

## Provincial Governance Structures in Afghanistan: From Confusion to Vision?

### Provincial Governance Structures

This briefing paper addresses key issues in provincial governance, makes recommendations for making provincial structures more effective and argues for consideration of the overall subnational governance framework in which these structures will operate.

### Contents

- I. Finding a Framework for Provincial Governance
- II. The Role of Provincial Councils
- III. Adding to the Mix: Provincial Development Committees
- IV. Reform of Subnational Public Administration
- IV. Where Now for Provincial Governance?

### Overview

The reform of subnational governance, including provincial administration,<sup>1</sup> is critical for realising the government's vision, as laid out in the Interim Afghanistan National Development Strategy (I-ANDS). This strategy and the related parts of the Afghanistan Compact that outline mutual commitments of the international community and the government present a vision of governance that includes increased democracy, representativeness, accountability and effectiveness at "all levels of government". However, both detailed plans and the overall framework for achieving this are still unclear and require increased attention and strong political leadership.

The last year has witnessed much subnational governance activity. In September 2005, provincial councils were elected. Proposals for the reform of public administrative structures in the provinces, including the piloting of the Priority Reform and Restructuring (PRR) programme in governors' offices, have been developed. There also have been initiatives to establish or reform various structures and administrative relationships, particularly relating to provincial planning processes. The provincial administration, through the governors' offices or proposed provincial development committees (PDCs), has been assigned the task of coordinating provincial planning activity, and elected provincial councils are to provide input into these processes. However, the means by which they should do so are unclear.

There is continuing ambiguity about the relative responsibilities, resources and relationships of these new or proposed structures, potentially hampering their ability to perform the roles set out for them.

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<sup>1</sup> Here the term "subnational governance" refers to the institutions and processes (both formal and informal) through which decisions affecting citizens (including allocation of resources and service-delivery) are made at levels below the national. "Provincial government" refers to formal state structures, including formally elected bodies. "Subnational administration" refers to the governors' offices, provincial and district departments of line ministries and other government agencies and commissions, such as the IARCSC.

More seriously, there is no overall framework for how provincial structures fit within the vision of governance set out by the I-ANDS.

In particular, the following questions need to be considered:

- What are the roles, resources, and responsibilities of different institutions and levels of government in relation to the goals of improved subnational governance set out in the I-ANDS? These will relate not only to administration and planning, but also to service delivery.
- What is the role of the provincial level in development planning? This should include an agreed definition of provincial planning, its purpose and its relationship to budget processes.
- What are the relationships between different subnational bodies? This will include relationships between elected provincial councils and provincial administrations, and between provincial councils and PDCs.

The effectiveness of provincial structures is impeded by a lack of clarity and consensus on their roles and responsibilities in provincial planning and governance.

The lack of a common understanding on the answers to these questions can currently be seen in two areas. First, it is unclear how different provincial structures should be involved in planning development activities. PDCs and provincial councils are mandated to contribute to planning, but there is not an administrative and fiscal structure which can make provincial “planning” meaningful in the sense of determining government spending. Until resolved, this will work against the effectiveness and potentially the legitimacy of these arrangements in the longer term.

Second, the lack of consensus on the roles that different provincial structures play is affecting attempts to reform and train them. Subnational administrative reform efforts and the establishment and equipping of provincial councils are expected to improve the effectiveness and accountability of government, yet it is not always clear what such efforts are aiming towards.

Specific recommendations to contribute towards the development of such a framework include:

- The government should establish a high-level inter-ministerial body to provide a focal point and clear leadership on issues relating to subnational governance and administration. This body must have the political support to bring questions about the overall framework of subnational governance into the open, in coordination with the ongoing ANDS process.
- A Consultative Group (CG) on governance should be established in order to advise on the implementation and monitoring of the governance pillar in the I-ANDS and Afghanistan Compact. This might have a dedicated provincial or subnational governance working group. The terms of reference for these bodies must be clear, and every effort should be made to ensure, through the proposed reform of the CG system, that this is a working and active group.

# I. Finding a Framework for Provincial Governance

In March 2005, an AREU briefing paper identified key themes to be considered in local governance.<sup>2</sup> Four main issues were identified:

- the lack of an overall vision of subnational governance, including what “decentralisation” might mean for Afghanistan (if anything?);
- unclear roles, powers, resources and relationships for subnational elected bodies;
- duplication of actual or proposed coordination and provincial planning structures; and
- the difficulties of reforming public administration at the subnational level.

All of these issues remain central to the improvement of subnational governance in Afghanistan, and this paper assesses what progress has been made in the last year, how external factors, perceptions and understandings surrounding them have changed, and identifies key issues arising in the context of the new attention to subnational governance.<sup>3</sup>

The I-ANDS and the Afghanistan Compact explicitly recognise the current weakness of public administration, especially at the subnational level, and highlight the importance of subnational governance more broadly for the achievement of political and development goals. They make specific reference to the establishment and improvement of structures that are to contribute to development planning, coordination and representation at the provincial level.

These documents, and the complex processes through which they were agreed, have tried to encourage government “ownership” of the issues, and to focus donor attention on the problems. For the first time since the fall of the Taliban, there is now not only a consensus between the government and the donors that the issues of subnational governance must be

tackled, but also a stated commitment to tackle them.

As Box 1 on the next page shows, the I-ANDS and Afghanistan Compact lay out the outline of a subnational governance vision, and this must form the backbone of future efforts regardless of their origins, funding arrangements, or mechanisms.

