



Civil Service Reform in Afghanistan:

Roles and Functions of the Civil Service Sector

Sayed Hashmatullah Hashimi and Gerhard Lauth

August 2016



14 YEARS OF HIGH-QUALITY RESEARCH



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About the Afghanistan Research and Evaluation Unit

The Afghanistan Research and Evaluation Unit (AREU) is an independent research institute based in Kabul. AREU's mission is to inform and influence policy and practice by conducting high-quality, policy-relevant research and actively disseminating the results, and by promoting a culture of research and learning. To achieve its mission AREU engages with policy makers, civil society, researchers, and students to promote their use of AREU's research and its library, to strengthen their research capacity, and to create opportunities for analysis, reflection, and debate.

AREU was established in 2002 by the assistance community in Afghanistan and has a Board of Directors comprised of representatives of donor organisations, the United Nations and other multilateral agencies, and non-governmental organisations.

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Foreword

My warmest congratulations to Afghanistan Research and Evaluation Unit (AREU) for coming up with a substantive paper that aimed to conduct a broader analysis of the civil service and key policy reform processes in the sector. The government's mandate is to establish a service-oriented, and accountable civil service in the framework of good governance. As a consequence, the government ensures more effective and efficient utilisation of public resources for basic services delivery, enhance revenue generation, and support the development of the private sector for national economic and social development. This paper provides relevant inputs for the government's greater goal that the basic rights of Afghan citizens to participate and benefit from development are realised.

Further, the paper highlights the obstacles and challenges hampering the implementation of reform initiatives. Recommendations are proposed on how to overcome the hesitant reform process and accelerate the implementation of CSR programmes where some of which have long existed.

The Govern4Afg, which is being launched by German and Afghan partners, is very timely, as it provides a platform for policy dialogue on governance topics in our country. Researchers and policymakers provide evidence-based inputs to foster dialogue aiming to strengthen development cooperation in the governance sector.

Since its establishment in 2002 the Independent Administrative Reform and Civil Service Commission (IARCS), which has been mandated by law to lead the process of CSR has initiated and realized a number of structural reforms. In the past, reform has been strongly donor led with the consequence of establishing parallel administrative structures. In general, all attempted reforms resulted in some positive outcomes, but have not led to the development of a sustainable civil service capacity.

Lastly, I hope that through platforms like Govern4Afg, more dialogues occur at the subnational level, because a better understanding of the issues of governance, planning, and budgeting is thought to proactively support the reform agenda of the Afghan government.

Nader Nadery

Chief Advisor to the President

Public and Strategic Affairs and Ambassador-at-Large for Freedom of Expression

August 2016

Foreword

Govern4Afg (Governance Forum Afghanistan) as a dialogue platform supports policy reform and implementation in the governance sector of Afghanistan. Good governance, rule of law, accountability, and transparency are of paramount importance to the development and stability of Afghanistan. The Afghan people need to regain confidence in state institutions, corruption needs to be fought effectively, and reforms need to improve people's daily lives. It is not enough for reforms to be drafted on paper; their implementation must take place in the villages and towns of Afghanistan.

The objective of the Govern4Afg platform is to foster policy dialogue between Afghan and German "drivers of change" in the field of good governance. Researchers and policymakers from both countries provide evidence-based input to foster high-level dialogue and consultation in the governance sector. Thus, policy discussions are undergoing a reality check. Ultimately, the platform serves as a vehicle for the implementation of the BMZ Country Strategy for Afghan-German Development Cooperation 2014-17.

Following the successful launch workshop in early 2015, six topics (Provincial Planning and Budgeting, Gender Responsive Budgeting, Mineral Governance, Subnational Governance, Civil Society, and Civil Service Reform) were selected for in-depth dialogue based on Afghan and German priorities. In the course of 2015, research teams from both countries provided expertise and facilitated discussions between experts and practitioners through several open dialogue panels and other consultation methods, and prepared issues papers with recommendations for policy dialogue.

The German government expresses its wish for these issues papers to foster further discussion in Afghanistan and enhance donor engagement in the sector.

