces visited after the establishment of both PDCs and Provincial Councils, two very different models of PC participation were evident. In Bamyan, the Ministry of Economy, the Governor's Office, and the PC had all supported the institutionalisation of the PCs' role in planning and potential future budgeting through inclusion in the PDC. The Bamyan PC has six commissions responsible for

liaison, law, finances, cultural, internal monitoring, and monitoring of administration. They consult and monitor the provincial administration, consult with the PRT, participate in DIAG meetings, participate in the PDC, participate in emergency incident councils, resolve disputes, meet *ulema*, and work with the AIHRC. In their own view, "the head of the PC is the second most important person in the province".⁶¹

In Badakhshan, by contrast, the prior drafting of a provincial development plan, the relatively weak PDC role, and the Governor's vision limited the institutionalisation of a Provincial Council role. Several informants reported that the PC was trying to be assertive and "become a real provincial assembly", while it was entirely dependent on the Governor for operating expenses and facilities. In contrast to this ambition, the Governor had determined that the PC would remain consultative and not challenge or "insult" government officials. As a result, the Badakhshan PC's monitoring function appeared limited to receiving and dealing with petitions, of which there were about a hundred per week. Many of these petitions involved problems with the provincial or district administrations, but the solutions found were always local and related to the specific case, and did not confront any systemic problems in the government departments in question.⁶²

Issues with PC roles: Accountability

In addition to their lack of clarity, the budget and staffing of Provincial Councils is not independent of the provincial administration that they are meant to monitor. Article 17 of the PC law determines that "[t]he administrative affairs and service needs of Provincial Councils shall be organised and provided by the concerned province". There is an evident conflict of interest where the Governor may not support

⁵⁹ AREU interview, JEMB official, Herat (June 2006).

⁶⁰ For a more thorough discussion of the process of establishing Provincial Councils and the first version of the Provincial Council law, see S. Lister and H. Nixon, "Provincial Governance Structures in Afghanistan", 6-9.

⁶¹ AREU interview, Provincial Council members, Bamyan (September 2006).

⁶² AREU interviews, provincial government, Provincial Council members, IO officials, Badakhshan (October 2006).

Box 3.2: The Law on Provincial Councils

Article 2: The Provincial Councils shall function as an elective assembly with the objective of creating a structure for partnership and participation of people and Civil Society institutions with State Administration at the provincial level, and counselling and overseeing the provincial offices on related affairs.

Article 4: The Provincial Council shall have the following duties and authorities:

- 1. Participate in determining the development objectives of government such as economic, social, health, education, environment, reconstruction, and contribute to improve other affairs of the related province.*
- 2. Provide consultation on effective usage of financial recourses of the province and oversee them.*
- 3. Participate in settlement of ethnic and local disputes through holding of amendatory assemblies (Jirgas).*
- 4. Provide consultation to design the development plan of province and anticipated plan and approve them before proposing to government.*
- 5. Participate actively and in possible ways in elimination of the customs and traditions contrary to the law and Islamic Sharia such as forced marriages, exchange of females for settlement of disputes etc., and efforts to ensure Human Rights.*
- 6. Visit the areas lacking freedom after reporting to the related authorities, analyze and evaluate the actions of law enforcement bodies, and provide related report to provincial administration.*
- 7. Participate actively and effectively to ban the poppy cultivation, drug and narcotic production and addiction to them by providing awareness regarding the danger of using these substances, attracting the cooperation of people and institutions involved in campaign against drugs and its addition.*
- 8. Acquire information on the proceedings and work plan of the provincial administration and related branches and provide written report to National Council.*
- 9. Appraise the development plan and annual expenditure process of provincial administration, and provide information to the respective inhabitants of province through media.*
- 10. Participate effectively in protection of environmental damages like trees from being cut and protect wildlife and birds from being killed.*
- 11. Promote the participation of Provincial Councils in establishing better coordination with district and local villages' councils.*
- 12. Participate actively in protecting the general public's property from illegal occupation by the support of the related authorities.*

an assertive role for the Council, as was the case in at least one of the provinces studied. Interestingly, while all the other Provincial Councils pointed to a lack of resources to carry out their day-to-day duties, this Council was the best provided for by that particular Governor: in one assessment, “[the PC members] are bought off, within the bounds of the law”.⁶³

A related issue with the monitoring role of PCs is that legal and regulatory frameworks do not yet guarantee the cooperation of the provincial administration. Presidential Decree 4116 requests that provincial governors must “take actions” and “design, organise, and implement programmes” in “cooperation” with Provincial Councils. In addition, the Provincial Council Law and rules of procedure do allow meetings between the Governor or other members of the administration and the Council. However, because the PCs have been installed into a relatively undeveloped legal framework, there are not corresponding obligations in law on the administration — particularly “law enforcement bodies” — to attend meetings or respond to information requests. Such legal instruments will eventually be required so that the oversight function of PCs can be properly exercised, and they must form part of a coherent framework for subnational accountability to be effective.

There is therefore a need for specific ways for the elected councils’ input to be included in the provincial planning process and mechanisms for using, evaluating and publicising that input. There is also a need for clear mechanisms to enable representative bodies to contribute to government accountability independent of their support from the provincial administration.

Issues with PC roles: Representation

The basis for representation — the system by which PCs are elected — also affects their representative functions. In particular, as the elec-

tion is based on a provincial-level single non-transferable vote (SNTV) system, there is no guarantee that a Council will have members from all districts in the province. Concerns pointed out by AREU in 2006 that the resulting view of representation may be partial appear to have been borne out.⁶⁴ In all the case provinces visited that had PCs in place, it was common for people to conflate the presumed support base of a given PC member — whether political, tribal, or geographical — with their constituency. In short, the view of PC members and provincial residents about who these members are “representing” is a more limited group than residents of the province as a whole. In Nangarhar, there was a strongly tribal dimension to the election. At the inauguration of the Provincial Council in Nangarhar, the election of officers and the selection of the delegates to the *Meshrano Jirga* featured tribal alliances and divisions as determinant through the rounds of voting.⁶⁵ Similarly, in Paktia the PC was very unsure of its role, as most of its functions were already carried out by consultative groups of tribal elders assembled by the Governor.

Where actual PC activity could be observed, as in Bamyan and Badakhshan, PC members and district officials both considered that members represented their districts of origin, not the province as a whole. In the large district of Waras in Bamyan, local officials noted that since three of nine PC members hail from there, the district enjoys frequent visits. By contrast, in Yakawlang, a large nearby district actually located on the main route from Bamyan centre to Waras, officials explained that:

Actually, we don't have any members on the Provincial Council, only one on the Wolesi Jirga and one in the Meshrano Jirga. So we don't have any regular contacts with the PC and can't say how their activities are going. (District officials, Yakawlang, Bamyan, September 2006)

⁶³ AREU interview, IO official.

⁶⁴ S. Lister and H. Nixon, “Provincial Governance Structures in Afghanistan”, 7.

⁶⁵ AREU observations, Inauguration of Provincial Council, Nangarhar (10-12 November 2005).

Similar observations were made in Badakhshan, where PC members had visited some districts several times, and others not at all.

Factional affiliation also seemed to influence the view of representation in both Bamyan and Badakhshan. Despite the lack of political-party involvement in the electoral system, the affiliations of PC members were well known. As UNAMA officials pointed out, however, factional affiliation was not the only predictor of political behaviour.⁶⁶

In short, rather than developing a system of representation that can truly bring a bottom-up dimension to provincial-level planning, it may be that the PCs remain mainly an instrument of potential and actual patronage:

The PC is an aggregate of personal interests – either through relationships or districts. (representative of an international organisation, Badakhshan, October 2006)

A system of election based on wards (sub-district entities) and focusing on districts might be more likely to ensure that the full range of provincial conditions is reflected in development planning. Alternatively, the eventual framework for other levels of subnational representative bodies may be able to mitigate this issue by integrating district-level and provincial-level representation. For example, the current phase of the National Area Based Development

Programme (NABDP) operated by the Ministry of Rural Rehabilitation and Development does consider the role of Provincial Councils in integrating priorities from the district level.

The third broad category of PC responsibilities includes some functions of a judicial nature and requires clarification of the relationships with judicial, law enforcement, and customary dispute-resolution institutions. Relationships between PCs and other actors should be considered as part of discussions on judicial reform and the place of customary institutions in dispute resolution, the promotion of human rights and other goals.

It is apparent that Provincial Councils have not yet found a common role and that they lack the legal framework and material resources to play that role. Much has yet to be accomplished to address the ambiguities surrounding their role in planning and budgeting, the relationship to the Governor's Office and other government departments, the source and quantity of their resources, and the basis for their representation. These issues can now only be effectively addressed in conjunction with other issues, such as the framework for district-level representation, the fiscal status of the province in the budget process, and the accountability of provincial governors. The introduction of new institutions will demand further consideration of these relationships.

⁶⁶ AREU interview, UNAMA provincial official (2006).

4. District Governance: The Government of Relationships

As noted in Section 2, the district is currently the lowest level of formally recognised administration in Afghanistan. The district government consists of a District Governor and a varying number of district offices of central ministries. In addition, there is typically a police department and a prosecutor in each district, and often a primary court. The District Governor, or *woleswal*, until recently a representative of the Ministry of Interior, formally plays a coordinating role. In actuality, *woleswals* are the most important government actors at the district level.⁶⁷ The informal role of the *woleswal* often includes dispute resolution and other problem-solving activities depending on relations with the provincial authorities, local customary and informal power-holders. In most cases, *woleswals* maintain some kind of semi-formal advisory *shuras* or liaise with *maliks*, *arbabs* or *qaryadars* where these remain significant.

Throughout the 1990s and since 2001, there has been a proliferation of “unofficial districts”. These are created when the centrally recognised districts are divided, reflecting either claims for additional resources, or local management of tribal heterogeneity through splitting districts along tribal lines.⁶⁸ This process is aided by the informal authority of the *woleswal*'s office and more recently may have been supported by access to relatively unaccountable resources delivered for assistance, counter-insurgency or stabilisation purposes. The official number of districts has not been definitively established, though at the time of publication it was variously reported as 364 or 398.

4.1 District Governors: The Gatekeepers

The office of District Governor has some features in common with that of Provincial Governor: Despite relatively limited formal powers, the District Governor is a pivotal figure in the

organisation of governance in all domains at the district level. Beyond supposed administrative duties of the office – such as registering births, deaths and marriages – it is apparent that the District Governor plays a considerable role in resolving local disputes or determining where they will be resolved, convening customary representatives to discuss local issues, and receiving petitions of all types from residents of the district. The District Governor plays the central local role in the political “government of relationships” alongside and at times in contradiction to efforts at technical state-building at district level. The District Governor is, in essence, a gatekeeper to local government.

Visitors to a District Governor’s office will usually find themselves among a crowd of residents waiting to see the Governor, clasping pieces of paper used as forms for all kinds of petitions. These petitions may be related to community problems or civil and criminal disputes, or they may be requests for material assistance in the event of crises or natural disaster. In all districts studied, the District Governor’s office was pointed to as the first point of contact for people who had petitions for the formal government departments:

No department here will take action, even the police in the case of a crime, without the Governor’s signature. (District official, Pashtun Zarghun, Herat, 2005)

The *woleswal*, as the crucial interlocutor between the society and state at the district level, is able to decide what the appropriate response to any given petition may be when it first reaches the formal institutions of the state. By controlling access, the District Governor has immense influence over the treatment of the citizenry by the state – a role with origins in the expansion of state influence under Amir Abdur

⁶⁷ District Governor is used here in place of the sometimes used term District Administrator, reflecting the similarities in informal functions between *walis* and *woleswals* outlined below.

⁶⁸ AREU interviews, provincial and district officials, Nangarhar, Paktia and Badakhshan (2005-06).

Rahman Khan at the end of the nineteenth century.⁶⁹ By controlling or heavily influencing how and when the state and external actors deal with or react to local issues such as insurgency or local conflict, narcotics production and trafficking, or disputes, the influence of the *woleswal* extends well beyond his formal powers.

This role is key to understanding the value of the post of District Governor to the executive, to the provincial governors who influence their appointment, and to the *woleswals* themselves. The executive can use the position to extend the “government of relationships” to the local levels, at least to the extent that it can control the behaviour of *woleswals* through the appointments system. That system, in turn, is generally acknowledged to be heavily conditioned by provincial governors. The district governors themselves can access resources and influence, either through petty corruption relating to access to services, or large-scale corruption relating to illegal detentions or the narcotics industry. There are widespread reports of District Governor posts being “purchased” in opium-producing or opium-trafficking areas.⁷⁰

These factors may also explain why the post of District Governor appears to change hands with considerable frequency. As the arm of the Ministry of Interior in the local area and the gatekeeper to services, the *woleswal* has so far been able to project the influence of the Provincial Governor as well as his own influence. The post of Provincial Governor has been used by the executive as a way of encouraging participation of local power-holders in the government, and the movement and reassignment of these governors among provinces has been part of that process. It is less known that the post of District Governor — as well as Chief of Police, the next most

Table 4.1: Time in post of district officials⁷¹

Type of official	Avg. time in post	# of cases
All district officials	26 months	26
District Governor	8 months	10
Police Chiefs	7.5 months	6
Court Officials	111 months	4

important district-level post — have been operating in much the same way. This has resulted in high turnover among *woleswal* title-holders, with changes often happening in step with changes at the provincial level.