The welcome recent attention to subnational governance issues takes place against a backdrop of extremely centralised and vertical government structures. Budgets are determined centrally and sectorally in Kabul, and distributed downwards through their ministerial “silos”, while approval of appointments and reporting at least formally travel upwards along the same paths. Staff in Kabul ministries decide how much funding will be requested from the Ministry of Finance, how much will be allocated to the provinces and the division of funds between different provinces. There are currently few discretionary funds available to provincial-level authorities, and even fewer for district authorities.<sup>4</sup>

The I-ANDS states that there is a problem with “excessive centralisation”, noting “although discussion of decentralisation of certain functions and assignments is at an early stage” that “[o]ver time it may be desirable to consider a degree of decentralisation and/or de-concentration of some policy-making and budget responsibilities” to increase effectiveness as well as local ownership (Vol. I, 59, 158). This cautious “pro-decentralisation” stance may seem very moderate to observers, but has not previously been expressed publicly by the government.

While a number of important benchmarks relating to subnational governance are given in both documents, the I-ANDS and the Afghanistan Compact do not offer concrete content to how different structures fit together, nor do they provide much substance on how such a framework could be developed. Instead

<sup>2</sup> S. Lister, 2005, *Caught in Confusion: Local Governance Structures in Afghanistan*, Kabul: Afghanistan Research and Evaluation Unit.

<sup>3</sup> This analysis is based on the authors’ engagement in research and policy processes around these issues in the past year, including discussions on the appropriate legal framework for subnational governance, the establishment of PDCs, and consultations on the role of the provincial councils.

<sup>4</sup> A. Evans, N. Manning, et al., 2004, *A Guide to Government in Afghanistan*, Kabul: Afghanistan Research and Evaluation Unit/World Bank; A. Evans, N. Manning, et al., 2004, *Subnational Administration in Afghanistan: Assessment and Recommendations for Action*, Kabul: Afghanistan Research and Evaluation Unit/World Bank; and A. Evans and Y. Osmani, 2005, *Assessing Progress: Update Report on Subnational Administration in Afghanistan*, Kabul: Afghanistan Research and Evaluation Unit/World Bank.

**Box 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 elements of a long-term vision of 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 keeping with the Constitution (Articles 138–140), “elected assemblies at the national, provincial, district and village levels”;
- “An effective, accountable and transparent administration at all levels of government” within a unitary system;
- Provincial and district administrations that “operate effectively to optimize the coordination of national development priorities”;
- “Women will constitute an increasingly important voice in Afghan society and politics”;
- A functioning physical and institutional justice framework which adequately protects the rights of our citizens in “all provinces and districts” (I-ANDS, Vol. I, 15–16).

In aid of this vision, the Good Governance and Rule of Law sector of the I-ANDS aims in the shorter term:

- “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” (I-ANDS, Vol. I, 122).

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”;
- By the end of 2006 “review...the number of administrative units and their boundaries...with the aim of contributing to fiscal sustainability” (Afghanistan Compact, 3–6).

they merely note that “government will review the functional assignments of central, provincial and district administration” (Vol. I, 71). The process for such a review and clarification of the subnational governance framework is not specified. Until an open discussion of centralisation and decentralisation begins, key elements of such a framework will remain absent.

**The need for a provincial governance framework**

Much of the fruitlessness of some of the working groups and other processes which have occurred in the last year – for example consultations around the establishment of PDCs – as well as the contradictory approaches being taken by different ministries and actors, can be attributed to the lack of an overarching framework within which different initiatives take place. Without clear guidelines on how different structures fit together and relate to each other, different programmes and ministries have gone ahead with planning according to their own vision. However, they meet resistance when they start to try to engage others in their plans, and on many occasions this has led either to inertia or failed implementation. This is a pattern that has been observed in a number of different contexts.

It is not immediately clear where such a framework should be developed since there is not one clear “home” within the government for such activities. The Ministry of Interior, Ministry of Economy, Civil Service Commission (CSC), and Ministry of Finance, as well as other line ministries and government agencies, all have a stake in subnational governance, and there are currently not functioning mechanisms to bring the debate and discussion into one place and into the open.

On the donor side, the lack of a strategic framework has meant that the usual problems of coordination have been exacerbated. In some cases, there has been an unwillingness to share information and work in a coherent manner towards agreed goals, even between programmes funded by the same donor.<sup>5</sup> However, recent limited attempts to improve donor coordination, involving US and UN agencies, should be encouraged and extended to other agencies. Without more coordination and a government “home”, there is also a tendency among the international community to engage with those ministries or agencies with the greatest capacity to engage, not necessarily those with the strongest mandate for involvement. Those ministries

<sup>5</sup> Personal communication, bilateral donor, 21 February 2006.

which should be central to the debate have been kept marginalised in many discussions and planning. The effect is the development of proposals and processes which do not have broader political legitimacy and which have therefore been blocked, either in the approval process, or in implementation.

The lack of an overall framework for subnational governance is particularly evident in discussions about “provincial planning”. These discussions often draw on the theoretical benefits of increasing subnational input into planning, or on the need for better provincial-level coordination of activities. However, these views are often put forward in a contextual vacuum, without discussion of how different approaches to “planning” might fit into overall government structures, especially current or proposed budget processes. Even if the proposals for increased provincial-level planning input through provincial councils and PDCs are implemented, there is no clear mechanism through which provincial-level authorities can present a consolidated development plan linked to budgets that distinguishes between sectoral priorities at the provincial level. For example, a provincial plan may choose between allocating resources to a school rather than a hospital, but the budgeting structure does not allow this kind of trade-off at the provincial level.