On this issue paper

In 2014, the National Unity Government of Afghanistan presented its reform paper, "Realizing Self Reliance: Commitments to Reforms and Renewed Partnership," to the London Conference on Afghanistan. According to this paper, one major objective of the National Unity Government is to improve its public governance and establish a legitimate, non-political, stable, service-oriented, and accountable civil service. Despite substantial improvement in many areas of national governance, the process of civil service reform has been rather slow, and considerable challenges still remain.

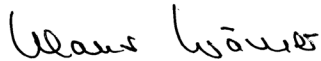
This issue paper on civil service reform in Afghanistan, presented to the public in September 2016, provides a comprehensive overview of the status quo of the civil service sector in Afghanistan. It results from an in-depth empirical research of the existing legal framework of the civil service sector accompanied by numerous interviews and an open dialogue event with national and international stakeholders.

Building on the insights of the Govern4Afg dialogue and consultations, this issue paper analyses the legal framework of civil service sector, identifies challenges hampering the implementation of reform, and proposes means to strengthen the civil service ministries and agencies within the National Unity Government.

The major challenges are, above all, the lack of political will, leadership, and commitment to civil service reform as well as a deficient legal and regulatory framework. Furthermore, the functions and roles of the different actors involved are blurred, and weaknesses in human resource management add to the matter's intricacy. The Govern4Afg research team defined several key recommendations in this respect.

- To avoid any overlapping competences, the President should establish a Coordinating Committee to push for, supervise, and evaluate the creation and implementation of measures for civil service reform.
- The Independent Administrative Reform and Civil Service Commission should remain as the leading agency for civil service reform, although it needs to be strengthened and supported by the entire government.
- It is crucial to establish a clear legal framework. Therefore, three key laws need to be approved and enforced: the Organic Law, which shapes the core structure of governance in Afghanistan by assigning and distributing mandates and roles to governmental entities, the Administrative Procedure Law, and the Civil Servants Law.
- Finally, a dual approach, involving the gradual implementation of long-term reform guided by the presidential level and the application of quick-win restructuring opportunities, is likely to introduce a sustainable path for reform.

This paper will serve as a basis for further dialogue, not only within the Govern4Afg context, but also between the government institutions of Afghanistan and within the donor community and academia. A broad dissemination of this issue paper will foster discussions and policy reforms on and between various levels. Govern4Afg will resume discussions during the course of 2016 along with newly identified topics.



Klaus Krämer
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August 2016

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Acronyms

AREU	Afghanistan Research and Evaluation Unit
BMZ	German Federal Ministry for Economic Cooperation and Development
CBR	Capacity-building for results
CEO	Chief Executive Officer
CSR	Civil service reform
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH
Govern4Afg	Governance Forum Afghanistan
IARCSC	Independent Administrative Reform and Civil Service Commission
IDLG	Independent Directorate of Local Governance
KII	Key informant interview
MoF	Ministry of Finance
MoJ	Ministry of Justice
MoPH	Ministry of Public Health
NGO	Non-governmental organisation
NGPAR	Next Generation of Public Administration Reform
NTA	National technical assistant
NUG	National Unity Government
P&G	Pay and Grading
PAR	Public administration reform
PRR	Priority restructuring and reform

Glossary

Mujahideen	Holy fighter who fought against the Russian invasion in Afghanistan
Loya Jirga	Grand Council
Wolesi Jirga	House of the People
Meshrano Jirga	House of Elders
Tashkeel	Organisational structure showing division of functions and official hierarchy in an organization

Executive Summary

During the period of transition (2001-14), Afghanistan made great progress in terms of development. The 2001 Bonn Conference set in motion a chain of policy frameworks, with the establishment of a more effective civil service being one of the government's priorities. In December 2014, based on the Kabul and London Conferences on Afghanistan, the Afghan National Unity Government (NUG) released its reform programme known as "Realizing Self-Reliance," thus marking the beginning of the so-called "decade of transformation" (2014-25).

One major objective of the NUG has been to build an Afghan state that respects, protects, and guarantees human rights, provides security, and is recognised by its citizens as their legitimate representative and provider of services that meet their basic needs. A well-organised and functioning civil service is crucial in this regard, as it is the government's main tool to implement its policies and provide public services to people all over the country.