The average time in post for all district officials interviewed for this study was 26 months, but the average for *woleswals* was only eight months. An almost identical interval was found with Chiefs of Police. By contrast, judges and department heads were in place for much longer periods, indicating that the appointments mechanisms in place for *woleswals* and police chiefs may well be operating under different influences than the process for department staff. This is a reflection of the difference between the posts related to the “government of relationships” and those that are engaged in the actual or hypothetical delivery of services.

The data indicate that the *woleswal* and police chief posts frequently change hands in response to aspects of relationship politics or corruption; this is supported by the research through qualitative commentary in several provinces. In Nangarhar, an international official noted that the District Governor and police chief posts were a way to “carve up the province according to tribal influences”.⁷² In Badakhshan and Faryab, the political allegiance of the district governors

⁶⁹ A. Oleson, *Islam and Politics in Afghanistan*, 65.

⁷⁰ In Faryab, Nangarhar and Paktia informants spoke of a regular pattern in some but not all districts of illegal police detentions taking place in order to extract bribes, and noted that this phenomenon was on the increase as unofficial prisons run by commanders were reduced. On the other hand, both police officials and foreign police advisors noted that much of the petty corruption was aimed at providing running costs for police activities, not only for personal gain. AREU key informant interviews (2006).

⁷¹ These data do not indicate a representative or statistically valid sample for all district officials, but rather indicate a considerably shorter time in post among district governors and police chiefs than district level public servants as a whole.

⁷² AREU interview, IO official, Nangarhar, (November 2005).

was a crucial factor in their appointment. It should be noted that in some cases the use of relationship politics could also be seen to serve more technical state-building goals:

Kohistan, one of the districts of Faryab, has been under the control of the remnants of a Jamiat unit from the army. When a District Governor with Junbesh support was sent, he was not accepted. The province accepted only the appointment of a District Governor loyal to Jamiat, and through this process it became possible for the PRT to patrol and for the ANP to establish a presence for the first time. In this way the government has increased its presence in the district, while working in tune with people's wishes, not against them. (Provincial Official, Faryab, August 2005)

The research thus indicates that the distinction between the relationship politics and other technical reforms is echoed at the district level. This finding has important implications for public administrative reform. While technical reform efforts are increasingly being viewed from a service-delivery point of view, improvement to the functioning of district administration is still subject to the gatekeeper role of the District Governor. As the World Bank notes, there have been efforts to block reforms aimed at increasing accountability in the appointment process for these posts.⁷³ While police, courts and other line departments may be reformed and perform increasingly well in delivering their services, in many areas access to the services appears to remain controlled by the District Governor – a situation that will obviously condition the effectiveness of any reforms in altering state-society relations. A good example of this

dynamic is the role of the District Governor in dispute resolution (Box 4.1).

As with provincial governors, the powerful roles of district governors highlights the difficulty of pursuing technical state-building and reform initiatives in parallel with a political dimension of governance exercised through governors' offices. Without a comprehensive approach to defining the subnational governance system, any such reform will be diluted or may even be counterproductive. Once again, the need for the development of a subnational governance policy is evident. This need for a framework, however, still confronts other obstacles related to district administration.

The system is corrupted, not the people, so putting in new people won't solve the problem.

- AIHRC official, 2006

4.2 How Districts are Governed

There is significant variation in the size and geographical profile of existing districts. In Bamyan, the single district of Waras claims to comprise 150,000 inhabitants, and district officials request to be divided into two or three districts due to the large population and difficult roads. In Badakhshan, by contrast, some districts in similar geographic circumstances are much smaller, numbering around 10,000 inhabitants. While these differences are to some degree reflected in the grading of districts, there appears to be wide variation even within single grades of district – though more research is

⁷³ World Bank, *Service Delivery and Governance at the Sub-National Level in Afghanistan*, 19.

⁷⁴ AREU interview, AIHRC and District justice officials, Nangarhar (November 2005).

⁷⁵ It is beyond the scope of this study to provide detailed analysis of the justice sector, but AREU is currently undertaking detailed research on systems of customary law.

⁷⁶ This situation was observed in both Bamyan and Badakhshan.

⁷⁷ AREU interviews, district officials, Faryab and Nangarhar (August and November 2005).

⁷⁸ One Faryab district court, with seven staff, had heard only eight criminal matters in three years. By contrast, in Badakhshan provincial officials admitted that most district courts existed "only in name": AREU interview, Provincial Justice Sector Official (October 2006).

Box 4.1: District governors in the governance of disputes and crime

The systems for the governance of disputes and crime at local levels in Afghanistan illustrate the relationships between customary institutions, formal justice institutions, and the role of governors discussed in this section. The relationships between these actors vary from place to place, but share certain common features. The first feature is a relatively well-known tendency for the majority of “problems” to be resolved within or between communities where possible.

In some places, such as Nangarhar, respondents note that up to 70 percent of killings and 90 percent of other issues may be dealt with in jirgas or through feuds, without involving the formal authorities.⁷⁴ In other provinces, more disputes or crimes reach the formal authorities, though more research is needed to determine the proportions.⁷⁵ While the explanations given for this tendency are sometimes related to values of Islam or custom, they are also often instrumental: The corruption and inefficiency of the formal justice sector were cited much more often than “value-based” reasons. If confirmed more systematically, this finding has important implications for justice-sector policy, suggesting that improvements to the functioning of courts would itself increase their utilisation. An additional issue for formal justice institutions is the lack of judges qualified to apply both hanafi and jafari jurisprudence, despite the constitutional provision that this be available to Shia communities.⁷⁶

When disputes or reported crimes do reach the authorities, they have nearly always gone to the District Governor first. The District Governor determines if a petition should be sent back to the community for resolution, be resolved by himself, or be referred to the police, prosecutor or court. While there was variation in the decisions of the Governors, in all cases studied they played this role. In a few cases, woleswals would send almost any dispute back to the community before allowing it to be referred to the formal authorities, unless it was a serious criminal case usually defined as murder, rape and serious assault. One District Governor in Bamyán sent about half of his 60 petitions a week back to communities, and Bamyán district governors generally seemed to prefer the ulema shura over courts for resolving criminal matters.

Sometimes the woleswal would pass cases on to prosecutors or courts, but these would still send them to communities for resolution before addressing them: In one Faryab district, two thirds of civil matters were handled this way, and in one Nangarhar district the prosecutor claimed he did the same with 40 percent of crimes such as small assaults.⁷⁷ In a few districts this resulted in dramatic underuse of existing court staff and capacity, though understaffed courts were the more common finding.⁷⁸ In other places, such as one district of Badakhshan and one of Herat, the District Governor referred cases to communities, but claimed to have replaced the prior system of qaryadar or commander decision-making with NSP-CDCs.

Thus a second feature of the governance of disputes is that there is a considerable degree of interaction between customary and formal state practices and institutions, and that this interaction begins with the “gatekeeper” role of the District Governor discussed above. This finding suggests that policies for the development of the rule of law in Afghanistan must consider pre-existing patterns of integration between the state and non-state justice institutions and practices. For example, citizen access to any improvements in police, prosecutors and courts will still be subject to the influence of governors. Again, the prospect of technical reform in Afghanistan is heavily influenced by the two co-existing forms of administration represented here by the governors on the one hand and the justice institutions on the other.

Table 4.2: Estimated provincial populations and district size

Province	Population (est.) ⁷⁹	Number of Districts ⁸⁰	Average District Size
Herat	1,149,300	16	71,831
Faryab	743,800	12	61,983
Nangarhar	1,092,900	20	54,645
Paktia	447,900	11	40,718
Badakhshan	775,800	28	27,707
Bamyan	369,000	8	46,125

Source: Central Statistics Office 2006

required to verify how significant this factor is outside the comparison of Badakhshan with the rest of the country.⁸¹

Population is not the only factor in prompting a desire to revise district boundaries. Provincial officials in Paktia noted that some districts with populations drawing from different sub-tribes should be divided to better align tribal politics with district boundaries.⁸² In reality, several provinces were operating “unofficial districts” during the study period. In Paktia, four unofficial districts operated – each with a “governor” and a police post – within a larger district divided among several subtribes. Given that these unofficial districts were recognised provincially but not centrally, they further highlight the autonomy in appointments enjoyed by at least some provincial governors in relation to central regulation.⁸³ Any consideration of the future role of district administration, in particular regarding the form of the representative bodies called for in the Constitution, will have to contend with the continuing discrepancy between the *de jure* districts and *de facto* realities below the provincial level.

The coexistence of a political, governor-led system of relationships with efforts to introduce

new institutions does not end at the level of the district. The District Governor, as the centre of the government of relationships, often maintains a system of consultation with local leaders. These systems of consultation vary widely and may be more or less institutionalised, despite not being recognised as a formal level of government in the Constitution. At the same time, institutions created by NSP, NABDP, various NGO development activities and alternative livelihoods programmes are seeking a defined role in governance that may or may not integrate with the governor system.

District governors, advisory shuras, commanders, and customary leaders

In many districts, the *woleswal* convenes some kind of *shura* to advise and inform him on local issues, and also to pass directives downward. These bodies can vary quite widely in their composition and the role that they play. They can be roughly divided into four categories:

- **Unstructured, political-party-based or commander-based:** In some districts, such as one in Faryab, this consultative body was described as quite unstructured, involving “influential people” who met when neces-

⁷⁹ This table should be read as indicative only due to the lack of accurate population data. Population estimates from Central Statistics Office (CSO), *Afghanistan Statistical Yearbook 2006*, Kabul: CSO, 2007, 13.

⁸⁰ Includes provincial centre, provincial municipality or *markaz*, as they are variously known.

⁸¹ In the early 1990s the number of districts in Badakhshan was increased from 13 to 27 (plus Faizabad).

⁸² AREU interviews with provincial officials, Bamyan, Badakhshan and Paktia (June, September and October 2006).

⁸³ AREU interview, Provincial Governor, Paktia (21 June 2006).

sary.⁸⁴ It was apparent that the majority of people involved had links to the two main political movements in the province; in effect, many were small-scale commanders of either *Jamiat* or *Junbesh*. In a similar vein, some *woleswals* in Bamyan respond to a political *shura* linked to the main political movement, *Hezb-e Wahdat-e Islami*, constituted at the provincial level.⁸⁵

- **Arbab- or malik-based:** Several of the districts studied featured a system where recognised representatives of communities, sub-districts or informally recognised geographical sub-district zones are convened by the *woleswal*. In Herat, one *woleswal* structured his *shura* with four representatives of each of eleven locally recognised *manteqa*, a sub-district division. In other cases these representatives are on the *shura* by virtue of their position as the *arbab* or *malik* (elder) in a given area. For example, the District Governor of one Faryab district convened the 331 *arbabs* of the district in groups on a bi-weekly basis, and the *shura* in one Nangarhar district was made up of the recognised *maliks* of each sub-district.⁸⁶
- **Ulema-based:** In other districts, such as those in Bamyan, *woleswal* advisory councils were made up primarily of ulema. These *shuras* seemed to be less regularly used than other types noted above, and tended to focus on disputes. As noted above, sometimes an ulema *shura* may be accompanied by a political *shura*.
- **Tribally-based:** In Paktia, the consultative body is made up of local notable male tribal leaders. In tribal areas of Paktia and Nan-

garhar, government relations with these tribal leaders is of a transactional nature: their support for the government requires the government to provide them corresponding support – something perceived as lacking on the issue of security in Paktia and opium cultivation in Nangarhar.⁸⁷

While these categories may help in distinguishing the range of participants in district governance, some district governors spoke of a combination of these in making up their *shura*. In one Herat district, the District Governor noted that *arbabs*, commanders and *ulema* all were included in his advisory *shura*. Similarly, these bodies were undergoing change during the course of research: In one Herat district the advisory *shura* had only been formed in 2004-05 by the new *woleswal*, and in Nangarhar the change of Provincial Governor and in turn many *woleswals* had decreased reliance on solely tribal leaders in favour of a system in which *maliks* played a more prominent role.⁸⁸

The presence of armed commanders was a factor in district governance beyond their role in district-level advisory councils. Of the six provinces reviewed, the importance of local armed strongmen was most significant in Faryab. In one district, the *woleswal* was also the local commander and exercised influence beyond his formal responsibilities through this role, for example by providing the local administration with additional supporters. In another district, the local commander was running a parallel and unofficial prison system against the wishes of the *woleswal*. The *woleswal* had only been able to challenge this situation intermittently with the backing of the PRT forces.⁸⁹ This was the only district among the cases, however, where a

⁸⁴ AREU interviews, district officials, Faryab (August 2005).

⁸⁵ AREU interviews, provincial and district officials, Bamyan (September 2006).

⁸⁶ AREU interviews with district governors, Faryab and Nangarhar (August and November 2005).

⁸⁷ AREU interviews, NGO official, Paktia (June 2006); IO official, Nangarhar (November 2005).