It is unclear from what sources provincial (or district) plans might get funded or how these plans can feed into national planning processes with any transparency. The introduction of provincial planning without corresponding structural reform to ensure that plans are able to feed into decision-making processes with budgets attached, is potentially a waste of time, money and citizens’ willingness to participate. It also risks reinforcing citizen perceptions of government ineffectiveness.

It is understood that there are currently discussions as to whether provincial funds will be incorporated into the 1387 national budget. It is not yet clear whether this proposal will gain broader approval within the government, but it might represent an opportunity to begin establishing provincial-level planning if linked

to relevant reform and budget processes. However, lessons should be learnt from the failure of the Provincial Stabilisation Fund (PSF) component of the Afghanistan Stabilisation Programme (ASP), which remained largely at the discretion of governors’ offices.

The disjuncture between lower-level planning structures and the current centralised budgeting mechanisms has been recognised by the government. The I-ANDS, for example, notes that:

*“Sub-national budget and coordination responsibilities remain uncertain: Because many services are provided locally, there is a need to consult with provincial (and in the longer term, district) administrations on budget formulation and execution responsibilities, as well as reviewing both revenues and expenditure assignments” (Vol. I, 158).*

It is now extremely important that the review of responsibilities of subnational levels of government called for in the I-ANDS is undertaken promptly and with the cooperation of different ministries and stakeholders. To do this, the proposed idea within the government of establishing an inter-ministerial commission to develop the overall vision on subnational governance is a good one, and would provide the necessary home for these debates. An opportunity for wider input is also presented by the process of provincial consultations on the full Afghanistan National Development Strategy due to take place during 2006–07.

It is also extremely important that an appropriate mechanism for monitoring the governance-related provisions of the Compact and I-ANDS is rapidly developed and put into practice. The current suggestion in I-ANDS that there should be a Consultative Group (CG) on governance needs to be operationalised, and should be strengthened through a working group on the functions of different levels of government. Thought must be given to how these bodies should relate to any inter-ministerial commission, individual ministries, parliament, and subnational bodies charged with oversight functions, such as the provincial councils.



## II. The Role of Provincial Councils

On 10 November 2005 (19 *Aqrab* 1384), Afghanistan's 34 elected provincial councils (*woleyati shuras*) met to elect their officers. Two days later each elected two of their number to the *Meshrano Jirga*, or upper house.<sup>6</sup> The establishment of Afghanistan's first elected subnational institutions fulfils part of the conditions of the 2001 Bonn Agreement, and represents a significant accomplishment in the state-building process. However, a number of issues need to be resolved before provincial councils form a functional and legitimate part of the emerging democratic order.

### Functions of Provincial Councils

Extended consultations during 2005 between Afghan and international governmental and non-governmental actors considered the role of the provincial councils. Eventually the cabinet awarded them mainly weak advisory functions focused on provincial-level development planning and oversight of provincial administration. While the Constitution, the law on provincial councils approved by the cabinet on 15 August 2005 (24 *Asad* 1384) and its supporting regulations broadly reflect this outcome in defining the councils' purpose and functions, significant obstacles to the effective practice of these minimal functions exist. These obstacles include problems with the representative basis of the councils, the vague mechanisms to carry out the councils' stated functions, and the lack of an overall framework for provincial planning, as already discussed.

The functions envisioned for the provincial councils thus fall into three broad areas:

- *Participation in provincial development planning.* Provincial councils are to consult the population, and participate in determining development objectives for the province and designing development plans. This function can be seen as the primary representative role of the councils, and embodies the notion that consulting people and communities is not only intrinsically desirable but will contribute to better development planning outcomes.

- *Monitoring and appraisal of other provincial governance institutions.* These include "law enforcement bodies" in "areas lacking freedom". The councils also are required to meet with provincial governors, acquire information on the activities of the administration, and communicate their findings to the population.
- *Participation in three inter-related activities of conflict resolution, the elimination of customs "contrary to the law and shari'a" or human rights standards, and the reduction of illicit drug activity.* According to the law provincial councils should use "corrective assemblies" to deal with

### Box 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 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, reconstruction, and contribute to improving other affairs of the related province.*
2. *Provide consultation on effective usage of revenues of the province.*
3. *Participate in settlement of ethnic and local disputes through holding of correctional assemblies.*
4. *Provide consultation to design the development plan of the province and anticipated plan before proposing to government.*
5. *Participate actively and in possible ways in elimination of the customs and traditions contrary to the law and Islamic Shari'a such as forced marriages, exchange of females for settlement of disputes, and efforts to ensure human rights.*
6. *Visit the areas lacking freedom by taking permission of related authorities, analyze and evaluate the actions of law enforcement bodies, and provide related reports 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 the substances, and attracting the cooperation of people and institutions involved in the campaign against drugs.*
8. *Acquire information on the proceedings and work plan of the provincial administration and related branches.*
9. *Appraise the development plan and annual expenditure process of provincial administration, and provide reports to the respective inhabitants of the province through media.*
10. *Consult the inhabitants of the province in general consultative meetings at least once every three months, and the governor and related department authorities at least once a month.*

<sup>6</sup> The second-place candidate was elected to a temporary seat to allow for their replacement should district councils be established and elect their own *Meshrano Jirga* representatives, as required by Article 84 of the Constitution.

disputes, contribute to the elimination of certain customs and support counter-narcotics efforts.