It is obvious that the government has made huge achievements in terms of reforms. Substantial steps in reconstruction have been achieved, and the progress made on economic, social, and democratic development is remarkable. However, despite substantial improvement in many areas of national governance, especially in civil service reform (CSR), the entire process has been rather slow, and considerable challenges still remain. The provision of political, social, and economic goods to the population as well as the delivery of public services has, in general, fallen far short of expectations.

The government aims to establish a legitimate, non-political, stable, service-oriented, and accountable civil service in the framework of good governance, with the aim to use public resources more effectively and efficiently for basic services delivery, enhance revenue generation, and support the development of the private sector for national economic and social development. The greater goal is to ensure that the basic rights of Afghan citizens to participate in and benefit from development are realised.

Since its establishment in 2002, the Independent Administrative Reform and Civil Service Commission (IARCSC), mandated to lead the CSR process, has initiated and realised a number of CSR programmes. But there can be little doubt that reforms, at least in the past, have often been strongly donor-led with the establishment of parallel administrative system.

Objectives of the research

This issue paper aims to conduct a broader analysis of the civil service and key policy reform processes in the sector. It seeks to understand the functions and role of the civil service sector and identify mechanisms to foster multi-level service delivery at both national and subnational levels. Finally, it provides suggestions on strengthening public administration reforms in the civil service sector in the context of the NUG's political agenda.

Methodology

The research team assessed the existing legal and regulatory framework and scrutinised the government's strategies and programmes. It reviewed reports and relevant academic articles produced by national institutes and international development agencies.

Moreover, the team conducted key informant interviews with public administration officials and academics on civil service issues. In addition, the research team also held an open dialogue event with representatives from the government, donor organisations, and civil society, as well as national and international experts on the civil service sector. The objective of the event was to discuss the current challenges and obstacles to civil service reform and develop suggestions and recommendations on how to reform and strengthen the civil service sector.

Key findings

Based on the desk research and results from the interviews and discussion process, key obstacles and challenges were identified. Among the obstacles and challenges hampering the CSR process, the following major issues were identified:

- **Lack of political and managerial will and commitment for CSR**
There is lack of clear leadership and willingness for CSR, and there is no whole-of-government approach toward reforms. In addition, the structures and procedures for effective coordination at the political and administrative levels do not exist, while there is an emphasis on event-oriented decisions, improvisation, quick fixes, and externally driven projects rather than a continuous CSR.
- **Lack of a proper legal and regulatory framework**
The Organic Law and Civil Servants Law are not yet in place or need to be revised. These laws define the functions and structure of civil service ministries and human resource management in the civil service sector.
- **Weak leadership and multiple interferences in the reform process**
The prime responsibility of the IARCSC has been weakened by a proliferation of actors, agencies, and international donor organisations.
- **Unclear understanding of reforms in the civil service**
There have not been clear long-term or, at least, intermediate-term results or outcomes from the reform initiatives and programmes in the civil sector.
- **Duplications and overlaps of functions and roles among civil service ministries and agencies**
The lack of a common framework for the administration of civil service entities is mainly due to the deficiency of the Organic Law and the unclear division of competences between ministries (parallel structures, overlapping competences, and “turf wars”). In addition, donor agencies create autonomous parallel executive structures within ministries, with staff not aligned to the civil service sector.
- **Complex service delivery and business processes**
A large number of lengthy and complicated service delivery and administrative procedures undermines both the quality and operational performance of service delivery and increases the potential for corruption.
- **Complexity in human resource management**
Practices of nepotism and hiring based on ethnicity are common, and there is lack of a consistent and transparent merit-based appointment process in the civil service. Multiple and concurrent donor-funded pay scales and the proliferation of super-scales have led to the rise of parallel services (secondary civil service). Career development is not encouraged in the current system, and a comprehensive capacity-building and training policy does not exist; little attention is given to the conditions under which staff can work effectively.

Nevertheless, there is an impressive number of excellent analyses, studies, strategies, and detailed programmes ready for implementation. However, the process of implementation varies from sluggish to negligent with delaying tactics. There is also a massive gap between the planning and implementation of CSR.

Key recommendations

The civil service as the visible and acting tool of the government has to contribute toward improving the quality and reliability of services to citizens and businesses. Services that implement measures to reduce poverty, combat corruption, improve living standards, and enhance private sector development are indeed crucial for the improvement and development of the country. Therefore, the entire government should focus on CSR.