⁸⁸ AREU interview, IO official, Nangarhar (November 2005).

⁸⁹ In one Faryab district, the Attorney-General's Office had removed the local prosecutor, but in fact this official was still working in the office due to the influence and patronage of the District Governor, who has no official say over this post: AREU interviews, Faryab (August 2005).

Box 4.2: Arbakai

The role of local militias in providing security gained prominence in several local contexts in Afghanistan during 2005-06. Among the case provinces during the research, Paktia was mobilising arbakai (or arbakian, as it is known in plural), a form of tribal militia. For its own defence, each district provided fifty men who were to be paid 2,000 Afghani each per month. Provincial interlocutors, including UNAMA and AIHRC staff, viewed this development generally positively, but stressed that arbakai were a supplement – not a replacement – for the police.

The work of *arbakai* is different from police work. As they are derived from the local tribes, they have help from residents. They know people in the area and know who may be active among the insurgency. (*Department of Border and Tribal Affairs official, Paktia, June 2006*)

Historically and in the context of Pashtunwali, the customary Pashtun tribal code, arbakai are also mobilised in order to enforce jirga decisions where necessary. Arbakai are tribally based and therefore to play a community defence function they are most suited to areas mostly or only populated by one subtribe, as pertains in most districts of Paktia with the exception of Zurmat. Their effectiveness in multi-tribal districts or areas where tribal leadership is mixed with other forms of authority such as land ownership or armed militias is not as clear, and therefore extending the concept to other areas needs careful consideration. Arbakai have also been erroneously compared with the Afghan National Auxiliary Police (ANAP) in certain provinces of the South.

local commander was described as regularly overriding the decisions of the *woleswal*.

In a few places, the *woleswal* claims to have supplanted this type of advisory *shura* in favour of relations with new institutions, in particular NSP-CDCs.⁹⁰ Where this has occurred the most common relationship is the referral of disputes to CDCs, but in one Herat district the District Governor had also issued the stamp for authenticating documents to the CDC in place of the *arbab*, who had previously played that role.⁹¹ In another Herat district, the *woleswal* had begun including CDC members in his advisory *shura*. The strongest examples of *woleswal* knowledge and legitimation of CDCs were in Herat, potentially reflecting the strength of the NSP facilitating partners as discussed in Section 5 below.

Maliks and Qaryadars

A *malik* or *qaryadar* is essentially the interlocutor between district administration and communities dating from the monarchy and republican periods to 1979. These figures had roles in representing the central government indirectly, and in earlier periods supported themselves through their role as tax collectors. The term *malik* derives from an Arabic root denoting authority, possession, and rule – and the model follows the example of indirect rule historically prevalent in the Muslim world.⁹² Currently, however, the functions, jurisdiction and appointment of *maliks* – as well as their importance relative to other actors – appear to vary widely. The varying historical development of local representation between tribal and

⁹⁰ AREU interview, District Governor, Herat (July 2005).

⁹¹ AREU focus group, NGO staff, Herat (July 2005).

⁹² The author acknowledges background research by Palwasha Kakar and Daud Omari.

non-tribal areas, and more or less conflictual areas, means the term may denote considerably different structures in different places.

In three districts studied in Faryab and Badakhshan, district authorities and communities claimed either to have abandoned the system of *maliks*, or that the system had faded away. By contrast, in other places the *malik* remained a central figure in governance arrangements below the district. According to one *woleswal* in Nangarhar, “*maliks* are the bridge between the district administration and the community”.

From among the study provinces, the role of *maliks* appeared to be most important in Nangarhar. There they play a role in *jirgas*, registration of births and marriages, represent families in marriage contracts, and – according to one *woleswal* – carry out development work through NSP in place of CDCs due to their influence. The relationship between status as a tribal leader and as *malik* requires further study, but as *maliks* are often appointed by communities it may be presumed that some overlap with tribal roles exists.

In terms of their selection, cases were found of *maliks* that were both appointed by communities or had inherited the post from family members appointed before the recent decades of conflict. In the study districts in Nangarhar, where the system seemed most significant, district officials claimed that new *maliks* are appointed by the consensus of the heads of every family. In one case where competing *maliks* vied for a position, the solution was to include both on the district advisory *shura*, demonstrating continued integration there between *maliks* and district governance.⁹³

The scale of a *malik*'s influence also varied. They could be associated with a single community or small cluster of villages; in these cases

the term *qaryadar* was often applied interchangeably, as in Badakhshan. In other cases, such as Nangarhar, district authorities described a fixed and recognised system of sub-districts termed *manteqas*, each with a fixed number of *maliks*. Interlocutors in districts where *maliks* played a leading role noted that these figures do not have any financial support for their post from either the community or the government. Respondents claimed that the result was that sometimes some *maliks* take bribes when they solve the problems of two parties in conflict, or from NGO programmes when they distribute assistance to communities. These officials noted that “if the government gave salaries to *maliks*, they would be able to avoid corruption”.⁹⁴

In some of the provinces studied, the term *arbab* is used to indicate influential persons in communities or among several communities. While in a few areas there were few differences between an *arbab* and a *malik*, in general the former was associated with influence derived from land ownership – which may or may not be matched with a role representing communities to local authority. In some areas, a decline in the influence of *arbabs* has been reported as a result of the introduction of structures like CDCs.⁹⁵

The variation in the organisation of governance functions below the district level implies that state-building efforts are likely to have varying outcomes in different places.

The variation in the organisation of governance functions below the district level implies that state-building efforts are likely to have varying outcomes in different places. While the search for a standard “model” for interactions between districts and lower levels of social organisation

⁹³ AREU interviews, district officials, Nangarhar (November 2005).

⁹⁴ AREU interview, Acting District Governor, Nangarhar (November 2006)

⁹⁵ AREU interviews, community members, Herat and Bamyan (2005-6).

is tempting, the outcome of such efforts will vary. For example, where CDCs have been introduced, the relationship between them and district governors is conditioned by the existing subdistrict arrangements. This observation is also relevant to districts that have seen the establishment of District Development Assemblies under the National Area-Based Development Programme (NABDP), where it can be expected that the roles taken on by these new bodies will be dependent on local subdistrict practices.

In practice, district authorities, both governors and court officials, do not attempt to extend formal government authority too far into communities. Instead, they refer disputes to communities, and rely on advisory structures to influence through informal means the decisions in those settings. Extending the presence of the state relies on a delicate balance of formal and informal authority; this is consistent with historical patterns dating back to the nineteenth century. Noelle-Karimi observed in the 1970s:

Aware of their position as outsiders, government representatives perceived the accustomed local councils as the more appropriate venues for the settlement of disputes and the communication of government policies.⁹⁶

The likely result of any technical reforms at this level is that they will be conditioned or work in parallel with political dimensions of local governance through the informal institutions described. Section 5 describes the outcomes of one such reform, the National Solidarity Programme, as it interacts with these local political dimensions.

4.3 Governors and “Contradictory State-Building”

The previous two sections demonstrate that provincial or district governors have both *de jure* and *de facto* roles in Afghanistan. Formally, they play a largely coordinating role in their jurisdictions, with some administrative responsibilities. They are also the local representative of the national executive, and as such promulgate decrees or other directives from the centre while reporting back on local events.

This ambiguity surrounding the true role of governors has historical roots in their powerful role throughout the twentieth century, and has been compounded by the fact that they have been representatives of both the Ministry of Interior and the Office of the President simultaneously. In addition, provincial and district governors have an ambiguous role in directing police activity. Although the police law specifies that police operate under the “guidance” of governors at both levels, a Ministry of Interior directive restricts governors from directing activities at “tactical or operational level” while also making them responsible for conveying executive orders to the police commanders.⁹⁷

A crucial feature of formal subnational governance in Afghanistan is thus the existence of an administrative system with dual faces: that of the governors’ offices, and that of the other departments of ministries at the subnational level. As noted by the World Bank, these two sets of actors do not form a division of powers that comprises a coherent local government, but rather exist in a kind of “systemic contradiction” with each other.⁹⁸ Some key features of that contradiction are the role of provincial governors in influencing district-level appointments, developing provincial development plans in the absence of a provincial budget, and signing off on expenditures by local line depart-

⁹⁶ C. Noelle-Karimi, “Village Institutions in the Perception of National and International Actors”, 6.

⁹⁷ International Crisis Group, “Reforming Afghanistan’s Police”, *Asia Report* 138, ICG: Kabul/Brussels, August 2007, 4.

⁹⁸ World Bank, *Service Delivery and Governance at the Sub-National Level in Afghanistan*, Washington, DC: World Bank, 2007, 31-35.

ments. These roles are mediated by the character and power-base of the individuals involved.

This dual system is paralleled in the process of political change in Afghanistan. On the one hand, change is linked to the appointment and removal of individuals and the manipulation of relationships, a system associated in particular with the Ministry of Interior and the Office of the President through the governors' offices. This system concentrates on the achievement or preservation of stability, and the related challenges of counter-terrorism and counter-insurgency. A contrasting technical kind of change – institutional reform – expresses itself through line ministries, efforts to create representative bodies, and the wide range of international efforts to reform and restructure the public service.

The origins of this dual system of “contradictory state-building” lie both in the historical role of governors and in the pursuit since 2001 of both a short-term crisis-management agenda and a long-term state-building agenda.⁹⁹ The simultaneous persistence of both these approaches in-

creasingly hampers the development of a coherent, resourced, and effective system of formal governance at the subnational level, and distorts the balance between executive and representative authority. In August 2007, responsibility for the administration of governors' offices was moved by presidential decree from the Ministry of Interior to the Independent Directorate of Local Governance. At the time of writing, it is unclear what significance this major structural reform will have on the overall place of the governors' offices in the framework of subnational government structures. Until the “government of relationships” can be better reconciled with a state built on institutions, such contradictions and incoherence will continue.

This is a government of relationships.

- Provincial official, Paktia, June 2006

⁹⁹ H. Nixon and R. Ponzio, “Building Democracy in Afghanistan: The State-building Agenda and International Engagement”, *International Peacekeeping* vol.14, no.1 (January 2007): 26-40.

5. NSP and CDCs: Changing Local Governance?

Community-level governance in Afghanistan involves scales that are – and have historically been – below the established presence of formal state structures, which typically extended to the district, or at times the subdistrict or *alaqadari* or *hauza* level. While in many areas during the twentieth century the central state or its rulers would have a local interlocutor in the form of a *khan* or *malik*, the identification of that individual was based on different criteria and methods in different places. In some cases they would be appointed from the outside, but in most they would have a pre-existing leadership role through heredity, property or some combination of both.

The limited presence of formal government institutions and officials in communities does not mean that governance does not take place there. UNDP has defined local governance as “a set of institutions, mechanisms and processes, through which citizens and their groups can articulate their interests and needs, mediate their differences and exercise their rights and obligations at the local level”.¹⁰⁰

At the community level a range of non-state actors and structures perform these functions in different governance domains. In keeping with the definitions introduced in Section 1 of this report, analysis of community-level governance must consider this range of actors and structures and the relationships between the formal and informal. A partial list of some of these historical governance actors and structures in Afghanistan is presented in Table 5.1. It is important to emphasise the variation in the prevalence and influence of these actors and structures throughout the country. Variation depends not only on ethnic or regional differences, but

also on the situation and history of individual communities.

In 2003, the National Solidarity Programme (NSP), a national level community-driven development (CDD) programme, was introduced in some areas of the country. It was expanded in subsequent years, by late 2007 covering in some measure more than half the communities in the country. CDD refers to programmatic interventions that emphasise community participation, empowerment, local contributions, and the development of community capacity or social capital in providing resources for development projects at the community level.¹⁰¹

NSP, described in detail below, aims to introduce important changes to community governance structures while providing substantial funding (up to US\$60,000) for local projects. It encourages community participation in the selection of projects and requires community contribution in their implementation. This section describes the outcomes when a national-level CDD programme with ambitious goals and complicated implementation structures is introduced in a context that is complex, varied, and dense with non-state governance. A more detailed discussion of the findings of the research focused on NSP is presented in the AREU working paper “The Changing Face of Community Governance? Community Development Councils in Afghanistan”.¹⁰²

The major finding of the research is that even though NSP has a well-developed set of standard procedures and is based on international CDD practice, the reality of Afghanistan’s communities means that its implementation has been varied, and has produced a wide range of differ-

¹⁰⁰ United Nations Development Programme (UNDP), “Decentralised Governance for Development: A Combined Practice Note on Decentralisation, Local Governance and Urban/Rural Development”, New York: UNDP, 2004.

¹⁰¹ Derived from World Bank Operations Evaluation Department, Community-Driven Development: A Study Methodology, Washington: The World Bank, 2003.

¹⁰² H. Nixon, “The Changing Face of Community Governance? Community Development Councils in Afghanistan”, Kabul: Afghanistan Research and Evaluation Unit, 2008.