However, the legal framework leaves largely unspecified the mechanisms required to fulfil the functions in these three general areas.

### **Participation in development planning**

There are a number of issues related to the provincial councils' contribution to development planning that need attention:

- *The lack of a framework defining provincial planning and its relation to budgets.* As described above, no clear planning framework is available that can clarify the part each body, including the provincial council, is to play.
- It is particularly urgent to *clarify the relationship between the councils and the proposed PDCs* and other bodies responsible for provincial planning, discussed later in this paper. There is a need for specific ways in which the elected councils' input will be included in the provincial planning process and mechanisms for using, evaluating and publicising that input. Without that, the provincial councils risk de-legitimisation in the eyes of both members and electors. Some compromise between a complete lack of specification and recent suggestions by provincial council members that they should have approval powers over development plans must form the basis of this relationship – probably through membership of all or part of the provincial council on the PDC.
- *The consultative mechanisms available to provincial councils are unclear.* The law requires councils to consult with the residents of the province on a quarterly basis, but neither the law nor regulations specify the mechanism or means to do so. Future district and village representative arrangements will bear significantly on the eventual shape of these consultative mechanisms. Proposals for the current phase of the National Area Based Development Programme (NABDP) operated by the Ministry of Rural Rehabilitation and Development do consider the role of provincial councils in integrating priorities from the district level.
- *Representativeness*, and in particular the suitability of a provincially based

single non-transferable vote (SNTV) system of election, which means that a council may not have members from all districts in the province.<sup>7</sup> A ward-based system of election focusing on districts might be more likely to ensure the full range of provincial conditions is reflected in development planning.<sup>8</sup>

### **Monitoring and appraisal**

The second broad area of activity of provincial councils is the monitoring and appraisal of provincial administration. However, some issues remain in the effective provision for this role:

- *Legal and regulatory frameworks do not yet guarantee the cooperation of the provincial administration in monitoring functions.* 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 allow for meetings between the governor or other members of the administration and the council. However, there are not corresponding obligations in law on the administration, and particularly "law enforcement bodies" to attend meetings or respond to questions or requests for information from the council. Such legal instruments will eventually be required so that the oversight function of provincial councils can be properly exercised. The reform of provincial administration discussed below could provide an opportunity to help introduce such mechanisms.
- *Budget and staffing arrangements for councils are not independent of the provincial administration.* Article 17 of the current law determines that "[t]he administrative affairs and service needs of provincial councils shall be organised

<sup>7</sup> On the SNTV system in the Afghan context see A. Reynolds and A. Wilder, 2004, *Free, Fair or Flawed: Challenges for Legitimate Elections in Afghanistan*, Kabul: AREU, 12; and A. Wilder, 2005, *A House Divided? Analysing the 2005 Afghan Elections*, Kabul: AREU. Evidence suggests that many candidates ran with support bases on smaller than provincial scales.

<sup>8</sup> One further issue with the election of provincial councils is the continuing presence of Article 15 in the law on provincial councils. This so-called "assassination clause" determines that deceased members be replaced by the next highest vote-winner. The problematic incentives created by this clause have been removed from parliamentary elections procedures, and should be reconsidered for provincial councils.

and provided by the concerned province”, and support staff are to be seconded from the provincial governor’s office. In effect, provincial councils are made dependent in their day-to-day functioning on the very provincial administration they are charged with monitoring, with obvious implications. The provincial councils have expressed a desire for a budget independent of provincial administrations, but the source of such a budget is not yet clear.

### ***Conflict resolution, elimination of contrary customs, and counter-narcotics***

The third broad category of responsibilities includes some functions of a quasi-judicial nature that require further elaboration:

- *Clarification of the relationships with the work of judicial, law enforcement, and customary dispute resolution institutions*, in particular in relation to the provincial councils’ mandated “conflict resolution” roles. Consideration of the involvement of provincial councils and their relationships with other actors should form part of ongoing discussions of judicial reform and the place of customary institutions in dispute resolution, the promotion of human rights and other goals. Provincial councils may, for example, be valuable as a liaison body between customary institutions and the formal structures of the state, and their role as such could be further legitimised.

### ***General issues affecting provincial councils***

In addition to their specific functions, there are some general issues that affect the work of the provincial councils.

- *Sufficient resources, in quantity and quality*. While venues and some resources were found for the inauguration of the councils in almost all provinces, this occurred on an ad hoc basis and may not be sustainable. As of January 2006, all 34 councils noted inadequate working space and finances among their main problems. Financial allocations to councils for 1385 are still unclear, but likely to be smaller than those for the end of 1384. Even if levels are maintained, these resources are

probably insufficient for the tasks of the councils.<sup>9</sup>

- *Capacity-building*. Orientation sessions have introduced the new members to their roles, but members will require further training to help them navigate changing administrative structures at the provincial level, as well as to learn about the drafting of resolutions, amendments and recommendations, and committee work. This training should continue to emphasise Afghan ownership, norms and participation. It should also be progressively based on increased legal specification of the councils’ role and relationships to other bodies as well as specific capacity needs. The USAID-funded Afghanistan Local Governance Assistance Programme (ALGAP) recognises this issue, and must be supported by the full range of relevant government ministries and agencies.
- *Awareness of roles*. It is clear that during the election both voters and candidates had little awareness and held widely varying expectations of the roles of these bodies.<sup>10</sup> There is the risk of a mismatch between the relatively weak formal powers of the councils and the desire for representation, service, and patronage on the part of communities and individuals. This problem may be compounded by the presence of some council members with considerable informal networks of influence alongside others without them. While meetings and capacity-building have occurred to clarify and receive input from councillors on these roles, a parallel civic education effort – also being considered under ALGAP – could help citizens better understand the role of the councils.