In order to stress the importance of CSR and prevent any interference or overlapping competences, the President should establish a Coordinating Committee consisting of the relevant ministries and agencies chaired by the President and/or the Chief Executive Officer of the NUG. This Coordination Committee could expedite, supervise, and evaluate the creation and implementation of CSR measures.

The most relevant recommendations for strengthening CSR are as thus:

- Visible willingness, commitment, and support for CSR at the top political level;
- Establishment of a clear vision and determined strategy for a whole-of-government approach to CSR;
- Creation of an adequate legal framework for public administration reforms in the civil service;
- Explicit allocation of competences and responsibilities in civil service ministries and agencies;
- Right-sizing of the organisational structure and optimisation of work processes in the civil service sector;
- Establishment and guarantee of fair, transparent, merit-based appointment procedures, with a consideration for gender equality;
- Adequate and unified pay and grade system;
- Capacity-building and training of civil servants;
- Establishment of a sense of commitment, motivation, and civic responsibility among civil servants;
- Simplification of the key service delivery processes;
- Division of the political and technical layers in the civil service sector;
- Elimination of overlaps and duplications;
- High accountability and involvement of civil society.

It would be of critical importance to emphasise the implementation of CSR and prioritise these parts of the CSR agenda, as they will bring the most immediate and demonstrable benefits to the greatest number of citizens.

The IARCSC should remain the leading agency for CSR, but it needs to be strengthened and supported by the entire government.

1. Introduction

In 2015, Afghanistan entered the so-called decade of transformation (2015-24). The transformation decade seeks to consolidate and build on the outcomes of the transition period (2011-14) to ensure Afghanistan's future as a functional, stable, and durable state.¹

One major objective is to build an Afghan state that respects, protects, and guarantees human rights, provides security, and is recognised by its citizens as their legitimate representative and provider of services that meets their basic needs.

Afghanistan continues to be a fragile state with weak and frail public institutions. The civil service is considered as a core engine of the government, responsible for direct service delivery to citizens through either civil service ministries responsible for direct service delivery or the private sector under the regulation and supervision of the civil service sector or other state authorities. The creation of civil service reform (CSR) requires a specific understanding of the Afghan context, which is characterised by difficult geography, social heterogeneity, ethnic divisions, religious supremacy, a young demographic profile, patriarchy, authority-driven leadership, and, in particular, conflict and insecurity.

Good governance requires an efficient public service, a reliable judicial system, and an administration that is accountable to its public. According to the World Bank, "Good governance is synonymous with sound development management."² It is central to creating an environment that fosters equitable development. Governments play a key role in the provision of public goods. They establish the rules that make markets work efficiently and they correct for market failure. To fulfil this role, governments need revenues as well as agents to collect these revenues and produce public goods. This, in turn, requires systems of accountability, adequate and reliable information, and efficiency in resource management and the delivery of public services.

According to the general consensus, good governance is the capacity of a government to formulate policies, manage the fiscal and administrative affairs of the state, and deliver goods and services to citizens. The relationship between the civil service sector and good governance is inevitably crucial, as the civil service sector plays a key role in policy formulation, the management of the fiscal and administrative affairs of the government, and the delivery of services to the public either directly or indirectly through the private sector.

The governance reform agenda of the Afghan National Unity Government (NUG), including the reform of the civil service sector, has to be consolidated and its legitimacy anchored via active citizen participation, the enforcement of the rule of law, merit-based appointments, and continued improvement in its administration. In this respect, the NUG is committed to "rigorously simplify service delivery arrangements across the civil service."³

The German Development Cooperation has supported governance in Afghanistan since 2003 via various instruments and programmes, and now it wishes to consolidate its governance efforts. In the context of the decade of transformation, the Country Strategy of the Federal Ministry for Economic Cooperation and Development (BMZ), entitled "New Development Strategy for the Cooperation with Afghanistan in the Period 2014-17," was approved. It defines good governance as one of five focal points. The focus of the German engagement is thus the promotion of principles of good governance specifically in the three sub-areas of the rule of law, political participation, and public administration.

¹ Government of Afghanistan, "Towards Self-Reliance: Strategic Vision for the Transformation Decade" (Kabul: Ministry of Foreign Affairs, 2012).