Table 5.1: Examples of community governance actors and structures¹⁰³

Actor/Structure	Other Names	Function/Meaning
<i>ashar</i>		Communal labour
<i>commander</i>	<i>qumandan</i>	Local leader with armed followers who draws authority from defence of community or participation in jihad or control of armed men.
<i>jirga</i>		Council that meets as problems arise to solve them. Problems range from disputes to maintenance of communal property.
<i>khan</i>	<i>zamindar, beg, arbab, sardar, nawab</i>	Large landowner who controls resources in the community; may provide jobs to labourers and land to sharecroppers; may also arbitrate conflicts
<i>malik</i>	<i>arbab, qaryadar</i>	Representative between community and government. Can resolve disputes; maintains communal property.
<i>mirab</i>	<i>khadar, murab</i>	Controller of community water canal; responsible for maintenance of canals.
<i>rawaj</i>	<i>pashtunwali, madaniyat, ma'arif</i>	Customary law
<i>rish-i-safid</i>	<i>oq soqol, malik-i-gozaar, kalantar</i>	Leaders, generally male elders of neighbourhood organizations or tribal grouping. "White beards".
<i>sharia</i>	<i>shariat</i>	Islamic jurisprudence
<i>shura</i>	<i>jalasa</i>	Council, sometimes equivalent to <i>jirga</i> , sometimes with more persistent membership and ongoing governance roles rather than ad hoc problem solving.
<i>ulema</i>	<i>mullah, talib, sufi, mukhi, mukhiyani</i>	Religious leaders who lead prayers, give sermons, and have the power of moral judgment in the community; also involved in resolving conflicts from the point of view of sharia law.

ent outcomes. This variation is important in considering any assessments of the NSP itself, the sustainability of the structures it has created, and the place of these structures in the larger framework of state-building efforts and evolving subnational governance in Afghanistan.¹⁰⁴

5.1 The National Solidarity Programme

The NSP is a national community-driven development programme run by the Ministry of Rural Rehabilitation and Development (MRRD) and funded by various bilateral and multilateral donors, in large part through the Afghanistan Re-

construction Trust Fund (ARTF).¹⁰⁵ It is implemented by facilitating partners (FPs) drawn from international and national NGOs as well as one UN agency (UN-Habitat). These FPs facilitate the election of Community Development Councils (CDCs), help CDCs identify community development priorities to be addressed by block grants delivered in three instalments, and assist in project implementation.

The NSP has two stated objectives. First, the programme is a local development initiative: through the formation of CDCs it supports community input into selection and implementation of "community-managed sub-projects compris-

¹⁰³ The author acknowledges work by Palwasha Kakar and Jennifer Brick in preparing this table.

¹⁰⁴ The principal assessment of NSP I is S. Barakat, et al., "Mid-Term Evaluation Report of the National Solidarity Programme (NSP), Afghanistan", York and Kabul: University of York and Ministry of Rural Rehabilitation and Development, May 2006.

¹⁰⁵ On the NSP programme generally see I.W. Boesen, "From Subjects to Citizens" and P. Kakar, "Fine-Tuning the NSP".

Box 5.1: The origins of the NSP and progress to date

The National Solidarity Programme was introduced in June 2002 as a component of the Emergency Community Empowerment and Public Works Programme, and in 2003 became one of the six initial National Priority Programmes (NPP) introduced under the National Development Framework (NDF). NSP is based on a combination of customary Afghan practices (shuras, jirgas or councils, and ashar or collective community labour), reference to Islamic principles of consultation and participation, and international CDD experience (such as that of the Kecamatan Development Programme in Indonesia). By March 2007:

- *NSP had been introduced to 21,420 rural communities in 34 provinces, out of a planned total of 32,769 nationwide;*
- *20,502 Community Development Councils had been elected and 16,068 community development plans (CDPs) completed;*
- *36,310 sub-projects were approved;*
- *18,434 sub-projects were completed.*

Source: NSP National Status Reports and Provincial Management Unit Reports, as of 20 March 2008

ing reconstruction and development". Second, the programme is a local-governance initiative aiming to "lay the foundations for a strengthening of community-level governance".¹⁰⁶ The reality of NSP implementation and Afghanistan's political context means that various ministerial actors, subnational state authorities, FPs, and even communities and customary authorities have differently emphasised these two goals. This ambiguity has adversely affected the integration of NSP structures into a comprehensive "vision" for subnational governance in Afghanistan.

NSP implementation

At the community level, NSP ideally follows a fairly typical CDD implementation cycle. First, the FP introduces the principles of NSP to the community. Following this civic-education

phase, the FP organises an election for the CDC, which then chooses its officers. Through a process of consultation with the community the CDC identifies community development priorities in a community development plan (CDP), and then applies for NSP funding for specific sub-projects. The community is meant to handle local procurement and the management of funds during sub-project implementation. Early provisions for re-election of CDCs after two years and the introduction of a second smaller block grant have been largely foregone as NSP has been implemented. In 2007, NSP entered a second phase, "NSP II", in which significant aspects of the programme management structure and implementation have been altered for new communities targeted by the NSP. The rest of this chapter summarises the findings of the NSP-specific research in the order of a "typical" NSP implementation cycle.

¹⁰⁶ National Solidarity Programme, *Operations Manual* (October 2004). Unless noted otherwise, the 2004 operations manual is referred to in this chapter, as it was the version in effect during the majority of the research period. There have been subsequent editions.

5.2 Introducing the NSP

When they came it was like many other NGOs before who promised us but did not act on their promises, and this is why we didn't believe them. We thought that if they were really helping us they would give us money directly, and not projects. But once we saw the start of the programme we realised we should participate and help this programme move forward. (CDC members, Nangarhar, 2005)

Initial community reactions

The first interaction between the community and NSP comes as communities are selected for mobilisation and the programme is introduced to them. In the research sites, the community responses to the introduction of the NSP varied widely. Some communities responded with extreme scepticism, while others sent representatives the local DRRD or the FP to proactively petition for NSP to be introduced in their community. Interviews with community members, CDC members, and focus groups of the social organisers suggested three factors as important in determining the community reaction to the introduction of NSP.

1. History of NGO/UN involvement in community or district

The most frequently mentioned factor shaping initial community responses to the introduction of NSP was previous experience of NGO and CDD activity in the district or the specific community. In the majority of cases where people discussed their initial reactions in these terms, this experience was cited as a negative factor. Social organisers from three of the five FPs involved in study communities cited previously unfulfilled NGO promises as a reason for initial scepticism. In most cases these problems did not refer to a specific organisation, but rather to a generic distrust of NGO activity, rooted in experiences from both before and after 2001.

This conclusion is supported by assertions in a small number of communities that their acceptance of the programme was heightened by the FP's effort to clarify that the NSP was in fact a government programme, and not simply an NGO initiative. In one case in Bamyan, the CDC noted that the community was more accepting upon understanding that the programme was a government initiative, and in one remote part of Badakhshan one community reported that government radio advertisements had convinced them that the NSP was a government initiative and prompted them to actively express their interest.

Previous NGO involvement does not always work against programme acceptance, however. Some communities under two particular FPs cited the long-standing efforts of these organisations in their districts as contributing to a positive reaction when NSP was introduced. In short, the historical reputation of NGO or UN-agency involvement was an important factor shaping community receptiveness, and could work in both positive and negative ways. In a very small number of cases the opposite was true – a lack of previous experience with NGO activity contributed to suspicion about the motives of the FP.¹⁰⁷ One FP noted that their implementation plan called for mobilising less remote communities before remote ones so that these communities would gradually become familiarised with the value of NSP.¹⁰⁸

2. Local implementation of NSP

The research also found a geographic effect in the acceptance of NSP at the time of introduction. That is, communities that had seen NSP implemented in nearby areas showed more enthusiasm for the programme. In cases across two provinces, the community petitioned actively for NSP to be introduced on the basis of seeing it implemented in neighbouring communities or neighbouring districts. For two Facilitating Partners this effect was reflected in

¹⁰⁷ AREU focus group, NSP social organisers, Bamyan (December 2004).

¹⁰⁸ AREU focus group, NSP community organisers, Faryab (August 2005).

implementation strategies. Rather than mobilising on the basis of a needs assessment, the order of mobilisation was based on geographic criteria: Either communities were mobilised across an entire district, or contiguous communities were mobilised, generally starting with the least remote. In general, the research found that the most common problems of gaining community acceptance were scepticism and apathy, sometimes coupled with objections to the requirement to include women in the elections and resulting CDCs. This latter issue, however, usually arose after initial acceptance of the programme.

3. Increasing acceptance over NSP phases

Even when the community agreed to NSP participation relatively quickly, about half the CDCs interviewed reported that they did not take the programme seriously until a later phase of implementation. This effect was reported more from CDCs formed earlier in the life of the NSP – in year 1 and 2 of the programme. Scepticism in the early phases of the programme was often overcome only when the first instalment of money arrived in the community, although in a few cases the holding of an election may also have been an important milestone in acceptance and active participation:

At first we didn't think it was a real programme – we thought these people just wanted to keep us quiet or keep us from our work. We began to trust the programme when we received the first instalment. (CDC member and white beard, Badakhshan, 2006)

After the election when they took photos was also an important moment. (CDC member, Waras, Bamyān, 2006)

The connection between resources and legitimacy is strong; it is supported by the finding that late disbursements of NSP funds had a very

negative effect on community perceptions of the programme and its implementers.¹⁰⁹ It is important to consider that the acceptance of CDC creation is intimately related to their role as a channel for additional resources for the community. The fact that the CDC is elected is also a legitimating factor pointed to by some communities and FPs, but not as clearly as the arrival of resources.¹¹⁰

Facilitation times

After the introduction of the programme and the agreement of community leaders to participate, there was also great variation in the amount of time required to proceed from the introduction of the programme to the election of the CDC. In the study districts, this period ranged from one to six months. Facilitating partners identified two factors that influence the length of time between the introduction of the programme to the community and the holding of CDC elections.

1. FP staffing

In many cases, the time period between the initiation of the programme and the election were differences in the staffing levels and capacity of the FP. Almost all NSP communities studied had between two and five civic-education meetings with the FP before holding an election, but the time it took to conduct these meetings depended on the number of communities the FP covered and the number of staff available to do so. For example, in Badakhshan, reaching the election phase took one and a half months in one district and six months in another – despite community members having proactively requested the programme in both – because the two FPs were not able to visit the community with the same frequency. In most cases the variation in the introduction period reflected staffing levels and ease of travel more than the community's reaction.

¹⁰⁹ On some reasons for late NSP funds disbursement see H. Nixon, "Aiding the State?", 8.

¹¹⁰ AREU Interview, FP district NSP coordinator, Bamyān (September 2006).

2. Female participation

Another issue that could influence introduction times was that of female participation in the election and the *shura*. In two study communities, this issue was cited as a problem in the civic-education phase of the programme. In both of them, the realisation that NSP came with real resources and benefits aided in breaking what had been a deadlock:

When we first started the NSP there was resistance to women's participation. But now people have heard of it and have seen the benefits so the men allow the women and even encourage the women to participate. (Female CDC members, Pashtun Zarghun, Herat, 2005)

In one case in Badakhshan, a mixed community of Ismaelis and Pashtuns were motivated to come to a mutually acceptable compromise on women's participation due to the insistence of the FP that neither could benefit unless they were able to agree on meeting the requirement to form a mixed-sex CDC.¹¹¹ The election of such a council was a dramatic change, as previously women from the Pashtun portion of the community had not even been known by name in the rest of the community. This example illustrates the integrative aspects of the programme at both gender and communal levels.

Interestingly, Nangarhar, with its predominantly tribal Pashtun population, did not feature delays of this type. Upon examination, the reason appears to be that the FP mostly operated under an assumption that bringing women into the election process would be fruitless and relied on selection instead: "Women do not know about the elections. We did not hear about it, we were not called to have elections, nothing."¹¹² A shortage of female staff is a common FP staffing

problem that exacerbates delays by making it difficult to access and mobilise female members of the community.¹¹³

In sum, the positive demonstration effects arising from NSP implementation means that the introduction of NSP in communities becomes progressively easier over both space and time. There is some evidence that a geographic approach to implementation is more successful, as it provides a comprehensible rationale for the order in which NSP is introduced and because the positive demonstration effect means that communities are more likely to accept the programme when it comes to their turn.

A related question is whether, because community perceptions are changeable and heavily influenced by local experience, poor programme performance may result in rejection occurring in the same manner. This is an important consideration given the problems cited by CDCs surrounding late block grant disbursements, corruption, and the overruling of project selection without proper explanation. In short, the acceptance of NSP will only remain as good as its performance, and poor performance and negative perceptions will have dramatic repercussions through the spread of distrust in neighbouring areas.

It is also important to note that the resources that CDCs can access for the community are an important source of acceptance of their role over time. While this connection may seem obvious, the removal of second block grants in the NSP II programme and the slow disbursement of funds during 2006 show that it has not been adequately reflected in programme design when funding or administrative barriers at the central level come into play. Another factor behind CDC legitimacy is the fact that they are elected. So far, little attention has been paid to ensuring

¹¹¹ AREU CDC Focus Group, Badakhshan (October 2006).

¹¹² Female community members, Nangarhar (2005)

¹¹³ Previous AREU research on NSP elections found that "Women's participation in decision-making in relation to community development is the most difficult and sensitive problem in the NSP approach to inclusive community development": I.W. Boesen, "From Subjects to Citizens", 57.

that CDCs are regularly re-elected — though there are now increasing reports of re-elections taking place.