While these observations focus on the mandated roles of provincial councils, it is important to note that the councils themselves have proven assertive in the early months of their existence, meeting and articulating demands for different funding arrangements, increased powers and resources through a resolution collectively adopted on 1 March

<sup>9</sup> Personal communication, governance contractor, February 2006.

<sup>10</sup> On lack of information among voters and candidates see for example an editorial in the daily *Hewad* (22 August 2005/31 Asad 1384). For an analysis of the parliamentary and provincial election campaign, including voter and candidate perceptions, see A. Wilder, *A House Divided: Analysing the 2005 Afghan Elections*.



2006 (10 *Hoot* 1384).<sup>11</sup> These requests form a useful basis for compromise and development of solutions for the issues detailed above and

should be included in considerations of the overall provincial governance framework.

### III. Adding to the Mix: Provincial Development Committees

The last year has also seen a lot of activity related to the establishment of “provincial development committees” (PDCs), however, there have been few tangible results. With the recognition of the need for improved coordination of activities at the provincial level, a number of different agencies began parallel initiatives to establish coordination mechanisms, as discussed in the AREU briefing paper *Caught in Confusion*. Different bodies with different names emerged across the country – some had their roots in the previously established UNAMA-supported provincial coordination bodies, others were initiated by donors or provincial reconstruction teams (PRTs), and some were begun on the initiative of governors.

When the duplication of activities and structures became clear, a working group was established in Kabul, initially with representation from the Ministries of Interior, Finance and Rural Rehabilitation and Development, and later expanded to include the Independent Administrative Reform and Civil Service Commission (IARCSC), Ministry of Economy and a number of donors. A jointly agreed brief arising from this working group was presented to the cabinet. However, the Ministry of Economy was asked to prepare a new brief and to implement it. A subsequent brief was prepared and approved by the cabinet.<sup>12</sup> As far as can be understood from this brief, tasks assigned to the PDCs include:

- Coordination, including between government departments, between national and provincial levels, and between government, NGOs, international organisations and PRTs.

- Communication between public administration, the provincial councils and “the people”.
- Provincial planning responsibilities, including budgeting.
- Approval of provincial strategies.
- Advising on public and private investment strategies.
- Supervision of counter-narcotics work.

However, the document is somewhat unsatisfactory, for a number of reasons, including:

- It proposes powers for the PDC, such as supervision of sectoral projects and supervision of counter-narcotics work, that should not lie with a coordination body but rather with line ministries.
- It gives responsibility to the PDC to draft the provincial development budget, when no such budget exists.
- It proposes both a secretariat and a “central office of the development committee” within the Ministry of Economy, which will be costly, unsustainable and duplicative. The proposed budget suggests that US\$3 million will be required to set up the committees, and an annual operation budget of US\$2.7 million will be needed.
- The proposed allocation of duties between the PDC and the Ministry of Economy are not clear.
- Despite potential duplication of functions, no detail is given about the division of responsibilities and relationship with provincial councils.
- Membership of the PDC is not clear. It is not obvious whether representatives of donors, PRTs, other international organisations, NGOs, the private sector and civil society are all members, on an equal standing with heads of departments, or whether they

<sup>11</sup> For example, council members have expressed interest in having a budget independent of any ministry, the power to approve provincial level appointments and budgets (were they to exist), and stronger mechanisms for cooperation by provincial authorities: Provincial Councils Working Group, *Report of Provincial Councils National Conference*, Kabul: 27 February-1 March 2006 (8-10 *Hoot* 1384).

<sup>12</sup> Ministry of Economy, *Proposal for Establishing Provincial Development Committee*, undated document, circulated October 2005. Discussed in the Cabinet, 7 November 2005.

are supposed to contribute to sectoral working groups.

- The organigrams are not clear, nor is it easy to understand the document as a whole.

The cabinet did, however, specify that PDCs should be established without increasing the number of staff or creating a separate budget, and that provincial economy departments were responsible for forming the secretariat and making PDCs operational, using existing staff in their present structure.<sup>13</sup>

UNAMA proposals that the Ministry of Economy should present and explain its suggested approach for the implementation of PDCs to other ministries and donors have, unfortunately, come to nothing. For a number of months there has been no movement on the establishment of PDCs, with senior officials in the ministry stating that they expected the ministry to be disbanded in the recent Cabinet reshuffle so they were not going to push forward the process.<sup>14</sup> It remains to be seen what action will emerge following the approval of the new cabinet. Nonetheless, despite the confusion regarding membership, function and relationships, MRRD is pushing ahead with training PDCs through the NABDP. At this stage, the training is “training of trainers” in so-called “generic skills”.<sup>15</sup> However, it seems urgent to clarify some of these broader questions so that the training can be of most use.