² World Bank, "Governance and Development" (Washington, DC: World Bank, 1992), 1.

³ Government of Afghanistan, "Government of National Unity Deal" (Kabul: Administrative Office of the President, 2014).

The programmes in the governance sector are expected to support an overarching discussion and work on governance-related topics beyond individual programmes. A better understanding of the governance context in Afghanistan and greater systematic work on governance issues in both governance and sector programmes enhances the effectiveness of the Afghan-German Development Cooperation.

The two-year Govern4Afg project was launched by German and Afghan partners to establish a platform for policy dialogue on governance topics in Afghanistan. Researchers and policymakers from both countries will provide evidence-based inputs to foster dialogue that aims to strengthen development cooperation in the governance sector. Govern4Afg, as an overarching platform and think-and-do tank, supports the governance portfolio in Afghanistan in the implementation of the BMZ Country Strategy. As a result, our understanding of the governance context in Afghanistan is enhanced, and the main actors in the field of governance are supported in a range of in-depth and systematically developed governance-related topics. By fostering dialogue between Afghan and German “drivers of change,” Govern4Afg contributes to overarching policy development and implementation aligned with the Afghan context and needs

The project more specifically seeks to: (1) contribute to an enhanced understanding of the governance context in Afghanistan and a more in-depth and systematic development of governance-related topics; (2) develop a network of experts and professional expertise on governance and Afghanistan and provide support and advice to Afghan and German decision-makers and German programmes; (3) analyse and monitor governance trends and related topics by documenting the lessons learnt and participating in the scientific debate; (4) advise governance and related-sector programmes on measures to strengthen synergies and interfaces; and (5) ensure the visibility of the impact of the governance sector and synergy projects on other focal areas.

In this context, the Afghan-German expert teams (researchers and governance practitioners) have prepared issue paper “that promote dialogue between Afghan and German policy-makers.” Each issue paper focuses on governance-related topics prioritised by Afghan and German partners.

This paper is based on desk research and interviews. In November and December 2015, key informant interviews (KIIs) were conducted in Kabul with actors from the government, United Nations agencies, non-governmental organisations (NGOs), and the international community in order to gain their respective views and perspectives. The interviewees were identified and selected carefully based on their experience with and relevance to civil service issues in Afghanistan. In December 2015, a CSR open dialogue event was held in Kabul with the presentation and discussion of the initial findings of this study. The dialogue event was attended by government stakeholders as well as representatives of civil society and the international community.

The main aim of this research is to provide a comprehensive overview of the status quo of the civil service sector in Afghanistan in terms of its legal background and modes of action. Furthermore, it highlights the obstacles and challenges hampering the implementation of reform initiatives. In the conclusion, recommendations are proposed on how to overcome the hesitant reform process and accelerate the implementation of CSR programmes, some of which have long existed.

2. Governance in Afghanistan

2.1 Background

During the last decades, the Afghan state has dealt with several conflict situations and foreign invasions. Particularly significant for this CSR study is the period spanning from the Soviet invasion in 1978 to the ousting of the Taliban in 2001. In April 1978, a coup in Afghanistan brought a communist government to power. Out of fear of losing the grip on this communist government, the Soviet Union invaded Afghanistan in 1979. The 1980s led to the formation of the Mujahideen and increased conflict in the country. The Soviets withdrew from the country in February 1989, and power was handed over to Dr Najibullah. In April 1992, he was ousted from power and killed, which marked the transition of conflict in Afghanistan.⁴

When the Mujahideen came to power, an internal war began among its different factions and parties until the emergence of the Taliban. This shift in power led to a further exodus of Afghan people. Kabul's educated elites, civil servants, medical professionals, and teachers left the country. Thousands of civilians who remained within the region were internally displaced.

After the ouster of the Taliban and establishment of Interim Administration in 2001, the Afghan authorities were left with the responsibility of restoring security, commencing state building, and initiating the process of development and rehabilitation. On 22 December 2001, the Bonn Agreement was signed, and the Interim Administration was set up with Hamid Karzai as Chairman. In June 2002, an Emergency Loya Jirga formed a transitional authority with Karzai as President. As per the terms of the Bonn Agreement, the 1964 Constitution was reinstated, and a time frame was fixed for national elections to be held in mid-2004. During this period, a new Constitution was debated until January 2004. The new Constitution provided for an elected President and a National Assembly comprising two houses—the Wolesi Jirga (House of the People) and Meshrano Jirga (House of Elders). Members of the Wolesi Jirga were to be elected through free and fair elections, and members of the Meshrano Jirga were to be appointed as per the provisions of the Constitution.