Establishing Community Development Councils

The process for electing CDCs is well defined in the operations manual for NSP. The election should be held among all nationally eligible voters as a secret ballot. Candidate lists and electioneering are prohibited and 40 percent of eligible voters must vote for the election to be valid. In addition, the programme stipulates that the election be based on “clusters” of not more than “about” 20 families divided on a geographical basis (by neighbourhood), each of which elects one representative. The manual outlines some steps to deal with especially large (more than 300 families) communities and allows flexibility in how the ballot boxes and ballots themselves are managed to best allow women’s voting and ensure secrecy of the ballot.¹¹⁴

Electing the CDC members

The principal finding of the research on the election of CDCs is that despite the guidance in the operations manual, elections in reality were conducted in a variety of different ways and that a great deal of variation marked the way that CDCs were formed. This variation was most often related to the way that women’s participation was handled, but also involved the use of clusters and candidacy. In the research the following types of elections were identified.

- **Standard:** In these cases the elections were conducted largely in line with the manual. The community was divided into clusters of families based on location, and each cluster elected one representative from among its number. All electors were able to vote for

people of either gender, and candidacy and campaigning were prohibited. In four of 14 standard elections, this method resulted in all votes going to men, and thus required additional measures to ensure women’s participation in the CDC, either in mixed or separate councils.¹¹⁵ Approximately half the 30 CDCs visited were elected in line with the requirements of NSP, and the resulting councils were sometimes mixed, sometimes segregated and sometimes all-male.

- **Standard with separate male and female elections:** This method echoed the standard election, but in addition to dividing the community by geographic criteria, the elections for men and women were separated: men voted only for men and women only for women. This method was used, with variations, in eight of the 29 communities studied. Five study communities held separate elections for separate male and female councils of equal size using the same clusters for each. In three of five communities studied in Faryab province, three or four additional female-only clusters were formed to divide the women of the community into voting groups. This guaranteed representation for women but also institutionalised their minority status in the CDC.
- **Standard with consociational and gender-specific clusters:** In one case visited, the male clusters were organised by subtribe rather than spatial location, to ensure representation of all community groups at least among males. In addition, three female clusters were identified to ensure female representation, and the outcome was a single mixed-gender CDC.
- **Male-only elections:** In two cases a standard election was held, but with only male voters who elected an all-male council. Where this

¹¹⁴ National Solidarity Programme, “Operations Manual”, 15-17.

¹¹⁵ This pattern of a significant minority of elections resulting in all-male winners was broadly reflected in aggregate data where available. For example, in one district 5 of 45 standard elections resulted in no females being elected: AREU interview, District NSP Manager, Badakhshan (7 October 2006).

method was used a separate female council was later appointed.

- **Parallel elections:** An innovative case involved two elections, one for a men's council, and one for a women's. Both men and women were eligible to vote in both elections, effectively casting one vote for men and one for women.
- **Candidacy:** In one confirmed case the community voted for candidates who had presented themselves to the community as a whole. There was a separate election for women based on clusters.
- **Cluster selection:** In four cases, all in Nangarhar, the social organisers identified a candidate for each cluster, and either through voting or selection this candidate was confirmed as the representative.
- **Selection:** In one case there was no election, the community and social organisers simply selected the council. This also took place in Nangarhar and reflected a general but not total pattern of deviance from NSP guidelines in study sites in that province. The districts in question were considerably insecure and this may have affected the process chosen – a consideration with implications for the implementation of the NSP in insecure areas.

These eight election types represent confirmed cases among the study sites, and are not an exhaustive list. Some of these methods do not constitute elections at all, while others, such as separate male and female elections, violate universal principles for a free vote. This finding is important to consider in efforts to scale up NSP or formalise CDCs outside the context of the programme. It is particularly important if CDCs are considered as a possible precursor for the village councils called for in the Constitution, since the majority of these observed variations

cannot be considered “general” elections as called for in the Constitution.¹¹⁶

Types of CDCs

Not only did the study communities feature a range of election types, but the way that the CDCs were subsequently organised also varied. FP staff and communities almost always described this variation in terms of the way that representation, communication, and influence between male and female members was organised. These types do not capture variation in the patterns of inclusion and representation of other groups. There were four types of CDCs formed in respect to their organisation of gender representation.

- **Standard mixed CDC:** The NSP operations manual indicates that ideally each NSP community should have a single CDC and that measures should be taken to ensure that women are able to participate in both electing and being elected to that council. In one case where no women were elected, a single all-male CDC was in place.
- **Segregated elected male and female *shuras*:** While formally a single CDC, in practice most CDCs have two bodies that meet separately, one for men and one for women. This is the most common outcome among the study sites. The way that communities describe these councils varies: the women's council may be called the “women's CDC” or “women's *shura*”, or a “sub-CDC”.
- **Segregated elected male and appointed female *shuras*:** In some cases, the elections resulted in an all-male CDC. This could occur either because voters elected only men, or because the election permitted only men to vote and be elected. In most of these cases, the FP and the community selected a female *shura* in an attempt to meet NSP requirements.

¹¹⁶ Constitution of the Islamic Republic of Afghanistan, Art. 140.

- **Male-only CDC:** In two cases, a male-only CDC was formed. In one community in Faryab this was because a mixed election produced a single, all-male council. In Nangarhar one community simply selected a male council.

Summary of election and CDC types

A range of different election types and resulting CDC structures were found in provinces across the country. The standard model of CDC election defined in the NSP procedures was found in four of the five provinces where communities were studied, but at the same time this model only accounted for half of the communities overall. This variation is due to local factors that cannot be generalised to the provincial level. A possible exception is Nangarhar, where no communities studied held a standard election. The second most common model was a separate election among men and women for male and female members respectively. This model could lead to the creation of either mixed or segregated councils, except a single case where only a male council was formed. The more dramatic deviations from the standard NSP model were relatively infrequent.

The forms of CDC formation that were least inclusive or participatory, or that were not elections at all, tended to be adaptations to restrictive gender norms at the community level – women’s councils were appointed (whether at cluster level or community level) to offset restrictions on women’s ability to vote. In Nangarhar, the FP did in three cases forgo an election altogether.¹¹⁷

In many cases, it appeared that the FP adjusted the elections procedures away from the standard model in order to facilitate some women’s participation in the councils. By adopting separate male and female elections, the facilitating partners were able to create female councils where it might not otherwise have been possible. In less restrictive areas, where it was possible to form a mixed CDC through a mixed election, some FPs took steps to ensure women would be represented via female clusters, but by community consent limited the number of female clusters to three or four out of a committee of ten or twelve members.

Communities willing to create mixed councils generally felt that female representatives should be in the minority, forming about one-third of the council.¹¹⁸ Communities that were planning on creating separate male and female *shuras*, as in Herat and Nangarhar, allowed for equal numbers of women to be elected via two equivalent but sex-segregated elections. There is thus a potential trade-off between the degree of participation of women in an election and their participation in the council – the more women’s participation in the council was allowed, the less democratic was the structure of their participation in the election.¹¹⁹ By the same logic, the combination of a fully mixed election and a mixed CDC sometimes resulted in a lower number of female representatives than other arrangements.¹²⁰ The flexibility of FPs in adapting the election system to community views on female participation is one of the factors that have allowed CDCs to be formed in such a wide range of locations, but also has implications for the standardisation of electoral processes. Where FP facilitation was weak and

¹¹⁷ Other studies indicates that careful facilitation and use of Islamic teachings can be successful in overcoming local restrictions even in very conservative settings, but require time: I.W. Boesen, “From Subjects to Citizens”, 57.

¹¹⁸ This ratio was described as appropriate and consensual by the communities and FPs. The reasons for the acceptance of a two to one ratio of men to women are unclear but it does echo some provisions of *hanafi* jurisprudence in relation to witnesses and inheritance rights.

¹¹⁹ This finding is reinforced by work by a former NSP-FP employee interviewed for this study, who finds that opening spaces for participation happens in a complex and not necessarily linear way: J. McArthy, “Spaces of Power and Participatory Development in Afghanistan: A Case Study of the National Solidarity Programme and (Un)Changing Political Power Structures in Faryab Province”, unpublished MA dissertation, King’s College London, 2006, 27.

¹²⁰ AREU focus group, UN-Habitat NSP staff, Yawkawlang, Bamyan (11 September 2006).

there were few female FP staff, this flexibility did not occur and even prevented the formation of CDCs via any electoral process, most notably in Nangarhar.

Choosing the CDC leadership

The research also showed variation concerning selection of the CDC leadership. An indicative survey of the data found the following models:

- **Selection according to vote totals:** The CDC member who received the most votes became the Chair, the next highest vice-Chair, and subsequently Treasurer and Secretary (one case in Herat).
- **Election by CDC:** CDC members voted for officers in a secret ballot (3 cases in Faryab).
- **Selection by CDC:** Male CDC members selected their officials by consensus (one case in Nangarhar).
- **Election by community:** Community members voted for the officers from among elected CDC members (one case in Bamyan).
- **Officials elected one-by-one:** The community elected each position in turn from among candidates (one case corresponding to a community-wide, candidacy-based election in Herat).

Even in the absence of systematic conclusions, it is clear that a wide range of interpretations exist among FPs and regions about how to choose CDC officers. The various Operations Manuals give relatively little guidance on this issue. It may be that attention to this is warranted, as the selection of the CDC Chair was a matter of contention in some communities interviewed, particularly when there was controversy surrounding the efficacy of the Chair.

The primary finding regarding the early phases of the programme is great variation in the actual implementation of NSP provisions regarding the formation of CDCs. The next two sections examine the findings surrounding the two core functions of the CDCs set out in programme documents: community development and local governance.

5.3 CDC Roles in Community-Driven Development

Project selection

Upon the establishment of the CDC, FPs assist in facilitating a series of both CDC and community meetings to establish a community development plan (CDP). This CDP consists of a list of sub-projects chosen and prioritised by the community from the approved list of projects in the NSP manuals and documents. This plan should also detail community contributions and the manner of inclusion of women and vulnerable individuals among project beneficiaries.¹²¹

These latter requirements have changed over the course of the NSP and have been interpreted in different ways, ranging from an entitlement of 10 percent of the block grant for a “women’s project” – typically human-capital development – to selecting a second sub-project of varying cost focused on female beneficiaries. An important departure from the original entitlements for women was the curtailment of the proposed “top-up” or second block grants, which were often never disbursed due to extended times administering the first grant, and the subsequent removal of these top-up grants from NSP II.¹²²

Information was collected both on the projects selected, and the dynamics of project selection within the communities. The data do not represent projects approved or implemented, as in

¹²¹ NSP Operations Manual (2004), 11 and 24.

¹²² Ministry of Rural Rehabilitation and Development (MRRD), “The Expansion of the National Solidarity Programme: Proposal for a 3-Year Programme Extension”, Kabul: MRRD, 2006, 20.

some cases projects were rejected by the FP or the NSP Oversight Consultants, and in others only the first project was underway at the time of research.¹²³ The third and subsequent sub-projects were excluded if specified in the CDP because these had not been started in any communities at the time of research. Of the 29 communities studied, 27 had selected a first sub-project, and 26 had also specified a second. These 53 sub-projects are grouped by broad category in Table 5.2.

Table 5.2: Frequency of project by type

Sub-project by type	Number
Power (generator, micro-hydro, solar) ¹²⁴	12
Water supply and sanitation (wells, pipe schemes)	11
Transport (roads, bridges, flood protection)	10
Public building (baths, community centre)	7
Irrigation (canals, check dams)	6
Education (schools, literacy)	4
Livelihoods (weaving, tractor) ¹²⁵	2
Clinic	1
Total	53

Though the sample is not statistically representative, the heavy emphasis on infrastructure over livelihoods, education and health projects mirrors the pattern found for all sub-projects nationally.¹²⁶ In the AREU sample, irrigation figured lower and electrification higher than in a national total, perhaps due to the lack of sample communities in the arid South.

Due to the difficulties of collecting comparable data simultaneously from both male and female councils where they met separately, limited information is available on the incorporation of expressed female priorities into the CDP. Where there were separate female councils, their priorities often differed from men, focusing more on livelihoods and education. An additional gender dimension of sub-project selection involved how the location of an infrastructure project influenced its benefits for women.¹²⁷

The majority of the 18 segregated councils reported that family go-betweens were the primary means of communication between councils. In only one case did a female council report that this system did not function. In four of the six cases with good data on female priorities, these did make it into the operative part of the CDP, so this form of communication should not be discounted. Five councils noted, however, that the female council also provided written minutes or notes of their deliberations on the CDP to the men, one noted that a single female acted as the appointed go-between, and others noted that exceptional joint meetings were held for project decisions. A key factor in generating some of these joint meetings seemed to be the presence of the FP:

When [the FP] is there it is an extraordinary meeting and women participate, but the women are not told about other meetings. (FP NSP Manager, Badakhshan, 2006)

The separation of male and female councils need not prevent women’s priorities being represented, but generally in a subordinate position. The existence of family go-betweens

¹²³ One example found was the Faryab wells, which were rejected on grounds that were variously reported as engineering complexity or lack of engineering capacity: AREU interviews with FP staff and OC staff, Faryab (6 and 1 August 2005). A second example was implementation of sheep-rearing projects by BRAC in Nangarhar, despite it not appearing in CDPs. Reasons given ranged from the requirement of 10 percent of the block grants for vulnerable groups to corruption by employees of the FP. It was not possible to definitively assess these claims: AREU interviews with MRRD, OC and BRAC officials, Nangarhar (August 2005).