In the meantime, in the absence of a single active process for improved provincial coordination, diverse initiatives continue to proliferate, creating further confusion. In the south-east for example, the governors of Paktia, Paktika, Laghman and Khost, with the facilitation of a USAID-funded contractor, have developed “provincial development strategies”, establishing Strategic Policy Groups and Responsive Working Groups in a model which they state will be rolled out across the country.<sup>16</sup> In Balkh, the CSC and the rest of

the provincial administration turned the provincial coordination body into a PPDC (provincial planning and development council). They developed guidelines on the functions and relationships of this body, and produced a useful manual which they thought could be shared nationwide. Learning that it was not in step with the Ministry of Economy approach, they have stopped their initiative and withdrawn this manual, but are now getting frustrated that no progress is being made.<sup>17</sup> Elsewhere, ad hoc arrangements continue to function (or not), some of which have now been re-named PDCs in the recognition of the central government’s stated commitment to creating these bodies. However, ongoing AREU research shows that existing government-initiated coordination is quite dependent on the wishes and interests of individual governors.

Some donors and other stakeholders involved in the drawn-out planning efforts around PDCs now privately say that it does not much matter whether a standardised structure is created in every province, and that it is more important that there are working coordination mechanisms than that they fit an agreed “model”. For this reason, they continue to support the ad

*The experience of PDCs illustrates that a lack of political ownership and answers to broad questions hampers not only their progress, but also progress on the broader reform of provincial-level governance.*

hoc arrangements established in some provinces, and some support the new mechanisms that are springing up. While it is obviously necessary that there is functioning coordination in the short term, as the emphasis on the provincial level grows, it is also important that there is some measure of standardisation. This will ensure appropriate input from relevant provincial actors (such as the provincial councils) according to the law, and help roles and responsibilities to be clarified. It may also help coordination to be institutionalized, rather than dependent on the strengths and interest of individuals at the provincial level. It may be that the provincial consultation for the ANDS can provide some momentum to the stalled process of establishing PDCs, and donors should use the opportunity presented by this high-profile activity to encourage this.

The activity around PDCs, the attempts to create a proposal which was acceptable to a

<sup>13</sup> Extract of Minutes of Cabinet Meeting, 7 November 2005, No. 30.

<sup>14</sup> Personal communication with UNAMA official, February 2006.

<sup>15</sup> Personal communication with MRRD officials, 4 May 2006.

<sup>16</sup> See “Provincial Development Strategy”, undated anonymous document circulated in March 2006, also

“Provincial Development Strategy” presentation by Al-Haj Mohammad Gulab Mangal, Governor of Laghman Province, ACBAR Open Forum, Sitara Hotel, Kabul, 29 March 2006.

<sup>17</sup> Personal communication, governance contractor, Balkh, 23 April 2006.

number of different ministries, and the ultimate failure to produce a workable solution highlight several aspects of the “higher level” questions emphasised in this paper. Some of the difficulties encountered in the process of trying to develop an agreed proposal for PDCs can be attributed to the lack of an overall framework for subnational governance, with agreement on roles and responsibilities of different actors. There were, for example, different views as to how PDCs might contribute to provincial governance, with different implications for their roles, membership and relationships. Moreover, the

lack of an overall institutional “home” for issues of provincial governance meant that, until the President made a decision, it was not clear who should have responsibility for developing the proposal and then implementing it. There was also a certain amount of conflict between ministries on this issue. The experience around PDCs illustrates that a lack of clear political ownership and answers to these broader questions will continue to hamper progress, not only in the establishment of PDCs, but also on broader reform of provincial-level governance.

## IV. Reform of Subnational Public Administration

One of the other key processes impacting on provincial governance is the reform of public administration, both the provincial departments of line ministries and the offices of the governors. The Afghanistan Compact commits the government to:

“give priority to the coordinated establishment in each province of functional institutions, including civil administration, police, prisons and judiciary. These institutions will have appropriate legal frameworks and appointment procedures; trained staff; and adequate remuneration; infrastructure and auditing capacity” (3).

The government’s approach to achieving this commitment for public administration is through its public administration reform (PAR) strategy, which has five pillars: administrative reform, including subnational administrative reform; salaries and incentives; civil service management; merit-based appointments; and capacity enhancement. The subnational administration reform element has three key components:

- strengthening the offices of the governors;
- building provincial-level IARCSC capacity; and
- deepening reforms in subnational units of key ministries.

The restructuring of departments and changing of recruitment practices was initially piloted under the “priority reform and restructuring” (PRR) process. In return for specifying objectives and functions, some measure of restructuring, and merit-based recruitment, PRR allowed participating ministries and

departments to pay higher salaries to qualified staff in selected positions. Although PRR saw some success in some areas, the PRR programme at a national level proved problematic, with concerns raised about the limited nature of genuine organisational restructuring, the extent to which unqualified staff were moved into higher-paid positions and problems of inequities across and within ministries.<sup>18</sup> The broader PAR programme has now been revised, and activities formerly carried out under PRR have been subsumed into different components of the PAR programme, including a more comprehensive reform of pay and grading.<sup>19</sup>

To date there has been some activity to establish reform and capacity-building processes at the subnational level, but with mixed results. Progress has undoubtedly been made in some areas. In particular, a review conducted by AREU in 2004–05 found that there had been significant improvements in financial management at the provincial level. Additionally, in the PRR pilot province of Balkh, there have been encouraging signs of genuine reform – for example, the reform process has created a 60 percent change in staff, and the number of graduates working in the governor’s office has increased from two to 21.<sup>20</sup> However, some areas of reform have proven much harder and progress has been slower. In general, restructuring of departments, the changing of recruitment practices and the development of sustainable

<sup>18</sup> A useful review of these broader problems can be found in Islamic Republic of Afghanistan and IARCSC (2005) “Review: Priority Reform and Restructuring Initiatives”.