During Dr Najibullah's government and the Mujahideen and Taliban regimes, there was no single agency responsible for public administration reform in Afghanistan. Human resource management functions were spread among different ministries such as the Ministry of Labour and Social Affairs and the Ministry of Finance (MoF) along with the Office of Administrative Affairs. Due to the lack of harmonisation between the different government entities, there was no space for public administrative reform or the creation of a dynamic civil service.

The principle critique of the civil service system prior to the establishment of the new government in 2001 was that it lacked effectiveness, had a traditional management approach based on the autocratic regimes prevalent at the time, and was under the control of the ruling elites. To keep the Afghanistan civil service and public administration in line with the changing times and the government's development and reform agenda, it was necessary to establish an entity for this particular reform. The Independent Administrative Reform and Civil Service Commission (IARCSC) was thus created.

2.2 Public administration system

After the signing of the Bonn Agreement in December 2001, the Interim Administration was set up, and in June 2002, a transitional government was formed through an emergency Loya Jirga. The 1964 Constitution was reinstated to regulate the functions of the Afghan state based on the terms of the Bonn Agreement. Early in January 2004, the new Constitution was formed to provide for an elected President as head of state along with three branches of power: the legislative, judiciary, and executive branches.

⁴ Mark Duffield, "Review of the Strategic Framework for Afghanistan" (Kabul: Afghanistan Research and Evaluation Unit, 2001).

Legislative power

As provided by the Constitution,⁵ the legislative power consists of the two Houses of the Parliament, the lower Wolesi Jirga (House of the People) and the upper Meshrano Jirga (House of Elders). Members of the Wolesi Jirga are directly elected for a five-year term by provincial constituencies. There are currently 249 seats in the Wolesi Jirga; the Constitution stipulates a maximum of 250 seats. Seats are distributed among the provinces according to population size. The Meshrano Jirga has 102 members, selected by a mixture of presidential appointments (one-third) and indirect elections following the popular elections for the Wolesi Jirga and Provincial and District Councils (two-thirds). The Constitution stipulates that the members of the Meshrano Jirga are elected and appointed as follows:

- Among the members of each Provincial Council, the respective council elects one person for a period of four years;
- Among the members of each provincial District Council, the respective councils elect one person for a period of three years.

The 34 Provincial Councils have between 9 and 29 members depending on the size of the province's population. Members are elected in a single provincial constituency. According to the Constitution, District Councils should have between 5 and 15 members, elected every three years, depending on the size of the district's population. However, District Council elections have not yet been held, and there are no such intentions to do so in the near future.⁶

According to Article 90 of the Constitution, the National Assembly has the following authorities:

- Ratification, modification, or abrogation of laws and legislative decrees;
- Approval of plans for economic, social, cultural, and technological development;
- Approval of the state budget and according permission for obtaining and granting loans;
- Creation, modification, and abrogation of administrative units;
- Ratification of international treaties and agreements or abrogation of Afghanistan's membership to them.

Judicial power

The judicial power is one the three branches of State of Afghanistan. As per the 2004 Constitution, the judicial branch is an independent branch of the state of the Islamic Republic of Afghanistan and consists of the Supreme Court (*Stera Mahkama*), high courts, appeal courts, and primary courts.⁷

Supreme Court

In accordance with the Constitution, the Supreme Court has nine members, appointed for ten-year terms by the President, with the approval of the Wolesi Jirga. The President selects one of the nine members to serve as Chief Justice. The Supreme Court manages the personnel, budget, and policy decisions of the entire national, provincial, and district court system.