¹²⁴ During the course of research the approved project list of NSP was changed to exclude diesel generators.

¹²⁵ By 2004 tractors were ineligible under the operations manual.

¹²⁶ MRRD, “The Expansion of the National Solidarity Programme”, 7-8.

¹²⁷ AREU interview with NGO staff, Faizabad, Badakhshan (October 2006).

should not be discounted entirely, but more effective seemed to be some formal mechanism involving minutes, an appointed go-between, or FP facilitation. As will be seen below, these mechanisms have not been as prominent or effective in encouraging female participation in governance activities of CDCs.

Dynamics of project selection

While the researchers did not directly observe the process of developing CDPs, qualitative accounts of project selection provided interesting insight into the process of choosing development priorities within Afghan communities under NSP. In all cases but two, the CDC members described a process of consensus-building in deciding on the sub-projects to be included in the CDP. This process always involved repeated meetings to achieve consensus, and sometimes

a large number of meetings or considerable controversy:

Discussion about the CDP took a long time, about three months of weekly meetings. We brought all the villagers together and we made a list of all the village problems, which were 18. ACTED suggested we reduce the number of projects to the most important. By comparing with the budget and referring the list back to the whole village, we gave priority to the three projects of greatest need. (CDC member of mixed CDC, Pashtun Kot, Faryab, 2005)

The discussion for the CDP was very heated. Everyone presses for his/her specific project. After 21 days of long argument we all agreed. (CDC member of mixed CDC, Yakawlang, Bamyān, 2006)

Box 5.2: A norm of equity in project selection?

In a few of these cases, this process appeared to be informed by a norm of equal benefit – projects which might have been initially higher on the list were rejected in favour of those that would benefit households equally:

“We chose solar panels for four reasons: fuel for lamps is expensive and bad for our health, we want to enjoy a more modern life, and everyone receives equal benefits.” (CDC member, Waras, Bamyān, 2006)

“Question: Why did you give priority to these projects (electrification, literacy and tailoring)? Response: The benefits of both are the same for all residents (poor and rich, landowners and landless).” (CDC member and CDC chairman, Pashtun Zarghun, Herat, 2005)

“Our first priority was electricity for three reasons: we have much water, it was the only project that all the villagers can benefit from, and we don’t have much fuel for light and heating.” (CDC member, Ishkashem, Badakhshan, 2006)

Interestingly, all three cases in which a norm of equity was explicitly noted as guiding selection involved electrification, possibly indicating that this particular form of development is viewed as particularly equitable in its benefits.

By contrast, research in Herat, where community buildings appeared frequently, indicated that the benefits of these projects were limited for the marginalised. Management plans called for fees to be collected for baths, and the community centres were used by those who were most able to hold larger life-cycle events such as weddings.

This process of consensus building appeared to aim at choosing projects which would benefit the widest range of community members, and its prevalence suggests that the attempts to build NSP on existing Afghan norms of consensus decision-making are quite well founded. This process indicates some potential for pro-poor development represented by participation of the community in CDP development. As Box 5.2 shows, in a few cases this norm of equity was specifically referred to as a reason for the prioritisation agreed.

Despite being more common than other processes, consensus was not used in all cases to choose projects. In at least one community, the CDC described sub-project selection as occurring by a majority vote in community meetings:

We announced the projects by number and then asked all the villagers about them. Finally we listed those projects that the majority wanted. (CDC member, Ishkashem, Badakhshan, 2006)

In another case, the CDC itself determined the CDP priorities, in combination with customary leaders:

First, AKF gave us a written list of projects and told us to select those of the highest need. Then the CDC together with the white beards met about the CDP. We held three meetings: at the first we 50 percent agreed, at the second we 75 percent agreed, and finally at the third we all 100 percent agreed on our projects. (CDC member, Waras, Bamyān, 2006)

This last case also was one of the three where a norm of equity was expressed, indicating that such principles may still form part of discussions between elected CDC members and community elders. As in most other aspects of NSP operation, considerable variety seems to be the norm in the way that sub-projects are chosen.

Multi-community projects and appeals outside NSP

Throughout the first three years of implementation, NSP focused on projects within a single community. Nonetheless, in four of the communities visited there were projects either planned or underway jointly with neighbouring NSP communities. These joint efforts were sometimes a single shared project, sometimes separate projects for joint use. In one case, the community anticipated trading project outputs to help fund their own project operations and maintenance.

Some communities combined their community block grants for a joint project. In Faizabad, Badakhshan, three communities agreed to donate land they held in common for a school to be shared among them. Importantly, this was viewed as appropriate in part because these communities had once shared a school that had been destroyed. A system of budgeting and compensation was established which took into account each community's population, and also the third community's need to construct a drinking water project by excusing them a labour contribution in exchange for cash.¹²⁸ Similarly, in Paktia, six communities were reported to have combined budgets to build two high schools.¹²⁹ In Almar, Faryab, one community also reported planning joint projects with a neighbour to provide both electricity and drinking water. In other cases, the communities agreed to build separate projects, but for joint use. These latter arrangements seemed at first glance more prone to cause conflict or dissatisfaction among one of the parties (see Box 5.3).

It is important to note that these examples of joint project selection took place before the introduction of formal programmes to group CDCs together, such as JICA's Inter-Communal Rural Development (ICRD) Initiative or the broader National Area-Based Development Programme (NABDP). They tended to reflect broader FP involvement in communities. For ex-

¹²⁸ AREU interview, CDC members, Faizabad, Badakhshan (October 2006).

¹²⁹ AREU interview, DRRD staff, Gardez, Paktia (21 June 2006).

Box 5.3: Conflicts over joint projects

In an interesting case in Herat, two neighbouring villages agreed to build separate projects for joint use – one a community centre and one a public bath. The female members of the CDC in the community which built the bath expected that their community would be able to use the other space for weddings and other gatherings:

“We wanted a community centre because we have a problem of space for weddings and funerals. We made an agreement with a neighbouring village that we would build the hamaam, which was a second priority in our CDP, they would build the community centre, and we would share the two. But they made the community centre into a mosque – an elder secretly had a mihrab (pulpit) put into the community centre, so when it was unveiled it was a mosque.”¹³⁰ (Female CDC and Youth Group Member, Zindajan, Herat, 2005)

This conflict appears, from supplementary information gathered, to have two dimensions: the deception of at least the female members of the second community by the first; and the subversion of programme rules, as religious buildings are not permitted under NSP rules.

ample, where an NGO active in Bamyan implemented more comprehensive programmes, the social organisers viewed CDCs as an institution that goes beyond their role in implementing NSP:

CDCs are an institution in the society in our area. For example, we take plans from the CDC as input to our Micro-Area Development Programme for capacity-building. We hold the trainings according to outstanding needs identified by the CDC – in effect we fund CDC priorities outside NSP. (Social Organisers, Bamyan, 2006)

In a few other cases, CDCs participated in getting non-NSP support from NGOs that were not FPs. In one case in Badakhshan a flood-protection project was completed with additional NGO support, in a community also engaged in a joint NSP project.¹³¹ In another case,

in Faryab, the CDC contacted the provincial Education Department directly after agreeing to donate land for the building of a school, which was later built by a Turkish organisation.¹³² In most cases, the FP pointed to *manteqa*-level common interests derived from geographical or resource interdependence as determining the scale of the clusters. There is potential to build on these nascent linkages through future programming such as the implementation of the national Land Policy, which mentions the use of CDCs.

Despite these cases, which seemed to depend on solid facilitation and the availability of other FP or non-FP programming in the area, the relative infrequency of joint projects, and the appearance of some conflict in about half of the cases where they appeared, suggests the goal of intercommunal solidarity is still somewhat distant from the reality of NSP implementation.

¹³⁰ A *mihrab* is a niche indicating the direction of Mecca and marking the space where religious leaders lead prayer in a mosque. In at least some communities, this marks a building as a mosque and limits its use for some types of community activities.

¹³¹ AREU interviews, OC and CDC members, Badakhshan (October 2006).

¹³² AREU interviews, CDC members, Faryab (August 2005).

5.4 CDC Roles in Community Governance

As outlined in the introduction to this chapter, NSP is not only aimed at introducing and managing development projects. It is also a local governance initiative aiming to “lay the foundations for a strengthening of community-level governance”. As the first section of this report notes, governance can cover a range of public and quasi-public goods. CDCs affect the process, participation and accountability involved in managing development resources, both internal and external to the community. They therefore play a role in the governance of community development. A crucial initial point is that governance and development should not be considered two autonomous domains of activity, as much of governance involves the management of common resources.

The intention of CDC activity in community governance is not limited to managing NSP block grants. These committees are intended to alter the participation, process and accountability involved in community decision-making in other areas. Of these two goals of NSP, there has been far more emphasis on evaluating the programme’s CDD aspects than its governance aspects. This gap is in part due to the different nature of the data involved.¹³³ Nevertheless, there is significant evidence that CDCs are playing a role in other aspects of community governance. The most prominent domains of community governance activity emerging from the study were dispute resolution, community labour (*ashar*), and social protection for the vulnerable. These domains are discussed next, followed by an analysis of the place of the CDC in the systems of local governance.

Dispute resolution

Claims of the involvement of CDCs in some form of community dispute resolution are widespread. The elected and collective basis of the CDC appears to contribute to their role, particu-

Our purpose is to create local governance.

- NSP OC Staff, 2006

larly in areas where previous dispute-resolution mechanisms focused on influential individuals and not collective measures. Much more common, however, is a kind of hybrid arrangement where CDC members may act in concert with customary leaders or other community representatives.

Of the 29 communities studied, members of only four CDCs claimed that the council did not play any role in dispute resolution. Three of these negative responses were located in a single district of Nangarhar under a single FP. In this district, a clear distinction was drawn between the CDCs’ CDD function and other governance and problem solving:

CDCs are different from other shuras or jirgas in that they plan and organise development projects. (CDC members, Nangarhar, 2005)

The various data collected on this district, however, indicate that the lack of involvement of the CDCs was only partly due to prevailing social norms about the appropriate role of such a council, and may also be related to generally weak facilitation in that district.¹³⁴

While some involvement of CDC members in dispute resolution is widespread, the disputes involved and the characteristics of this involvement vary quite widely. All of the disputes reported fell into one of three broad categories:

- The first type of dispute related to the NSP programme or development activity more generally. These often took the form of intra or inter-community concerns over the allo-

¹³³ J. McCarthy, 2006, “Spaces of Power and Participatory Development in Afghanistan”, 24.

¹³⁴ AREU interviews, CDC members, social organisers, community members, Nangarhar (August 2005).

cation of land or other resources for development activities, or the selection of communities for NSP implementation.

- Other disputes were not directly related to new development activities, but had a community resource dimension: for example, access to common paths, roadways or water supplies.
- A third category was personal, family, or civil and even at times criminal matters between community members.

In many cases the lines between these types of disputes are blurred as can be seen in Box 5.4.

Two characteristics of CDCs appeared to contribute to their role in dispute resolution: 1) their elected and collective basis, and 2) the contribution of NSP resources as incentive to solve conflicts. In areas where disputes were previously resolved by a single *arbab*, *woleswal*, police or local commander, communities, FPs, and local authorities noted that CDC decisions over small land and livestock disputes were more accepted due to the elected and collective nature of the council.