<sup>19</sup> Government of Afghanistan’s PAR Strategy and Program, 1385-9.

<sup>20</sup> Presentation by Governor Atta, MOI and the IARCSC at the IARCSC, Kabul, 2 May 2006.

training programmes have been more difficult. These problems were among many encountered by the failed Afghanistan Stabilisation Programme, which was designed to strengthen governance and develop the capacity of local civil administration. Its infrastructure components were the only ones actively pursued, while reform and restructuring proved much more difficult.

PAR is now being rolled out to the governors' offices. The well-advanced pilot in Balkh is now being replicated in other northern provinces and pilot districts, and the process is also being initiated in western provinces. PAR within other provincial departments of ministries has been limited, with only the Ministries of Rural Rehabilitation and Development and Public Health undertaking significant reforms. In most provincial departments the process has only resulted in the movement of a few key posts (particularly directors) to the new salary scale and has not involved significant reform to the structure or function of the departments. It has also in some cases generated resistance among long-standing civil servants, for example, hospital administrators.

Although PAR at the provincial level is quite new and there is limited evaluation data available, the initial experience of the PRR pilots suggested that the PRR process tended to focus on salary change without corresponding attention to the structural and functional reform of the offices involved. Additionally, some disagreements have emerged over the definition of political and administrative appointments. At least one provincial governor maintained that the chief of staff role of "Executive Director" (of the governor's office) should remain his prerogative. Finally, most if not all provincial applicants have had difficulty meeting the application requirements without substantial assistance, bringing into question the demand-led basis for the reforms. This difficulty seems to centre on defining the appropriate structural and functional reforms, understandable in the context of the unclear provincial framework discussed in this paper.

It thus seems likely that PAR in the provinces will encounter two sets of mutually reinforcing problems. The first are the problems

encountered by PAR generally, but potentially heightened because of the distance from Kabul, the diverse nature and complexity of local patronage systems, and the even lower levels of capacity. The second set of problems relate to the lack of overall vision for and political commitment to subnational governance reform. This meant that PRR, for example, was seen as another "programme" to be implemented, but without linkages to a holistic process of reform. As recent AREU research concluded:

"PRR can be a positive tool if used to help shift the provincial administrations towards

a more unified and coordinated entity. But if simply overlaid on the existing structures, in a piecemeal fashion reflecting current vertical lines of authority, PRR is more likely to be counterproductive."<sup>21</sup>

The two key multi-lateral institutions supporting PAR processes, the World Bank and the Asian Development Bank (ADB), are also expressing concern about the roll-out of reform to the provinces, in

particular the lack of integration into a broader strategy of subnational governance reform. A recent review of PRR conducted for ADB commented:

"In the absence of agreed political, administrative and fiscal arrangements between provinces and central governments it is very high risk to be pressing for PRR at the provincial government level....Roll out of PRR into the provinces should be evaluated to reflect its effectiveness without formal government policies in place regarding provincial governments ..."<sup>22</sup>

These concerns are equally relevant for the broader PAR process now being pushed forward.

Another critical and related area is that of capacity-building and training at the subnational level. While there has also been increasing activity in this area, the efforts to date have been uncoordinated and piecemeal. Various international agencies and non-

*Public administration reform continues to face two sets of problems: those that relate to distance from Kabul and the diverse and complex nature of local patronage systems, and those that relate to the lack of overall vision for and political commitment to subnational governance reform.*

<sup>21</sup> Evans and Osmani, *Assessing Progress*, 28.

<sup>22</sup> Islamic Republic of Afghanistan and IARCSC, 2005, "Review: Priority Reform and Restructuring Initiatives", 5, 10. See also World Bank, 2005, "Afghanistan. Public Administration Reform. Key Issues for Discussion", Unpublished document. 9 May 2005.



governmental bodies have worked with different governmental institutions, including the IARCSC, to provide a variety of training. Initiatives have included the ASP, the EU-EC Capacity Building Group training programme, and a number of UNAMA and UNDP-funded programmes. However, a recent review of training needs at the subnational level concluded that:

“Although some provinces and districts have benefited from limited amounts of training provided by a variety of governmental and non-governmental organisations, exposure to training was found to be low...The training that has been supplied has been ad hoc in nature and uncoordinated in planning and delivery. Presently there is no culture of

training or human resource development within the civil service.”<sup>23</sup>

While there are clearly a number of issues related to the difficulty of developing capacity in Afghanistan, it is worth noting that the uncoordinated approach towards subnational governance has also contributed to the difficulties. The success of capacity-building initiatives is intimately linked to the overall success of the public administrative reform process, so that civil servants are trained for their new responsibilities within revised organisational structures. This is not to suggest that all training must wait for such reforms to take place, but it is important that capacity-building is integrated into a structured approach to subnational administration reform, which is linked into an overall framework for subnational governance.

## V. Where Now for Provincial Governance?

This briefing paper has argued that the lack of an overall framework for provincial governance in Afghanistan, including how different levels, actors and bodies relate to each other, is increasingly slowing reform processes and inhibiting the development of responsive, efficient and accountable governance at the provincial level.