Appeal courts

Appeal courts are operational in all provinces, comprising the Chief of the Court, other judicial members, and heads of dewans (sections). Courts of Appeal in more populous provinces have five dewans: general criminal (which also deals with traffic violations), public security, civil and family, public rights, and commercial. Less populous provinces have four dewans: city primary court, general criminal, civil, and public security. Only the court of appeal in Kabul has a juvenile court specially created to hear cases involving juveniles, although many provinces have judges

⁵ Government of Afghanistan, "Constitution of Afghanistan" (Kabul: Ministry of Justice, 2004), Art. 82, Chap. 5.

⁶ KII, senior official, Independent Directorate of Local Governance (IDLG).

⁷ Article 116 of the Constitution states that "The judicial branch is an independent branch of the state of the Islamic Republic of Afghanistan. The judicial branch consists of the Supreme Court (*Stera Mahkama*), High Courts, Appeal Courts, and Primary Courts, the structure and authorities of which are determined by law."

experienced or trained to deal with juvenile cases. The courts of appeal oversee the rulings and decisions of the primary courts in their respective provinces and have the authority to correct, overturn, amend, confirm, or repeal these rulings and decisions. They are also responsible for deciding on conflicts of judicial jurisdiction.

Primary courts

At the district level, the city primary court, which is the primary court in the provincial capital, consists of five dewans: general criminal, civil, public rights, public security, and traffic. Primary courts in all districts outside of the provincial capital have three dewans: general criminal, public security, and civil and public rights. Many districts do not currently have functional primary courts, mainly due to security concerns. In many cases, judges hold primary court sessions in the provincial capital.

Criminal cases are initiated when the Prosecutor's Office files them with the primary court; civil rights cases are filed with an office in the Ministry of Justice (MoJ). Thereafter, a series of judicial sessions may be held until a decision is reached by the primary court. Almost as a matter of customary practice, most cases decided by the primary courts are appealed in a court of appeal. When appeals reach the Supreme Court, judges often send the case back to the primary court for a new hearing or trial.

Executive power

Based on the Constitution, which proclaims a central state of administration, the sole authority for the entire state lies with the President. However, after the deadlock election of 2014 and the signing of a political deal with the two frontrunners in the presidential election, a new position of Chief Executive Officer (CEO) emerged as the head of the executive branch of Afghan state. According to this political agreement that resulted in the current NUG, the President has a policymaking role and pursues the international relations of the Afghan state, while the CEO has an executive and management role, particularly with the ministries and independent agencies in the civil service sector. However, "clear lines of authority and responsibility have not yet been clarified enough for both the President and CEO in National Unity Government."⁸

The executive power of the Afghan state comprises two levels of administration: central government and subnational government. In the NUG, the executive branch at the central level includes the President, two Vice Presidents, the CEO, two Deputy CEOs, 26 ministries, and 30 independent agencies. Independent agencies are government entities that report directly to the President and are not responsible to a ministry. The President is the head of state, the chair of the Cabinet, and the commander-in-chief of the armed forces.

The President nominates all of the ministers in addition to the Head of the National Security Directorate, Head of the Da Afghanistan Bank, Attorney General, Head of the Red Crescent Society, members of Supreme Court, and members of Constitution Oversight Commission to the National Parliament (Wolesi Jerga). The nominees are then subject to a parliamentary vote for acceptance or rejection.

The President is directly elected for a five-year period and can serve a maximum of two terms.

The President's Office consists of his Office, which provides administrative, logistical, and financial support to the President, the Security Council, the Press Office, Vice Presidents, and advisors to the President.

According to the Constitution, all other executive posts, including that of the Vice Presidents, the Mayor of Kabul, governors, and heads of various commissions, are appointed by the President and do not require the approval of the National Assembly. In addition, all senior management positions at both national and subnational levels are to be approved by the President after a merit-based open-competition recruitment process.

⁸ KII, senior official, CEO's Office.

2.3 Civil service sector: Structure and functions

Historically, many events have impaired the development of a functional civil service sector in Afghanistan. The different wars and conflicts have broken the continuity of the civil service sector and have made it weak and politicised rather than professional and technical.

After the end of the Soviet invasion, there was a gap in the system of a functional civil service from 1992 to 2001. Due to these disturbances, the civil service sector as a whole and its civil servants were neither professionalised nor depoliticised; indeed, the civil service was paralyzed. Given the existing situation with its gaps in the civil service sector and service delivery to citizens, it is necessary to make it more robust so that it is able to contribute to the transformation of Afghanistan toward development and self-resilience.