Conflicts or disputes were previously solved by the arbab's personal decision, or both sides were obligated to go to the woleswal for a solution. Now that the CDC is elected by the people, they bring problems there for solution. (CDC members, Almar, Faryab, 2005)

In two cases, CDC members noted the importance of project funds in helping resolve disputes between communities. Both of these communities had long-standing conflicts, one of them deadly, indicating poor dispute-resolution capacity. In such cases, the incentive of the project funds can play a role in reconciliation. Several NSP communities, in talking about previous systems, also pointed to bribery or costs associated with dispute-resolution services by district officials or local appointees such as

Box 5.4: Examples of disputes with CDC involvement in dispute resolution

a) Three small villages combined under the NSP to form a single CDC, and decided on three projects from their budget. But before they began, the PRT came and completed a drinking-water project in one village with PRT funds. This created a conflict between the three villages because one already had their project completed before beginning NSP work. The CDC resolved the problem by allowing the first village to have a second project in road construction. Reconciliation was the key factor – the second two villages did not gain anything new from the solution. (FP NSP Manager, Badakhshan, 2006)

b) We have solved a conflict between us and another village over water. We have built a dam to hold water for our use, but the excess had caused damage to their cultivated areas, and they wanted us to keep the water away. As we were poor it was difficult to rebuild the water source elsewhere. The CDCs selected representatives and estimated the value of the crops and gave them compensation for this year. For the long term we approached Ministry of Agriculture and NGOs to help construct a sound water source to solve the problem. (CDC members, Bamyān, 2006)

c) One villager contracted with another to give a daughter, but the prospective bridegroom spent many years in Iran. Upon his return the father-in-law increased the bride price to 500,000 Afs, and the bridegroom refused to pay. We negotiated a price of 200,000 Afs between them, and resolved the conflict. We sometimes have up to two such problems a week to solve. (CDC members, Faryab, 2006)

qaryadars or *maliks* as a factor not present with CDCs.¹³⁵

A related finding is that where customary dispute-resolution mechanisms are organised collectively, rather than being absent or individually focused, they are more likely to be combined with CDC activities, rather than being replaced by them. In an interesting illustration of this phenomenon, three interviewees in a Badakhshan community gave three different answers to a question about dispute resolution: the first suggested that community elders resolved disputes, the second that the CDC resolved them, while the third explained that because the elders participated in the CDC both were in fact right.¹³⁶ Social organisers sometimes described this model in terms of “conflict resolution committees” including both CDC members and community elders, while other CDC members described meeting together with elders to solve particular problems.¹³⁷

Ten of the 25 CDCs who claimed a role in dispute resolution clearly stated that they performed this role in combination with elders or religious figures in some way. Based on the observed frequent attendance of non-CDC elders in CDC meetings during interviews, it is likely that these figures understate the amount of involvement of elders in dispute resolution activities. It seems probable that a hybrid form of customary and rational authority is applied to dispute resolution in at least half of the communities studied.

These characteristics of CDCs, even when acting in concert with other actors, appeared to increase the acceptance of council decisions even when they did not benefit one of the parties. The element of consensus and reconciliation seems to be a repeated pattern, and may form the link with the authority deriving from the

representative character of the CDC. Notably, the one district where none of the study sites reported a conflict-resolution role for CDCs was the district where their members had been appointed, not elected.

Despite the potential benefits of CDC involvement, not all CDC dispute-resolution efforts were reported as positive. A general tendency to obscure unsolved conflicts due to a sense of privacy or collective shame was noted in a number of interviews, so it is likely that the research underplays the prevalence of outstanding conflict. It is important therefore not to overstate either the changes or potential for dispute resolution brought by NSP. Nevertheless, taken as a whole the evidence supports the idea that CDCs or CDC members in combination with others can play a role, but without displacing the procedures and legitimacy of more customary means, particularly where these have a collective quality.

Limits to female participation in dispute resolution

An important caveat to this finding is that it applies primarily to the role of male CDC members. In part this has to do with the role of FPs. The election of CDCs and decisions about community development priorities occur through a heavily facilitated process with procedures emphasising the participation of women. Without the FPs presence, this participation declines.¹³⁸

In most places, the meetings on disputes were considered a somewhat separate process, and in some cases the use of predominantly male spaces like guesthouses or mosques reinforced this separation. Of the 25 CDCs performing some dispute resolution, only two sets of female CDC members reported some participation in this process.

¹³⁵ AREU interviews, CDC and community members, Nangarhar, Bamyan and Badakhshan (August 2005, September-October 2006).

¹³⁶ AREU interview, CDC members, Faizabad, Badakhshan (October 2006).

¹³⁷ AREU interviews, social organizers and CDC members, Bamyan and Faryab (2005-6).

¹³⁸ AREU focus groups, various social organisers (2005-6).

We have only participated in important meetings like choosing a canal, but can't participate in other meetings, because male members hold them in the mosque, to prevent us from participating. (Female CDC member, Badakhshan, 2006)

Beyond this broader conception of community dispute resolution, however, women in four communities indicated that they did participate in solving conflicts with a particularly sensitive gender dimension or other “women’s and children’s conflicts”. Beyond these four communities, where women spoke of their role in solving conflicts, further discussion revealed these functions were actually more related to social protection for poor and vulnerable women.

CDC involvement in ashar and social protection

In six of the 29 communities visited, the CDC identified itself as having a role in organising *ashar*, or community labour tasks – typically cleaning of irrigation canals and road repair. Although *ashar* was acknowledged as a pre-NSP institution, *ashar* was also explained by some CDCs as a means for mobilising the labour portion of the community’s contribution to NSP sub-projects. *Ashar* is a relatively widespread phenomenon in Afghanistan, and in the cases where the CDC identified this role it often represents a continuation of previous practice. Where questioned further, most of these CDCs did not differentiate between traditional *ashar* and the community labor under CDC leadership.

A more prominent and novel role of CDCs was in the area of social protection. One working definition of social protection is that it includes:

initiatives, both formal and informal, that provide: social assistance to extremely poor individuals and households; social services to groups who need special care or would

*otherwise be denied access to basic services; social insurance to protect people against the risks and consequences of livelihoods shocks; and social equity to protect people against social risks such as discrimination or abuse.*¹³⁹

While not all these roles are seen in all places, there is significant evidence that most CDCs were able to formalise and expand some social protection functions across these categories.¹⁴⁰ Social assistance and social insurance occurred through the creation of beneficiary lists for various activities such as NSP training projects or relief in the case of natural disasters, and the collection of money for people suffering illness. Social services and social equity were manifested in some cases by the creation or identification of jobs in the community for particularly vulnerable individuals, such as widows.

In many communities, CDCs maintained a “community box” which served either to collect money for poor families facing unusual hardship, or to support future community projects. Several CDCs acknowledged that the community box function was an extension of a customary function of collecting money for mosque functions, funerals, and other immediate needs of families faced with shocks due to illness or death.¹⁴¹

While the collection of money for the poor and vulnerable on an *ad hoc* basis may be seen as an extension of traditional activity, its institutionalisation in a community box was only seen under two FPs. This may indicate that, as with dispute resolution, where customary practices are merged or formalised with CDC functions through active facilitation, they may be more accepted than when introduced entirely anew.

As a small but versatile initiative, the community box was also viewed in some cases as an

¹³⁹ S. Devereux and R. Sabates-Wheeler, *Transformative Social Protection*, Brighton, UK: Institute of Development Studies, 2004.

¹⁴⁰ Thanks to Palwasha Kakar for information on social-protection practices.

¹⁴¹ AREU interview, CDC members, Yakawlang, Bamyan (12 September 2006); AREU interview, female CDC members, Herat (4 July 2005).

important ongoing role for the CDC beyond the scope of the NSP:

It doesn't matter if NSP ends. Our CDC is a legitimate shura, it will always function – from now we have plans for creative projects, like a charity box, and we have decided to train our young people in different professional fields. (CDC members, Herat, 2005)

An important feature of the social-protection function is that in all cases where CDCs claimed to carry them out, the female CDC members were aware and usually active in performing these functions. In the cases of employment and several of the beneficiary lists, this function was in fact carried out by the female CDC members. Social protection is thus an area with more women's participation than dispute resolution. An overall conclusion can be drawn that women's participation is most prevalent in the areas where FP involvement is more intensive, suggesting that facilitation is not only important for the scope of CDC activity, but also has important gender implications. In the absence of good facilitation or at the end of FP involvement, it seems likely that the level of women's participation may suffer even more quickly than CDC activity in general.

5.5 Conclusions: CDCs in Local Governance

CDCs have introduced a dramatic change in the development resources available to many communities in the country, and where these resources have been converted to successful sub-projects, the acceptance and legitimacy of the programme, and by extension the government, has been expanded. However, the role of CDCs as a new institution within the governance system as a whole is complex and varied. Several key conclusions can be drawn from the research to date.

- Community acceptance of CDCs depends on past experience, material and human resources available for facilitation, and local implementation patterns. It is also heavily

dependent on the delivery and use of resources, and declines with delays or misuse of resources.

- The implementation of all phases of NSP has been carried out in varied ways, including elections, CDC composition and configuration, CDP development, and scope of activities outside project selection and implementation.
- Many CDC members claim to be involved in governance functions, such as dispute resolution, but these functions are not universal and where they occur they are often carried out in combination with customary structures. The partial exception may be where previous governance structures were focused on one power-holder.
- The genuine participation of women in CDC development and governance functions faces problems. Women's participation appears to be very dependent on the quality of facilitation and is generally more limited in governance functions than in NSP project selection. In the absence of facilitation, women's participation will likely suffer at an even faster rate than overall CDC activity.

A great deal of attention is currently being paid to the current and future place of CDCs in local governance systems, but this attention has yet to produce a coherent and clear strategy. Consideration of how to combine the role of CDCs in community development with a permanent place in subnational governance has lagged behind the advance of the NSP itself. The result has been a debate over CDCs that is polarised and restricted to the terms set by the Constitution over village councils, a debate that is both premature and excludes more gradual and pragmatic strategies to capitalise on the presence of CDCs.

Ongoing efforts to review and improve the NSP, the increased attention to subnational governance by the Afghan government and its international partners, and the formation of the IDLG in late 2007 are creating new opportunities to

define the future role of CDCs. Doing so successfully is a crucial step in Afghanistan's current transition to a development process that realises the strategic interdependence of community governance and development, through the establishment of the "the basic institutions and practice of democratic governance at the national, provincial, district, and village levels for enhanced human development" as demanded by the Interim Afghanistan National Development Strategy (I-ANDS).¹⁴²

Several key questions are central to any effort to develop a widely accepted policy for the future of CDCs.

- **Should they be formally recognised as state institutions?**

A bylaw calling for increased formalisation of CDCs is in circulation. This bylaw calls for the recognition of CDCs by formal state authorities, their designation as the community interlocutor for all development interventions, and grants them some administrative functions. This process is largely driven by MRRD and is yet to enjoy wide political acceptance. It may be that this approach, in the absence of a more comprehensive framework, stresses the formalisation of CDCs without paying sufficient attention to the local variations in CDC functions, the most appropriate mix of functions for them, and the benefits that may accrue from their status as community-based and not government entities. At the same time, institutional means for supporting CDCs should form part of the mixture of policy options available when determining the future role of these councils.

- **What will be the resources, both material and in terms of technical assistance and facilitation, available to CDCs after NSP?**

It is clear that CDCs have functioned most positively in the selection and implementation of sub-projects, and their acceptance, legitimacy,

and ability to perform other tasks are all related to the resources they bring to communities. Consideration of their future role must include discussion of the range of resources that will be available, and the mix of governmental and non-governmental involvement in providing these. If CDCs are to continue to function in wide areas of the country they will require resources from an expanding set of sources, coupled with the technical support to take advantage of these while deepening community capacity as well as that of the council itself.

- **What will be the appropriate scale for the delivery of such resources?**

CDCs are already in some areas combining efforts through joint projects, and in other areas, programmes to group – or "cluster" – CDCs are underway. These efforts suggest that clusters that respond to locally appropriate development scales appear more naturally, due to infrastructure or resource inter-dependencies that may be present at that level. This raises questions about the organisation of development representation below and at the district level, currently addressed piecemeal by NABDP and other clustering programmes without a clear link to plans for district- and village-level representation in the long run.

- **Should they perform administrative governance tasks as well as development tasks?**

Mandating a single universal governance role for CDCs would produce mixed outcomes, due to the variation in how CDCs currently function in relation to customary structures. While there is evidence of fruitful governance improvements linked to CDCs, this is often achieved through the implicit or explicit recognition of pre-existing governance patterns, not wholesale attempts to replace them.

¹⁴² Government of Afghanistan (GoA), "Interim Afghanistan National Development Strategy" Vol. I, 122.

- **How can the impact of CDCs on the inclusion and representation of women and other marginalised community groups be strengthened and deepened?**

The role of CDCs in empowering women and other vulnerable groups is dependent on active facilitation, and cannot be assumed to be persistent gains, just as the CDC itself cannot be considered a persistent institution without consideration of the factors just mentioned. As NSP comes to a close, the support of broadened inclusion and representation seen in the context of CDCs must continue.

These questions can no longer be answered in isolation from many other questions in subnational governance policy, including the roles and relationships of district governors in relation to other bodies, the form of district-level elected representation in the future, the fiscal status of subnational state units, and the sequencing of changes in all of these areas.

6. Conclusions and Recommendations

This study aimed to draw together observations and evidence about a range of state-building initiatives at various subnational levels in Afghanistan since 2002. As such, it is not a comprehensive review of single initiatives such as the election of Provincial Councils or the implementation of the National Solidarity Programme. There is a growing awareness that subnational governance as a whole is crucial to progress in the governance, economic and security transition challenges still facing Afghanistan. Subnational governance is a system that has many components at different levels, comprising both formal state institutions and a range of less formal actors, structures and processes.

By examining together the political and technical dimensions of various subnational state-building initiatives as they have been implemented, this study aims to draw general conclusions about the system of subnational governance. In turn, these observations can illustrate what has been missing from state-building efforts to date and generate recommendations for the establishment of better subnational governance and an increasingly effective, accountable and legitimate state. This chapter outlines some of these general conclusions and recommendations.