Despite this lack of a detailed framework, an opportunity is presented by the elaboration of a general vision for subnational governance in the I-ANDS and Afghanistan Compact, and the recognition in these documents of key issues such as excessive centralisation. While acknowledging the complexity, difficulties and

*While it may take time for a framework with widespread political ownership to emerge and evolve, it is important that processes are started, and structures developed which will enable such a vision to develop in an open and consultative manner.*

long-term nature of the processes required, including that of reaching consensus on complex long-term budgetary issues, there are

specific actions that could be taken by the government and the international community to begin to resolve these issues and contribute to improved subnational governance. While it may take time for a framework with widespread political ownership to emerge and evolve, it is important that processes are

started, and structures developed which will enable such a vision to develop in an open and consultative manner.

During 2006–07 the development of the Afghanistan National Development Strategy out of the present I-ANDS should aim to complement the newfound attention to subnational governance issues with clear and specific strategies for achieving subnational governance goals. Clarity is particularly required on the following questions:

- What are the specific roles, resources, and responsibilities of different institutions and levels of government in relation to the goals of improved subnational governance set out in the I-ANDS?
- What is the role of the provincial level in development planning? This should include an agreed definition of provincial planning, its purpose and its relationship to budget processes within a national planning framework.
- What are the relationships between different subnational bodies? This will include relationships between elected provincial councils and provincial administration in relation to their consultative functions, and between

<sup>23</sup> Islamic Republic of Afghanistan, IARCSC and UNDP, “Subnational Training Needs Assessment Report”, October 2005.



provincial councils and PDCs, particularly in relation to planning.

Mechanisms and processes that could facilitate this process and lead to improved provincial-level governance include:

- The government should establish a high-level inter-ministerial body to provide a focal point and clear leadership on all issues relating to subnational governance.
- A Consultative Group (CG) on governance should be established in order to advise on the implementation and monitoring of the governance pillar in the I-ANDS and Afghanistan Compact. A specific working group to focus on determining subnational responsibilities, roles and frameworks through the ANDS review of functional responsibilities should support the work of the CG. The terms of reference for these groups must be clear, and every effort should be made to ensure, through the proposed reform of the CG system, that these are working and active groups.
- Donor initiatives to better coordinate support to subnational governance should be encouraged and further extended. In developing capacity-building approaches and programmes, donors should be careful to ensure that parallel or duplicative structures are not established, but that their proposals fit easily into agreed government structures. Capacity-building and the development of a clear framework for provincial governance must go hand in hand to answer the question “capacity to do what?”

Beyond the questions of vision, framework and strategy, this paper has also raised some issues confronting new and reforming provincial structures in carrying out the roles already assigned to them in law or in proposals currently with the government of Afghanistan. In relation to provincial councils, key recommendations include:

- Elaborate the bases of representation and consultation for provincial councils. This will involve determining mechanisms for consulting the population, which may affect the shape of other levels of subnational representation. It may also involve

reconsideration of the electoral basis of provincial councils, as well as that of future district and village elected bodies.

- Clarify the relationship – through reserved membership or otherwise – of provincial councils to PDCs and other planning bodies, in the context of efforts to define provincial planning and its relation to budgets.
- Laws governing provincial administrations and other bodies should include mechanisms to ensure the cooperation of those bodies in monitoring by provincial councils.
- Measures need to be taken to ensure that provincial councils are sufficiently resourced independently of governors’ offices, and receive capacity-building with the possibility of wider civic education on council roles.
- The role of provincial councils should be considered in future discussions of informal and formal justice sector activity.

Similarly, the currently stalled efforts to establish PDCs may benefit from consideration of the following recommendations:

- The opportunity presented by the subnational consultations around the development of the ANDS can be used to re-start the process of establishing a PDC in every province. It is important that a consistent structure is established in every province, even if the precise details and relationships have to be confirmed as the broader vision emerges.
- A revised brief should be prepared which more clearly lays out the responsibilities and relationships of the PDCs.

Finally, the gradual introduction of public administrative reform efforts to the provincial level should take into consideration the following issues:

- The need for an increased focus on reform and restructuring, rather than just salary increases.
- The need for donors and other actors to commit to an integrated approach to capacity-building at the subnational

level, with a focus on strengthening the IARCSC as implementer of the PAR agenda.

The reform of Afghanistan's subnational governance arrangements has reached a new and critical phase, exemplified by the attention in the guiding documents of the post-Bonn era, the I-ANDS and the Afghanistan Compact. In the past stabilisation and the establishment of a few key functioning central government institutions has taken priority. While these issues remain important, the spread of reform and state-building to the provincial level and beyond is now centre stage. These attempts to bring representation, development and sound governance closer to the people will present new challenges to reformers. The new focus on subnational governance provides an opportunity for change, but will require strong political leadership, strategic thinking, new levels of cooperation and coordination, openness, and a willingness to engage with the issues holistically rather than on a piecemeal basis.

The Afghanistan Research and Evaluation Unit (AREU) is an independent research organisation that conducts and facilitates action-oriented research and learning that informs and influences policy and practice. AREU also actively promotes a culture of research and learning by strengthening analytical capacity in Afghanistan and by creating opportunities for analysis, thought and debate. Fundamental to AREU's vision is that its work should improve Afghan lives.

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