6.1 The Lack of Subnational Governance Policy

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. The Na-

tional Solidarity Programme, a flagship National Priority Programme with many positive results to show for it, was introduced to fill a gap in the provision of development resources to communities on a national basis at a time when state structures were unable to do so directly. As a community-driven development initiative, however, it has also been presented as having important governance dimensions. The uncertainty surrounding this role and its appropriateness remains a prime feature of the uncertainty in the subnational governance landscape.

Provincial Councils, while called for in the Constitution, were elected less to take a considered place in the framework of subnational governance, than to fulfil constitutional requirements for local representation and the formation of the National Assembly. Subsequent development of the PC role has worked around or avoided solid definition of the crucial relationships that normally should link representative bodies with legislative functions, access to resources, and representative accountability.

In the same way, Provincial Development Committees were formed to bring some order to disparate – both functional and dysfunctional – coordination and planning mechanisms in provinces. In some sense, they also were an intermediate solution to the inherent contradictions between the vertical structure of state service delivery, the line ministries, and the influence, both formal and informal, of the provincial governors. As such, PDCs present an improvement over the pre-existing situation, but not yet a comprehensive solution to the question of the role of provinces in planning.

In effect, the theoretical sequence for policy development that begins with strategy, and moves through policy, programme and project has been reversed in the case of subnational governance. While a broad, albeit incomplete, strategy is emerging through the ANDS process, this strategy is forced to accommodate the range of initiatives and activities that have been layered onto the subnational governance

landscape over the past few years. Each of the parts examined in this study, as well as a range of activities by PRTs and other governance actors, are now being accommodated into a framework. However, the crucial link between the broad strategic goals of the I-ANDS and the policy to reach those goals has not yet been successfully built.

There have been some sound, or at least intelligible, reasons for this reversal of rational policy-making. The desire to do things quickly arose from the pressures of short-term relief and reconstruction soon after the fall of the Taliban, the need to accommodate regional and provincial power-holders in the absence of a robust security assistance regime, and divergent goals on the part of major actors between counter-terror and development. In Afghanistan, the lack of a comprehensive political settlement enabling sufficient security for nation-building processes to take root has its legacy in the diverse and incomplete subnational governance system.

While these initiatives have produced some very important gains in increasing the presence of the Afghan state in the provinces and districts of the country, quite fundamental aspects of the nature of that state remain unresolved. In such a situation, the management of expectations on the part of the population is made more difficult, and the perceptions of Afghan people are more vulnerable to the observed inadequacies of the state – consistency and quality of service delivery, appointments, or security. They are also more prone to adopt the idea that local governance structures and international involvement in state-building are particularistic, inconsistent, and respond to concerns other than the provision of services to the population.

The recognition of the importance of subnational governance must be accompanied by the understanding that piecemeal initiatives cannot produce effective results in the majority of the country as long as the overall shape of the subnational governance system remains undetermined in important respects. The continuing

imperatives to generate short-term initiatives to confront the crises the country faces must be increasingly reconciled with a longer-term process of state-building that remains open-ended. An important dimension of this reconciliation will be the balance between the current framework of the Constitution and the opportunity presented by a relatively open set of goals outlined in the I-ANDS.

Recommendations:

- The reform of different subnational governance structures in Afghanistan must be considered together. The IDLG may present an opportunity in this regard if it can take the leading role in coordinating the disparate efforts at community, district, provincial and municipal level. To do so, the IDLG must pay due attention not only to the imperatives of short-term stabilisation and security, but also dedicate sufficient material and intellectual resources to comprehensive policy development over the next three or more years, encompassing upcoming elections. Such a policy-development process must be insulated from day-to-day crises and requires political will that may have to extend to the promotion of a renewed political, peace or even constitutional process in the future.
- The most important aspect of this policy development process is not to do everything in one office, but to ensure that a more logical sequence of initiatives emerges. A crucial area for sequencing involves the determination of the relationship between representation, resources and accountability for elected bodies at all levels, the corresponding reform of electoral systems and calendars, and the holding of the next elections in Afghanistan. This requirement holds for all levels, from the village to the national. An important implication is that any changes to the fiscal relationships among different levels of government should be linked to the framework for the roles of representative bodies.

6.2 Implementation of Subnational Governance Programmes

What is obvious from the examination of the state-building initiatives in this study is that national-level initiatives produce a wide variety of outcomes when implemented in the Afghan context. This is due to the varied political, social, economic and institutional environments in the country, as well as the different implementing actors.

The NSP, while providing a detailed set of procedures and rules for its implementation, is introduced into a variety of local contexts by a variety of facilitating partners. The outcomes of the programme, particularly in its less discussed governance implications, therefore vary significantly. The idea of CDCs as consistent and persistent institutions that operate in the same way everywhere is not yet accurate.

Provincial Development Committees, introduced to bring consistency to a chaotic coordination environment, in actuality range from quite effective to insignificant when examined on the ground. Efforts to link them to some form of budgeting process may bear fruit, but their role remains largely contingent on governors. Attempts to build national-level systems on such interventions may underestimate the varied realities created by them on the ground.

Recommendations:

- National-level state-building should not always be equated with uniform national-level programmes. New institutions should have adaptive and open architectures to accommodate asymmetrical roles and development across the country and over time. One desired result may require different starting points and paths in different contexts. For example, policy on CDCs should allow these bodies both to continue what they have been good at – small-scale development assistance – and to expand and increase that role through flexible opportunities to access resources, group together to cooperate on

development issues, and engage in governance functions such as security management in cooperation with local government. The implications of any legislative action on CDCs for that flexibility should be carefully considered, and overly prescriptive solutions should be avoided in the short term. This recommendation also applies to reform of the justice sector and the allocation of de-concentrated service-delivery responsibilities to provincial departments.

- Varied configurations of non-state actors, structures and processes play an important role in subnational governance in Afghanistan. These configurations will remain in the short term, whether in respect to justice provision, dispute resolution, security issues, credit or social protection. The positing of a national policy choice between formal or informal systems is artificial, because both invariably will co-exist. Programmes should be oriented toward creating effective and viable alternatives to unsuitable aspects of the current governance arrangements; attempting to entirely replace such arrangements will only produce perverse outcomes.

6.3 Barriers to Reform and the Art of the Possible

One of the central findings of this study is that there is a fundamental duality to the system of government in Afghanistan. On the one hand, a government of relationships operates through the system of provincial and district governors. This system has its roots in the pre-war arrangements, and has been revived since 2001. It operates through a mixture of informal and formal gubernatorial powers over expenditures, coordination, appointments and control of access to state bodies. In the context of post-2001 state-building, this system has helped manage the influence of local power-holders, extend the reach of the presidency, and meet various short-term counter-insurgency, counter-terrorism, and counter-narcotics needs. As a system, it has been intimately linked to both the Office of the President and the Ministry of Interior. Relation-

ship-based governance contradicts and has confused efforts to reform public administration into a rational bureaucracy.

On the other hand, the primary formal mechanism for the delivery of services other than security to the population is through a system of vertically independent and highly centralised ministries. Some of these ministries have undergone considerable reform, through the efforts of various programmes driven and funded by international state-building assistance. While considerable challenges remain, there are signs of improving performance in several ministries with responsibility for services.

The interaction between these two systems, however, has yet to receive sufficient and sustained attention. The former system should not be abandoned in favour of the latter, but rather, the inconsistencies and perverse outcomes arising from the interaction of the two require analysis and measured attention. Here the foregoing recommendation about the possibility of open and asymmetric approaches is most important.

Recommendations:

- The relationship between the system of governors and police chiefs and the service-delivery arms of the government must be progressively defined and circumscribed in law and practice. This may have to occur at a varying pace in varying locations, and must recognise the importance of local leadership in producing results in the remote areas of Afghanistan given political and topographical realities.
- A central aspect of this process will be a balanced and gradual re-examination of the place of governors at both provincial and district levels. This re-examination should not be seen as a weakening or a removal of governors, or simply a search for the “right” or “good” governors. It must instead involve an appraisal of the legal and actual power of governors in relation to the systems by which they are made accountable to the

population. A crucial dimension of this is the role of governors in controlling access and influencing expenditures. Enhancing downward accountability of governors need not take the form of direct elections (though this should not be ruled out as a long-term goal), but can be derived from altering relations in the other government branches, including the representative bodies and service-delivery units.

- Reform and deconcentration of service-delivery responsibilities of the service-delivery arms of the state should be designed to reduce the confusion caused by the co-existing governance structures, formally integrating the role of governors with rationalised forms of service-delivery.
- Representative bodies involve aspects of both systems of governance, and can thus play a more important role in reducing the contradictions between the two. By linking representation to resources and accountability, elected bodies may be able to help increase the accountability of the government of relationships at the same time that it can bring improvements to the work of service delivery. Strengthening both the representative basis and the monitoring role of subnational elected bodies, possibly over the next election cycle, should be a priority.

6.4 Developing a Subnational Governance Policy

All of these conclusions point to the need for a subnational governance policy. Any such policy must contend with the realities on the ground, and must be subject to the kind of policy formation outlined in 6.1 above. 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. This kind of holistic view cannot emerge through a single consultation, but must be arrived at through a series of carefully sequenced steps, and it must always consider the possibility of

varying progress and future changes to the design. As the Asia Foundation has already remarked:

*The fundamental challenge to subnational governance reform is the lack of a coherent vision for practical implementation of a subnational governance framework within a context where local government efforts are diluted and confounded by local politics with strong war-time legacies.*¹⁴³

This core challenge, however, is much easier to point out than to resolve. Systems of local governance throughout the world are continuously undergoing changes of direction, reversals, and dramatic transformations. This process is not a matter of a single programme or a given institutional design, it is a journey toward a state in which legitimacy is gradually strengthened through effectiveness and accountability, reach is extended through legitimacy, and sustainability is gradually created through efficiency and steadfast support to a coherent and increasingly comprehensive vision.

While this may appear somewhat optimistic under current circumstances, there are some concrete steps that can assist in making subnational governance policy a reality. Many of these steps build on recent developments, such as the ANDS and the formation of the IDLG, which have brought the possibility of development of a subnational governance policy much closer than it was at the time of research.

Recommendations

- A range of disparate subnational governance issues must be brought into a single policy-development framework. The institutional focus of this policy process should be the IDLG, in close interaction with the partners outlined in the IDLG strategic framework through the formation of a policy group. Particular attention must be given to the sustained inclusion in the process of the Min-

istry of Finance, the Ministry of Interior, the Ministry of Economy, the MRRD, the Presidency, the ANDS, and the National Assembly.

- The IDLG must work to insulate this longer-term process from the demands of short-term security and stabilisation initiatives, and work to ensure that contradictions are minimised.
- Some issues that must be included in the subnational governance policy include:
 - The number and nature of elected bodies, their access to resources, and the system by which they are elected. The relation between community-level representation and districts is a complex one that involves the future structure of CDC-type bodies. Therefore, while CDCs should be supported both materially and technically under an open framework, a final policy on CDCs should not be rushed.
 - The relationship between elected bodies and the governors at provincial and district level. These relationships should be defined in respect to the resources that flow to subnational jurisdictions and to the accountability of governors. The system and calendar of election of these bodies should be suited to these relationships, not the reverse.
 - The eventual nature of provincial and national budgeting, and its relation to both elected bodies and governors should be determined before elections, even if not fully established.
 - The final status of municipalities, and the system of accountability for their important revenue-raising and service-delivery functions needs to be progressively narrowed and codified.

¹⁴³ The Asia Foundation (TAF), *An Assessment of Subnational Governance in Afghanistan*, 2

- Planning at subnational levels must correspond to the resources available there and the procedures for allocating those resources. In the long run, consultative planning structures as presently being constituted will not substitute for the representative accountability brought about by elected representation.
- The role of PRTs and locally implemented governance initiatives in the overall strategy should be progressively subjected to this national policy process.
- All of these questions cannot be resolved simultaneously. The first step is to establish a process by which they can be resolved in a sequence that is conducive to coherent policy.¹⁴⁴ Such a process might include:
 - The constitution of policy group as detailed above, and the definition by this policy group of the thematic areas of the subnational governance policy. These thematic areas should be integrated where possible with ANDS and Compact benchmarks for governance, and with any supplementary benchmarks on subnational governance. The current strategic framework for IDLG draws on these benchmarks heavily, but more attention must be given to their sequencing.
 - The commissioning of research and policy support to the IDLG and the policy group in the thematic policy areas, possibly including an assessment of the current institutional state of subnational governance. This objective can be largely met through the synthesis and presentation of existing information; compilation and gap analysis of the existing legal frameworks for subnational governance; comparative analysis of local governance policies in other countries, with a particular focus on Islamic, tribal, and post-conflict cases; and identification of a range of policy options on the basis of the thematic areas identified by the policy group.
 - The definition and implementation by the policy group of a mechanism for national and subnational consultation based on policy options available.
 - The consideration by the policy group of results and recommendations of studies and that of subnational and national consultations, and the development of a strategic policy framework on subnational governance outlining strategic goals specific to each thematic area identified above and paying close attention to appropriate sequencing of goals.
 - The development of the legal and regulatory instruments necessary to implement this policy framework, potentially with ratification carrying over to a second term of the National Assembly.

¹⁴⁴ The author acknowledges discussions with UNDP-ASGP staff surrounding potential policy processes.

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