The civil service sector in Afghanistan comprises 26 ministries and 30 independent agencies. It is the key sector of government service delivery to improve the quality and reliability of services to citizens and businesses. Basic services include education, electricity, water, health, poverty reduction, combatting corruption, improving living standards, and enhancing private sector development; all of these services are crucial for the improvement and development of the country.

Ministries

The civil service sector includes all ministries and independent agencies, commissions and authorities at national level, and provincial and district offices at subnational level. In addition, the judiciary and non-legislative offices and entities in the judiciary and legislative branches of the state, namely the General Management Office in the judiciary branch and the administrative secretariats in both Houses of Parliament fall under the civil service sector and follow its legislative rules and regulations. As one key informant from the World Bank noted, “The civil service sector has seen fundamental changes since 2001. The legislative framework was not clear in terms of reforms, but now a clear legal framework is available. The roles and functions of the civil service are well defined, and a working system has been established.”⁹

There are currently 26 ministries¹⁰ in the executive branch of the Afghan state. Apart from the Ministry of Defence, Ministry of Interior, and National Directorate of Security, the remaining 23 ministries follow the rules and regulations of the civil service and are considered as part of the civil service sector.

Independent agencies

There are currently 30 independent agencies in the civil service sector. These agencies are government budgetary entities that report directly to the President and are not responsible to a particular ministry.

Overlaps and duplications in the civil service sector

In the context of the functions and structure of the ministries and agencies, the civil service sector lacks a specific legal framework. The Organic Law, however, aims to articulate the roles, functions, and basic structure of the entire state. As the functions and roles of the three branches of the Afghan state are already defined in the Constitution, there is a critical need for the enforcement of the Organic Law to determine the roles and functions of the civil service ministries, including those relating to the security sector. The multiplicity of functions in the civil service sector has not yet been removed, particularly with regard to reforms and anti-corruption measures.¹¹

⁹ KII, advisor, World Bank.

¹⁰ See Appendix 1 for the list of civil service ministries and their corresponding functions.

¹¹ KII, senior official, Ministry of Public Health (MoPH).

The structure of the civil service sector is not responsive to its mandate and functions. As one key informant from the World Bank observed:

The organisational structure was inherited through the country's history of conflict. For instance, there is a unit to provide telephone services in the Ministry of Communication and Information Technology, which still exists within the structure of the ministry. However, the Ministry of Communication and Information Technology no longer performs this function. It now should be a regulatory ministry, but no change has occurred in the structure of the ministry. There are even symbolic ministries or ministries without a clear mandate such as the Ministry of Women Affairs, Ministry of Economy, Ministry of Tribal Affairs, and Ministry of Counter Narcotics. There are obvious overlaps and duplications between the Ministry of Finance and Ministry of Economy in terms of economic policy and planning.¹²

There are several ministries and agencies that share one function; for instance, the High Office of Oversight on Anti-Corruption, Audit and Control Authority, President's Office, Internal Audit Departments of the individual ministries and agencies, and the Attorney General's Office all deal with anti-corruption efforts in the civil service sector.

The IARCSC has already identified major areas of overlap and duplication in the ministries and independent agencies. However, in the view of one senior official from the Ministry of Public Health (MoPH), political support for the implementation of reforms in the civil service sector is only rhetoric without action.¹³

Human resource management in the civil service sector

The Afghan civil service sector is a position-based system where the civil service grade is assigned in the tashkeel (organisational structure) to a particular position. As per the Civil Service Law, "A civil servant is a person appointed by the Government to perform its executive and administrative duties."¹⁴ Thus, all staff are employees of the government, and as a result, the government has discretion over issues such as salary levels, staffing numbers and allocation, recruitment, and terminations. However, basic standards and procedures are often guided by the established and overarching framework of civil service laws created by the government.

Positions in the organisational structure of the civil service organised according to eight grades, from grade 8 as the lowest to grade 1 as the highest. Civil servants are appointed in civil service positions through open competitions. The open competition recruitment process for grades 8 to 3 are managed and processed by the relevant ministry or agency under the supervision of IARCSC's Appointment Board. Appointments in senior management grades (grades 1 and 2 corresponding to director general and director positions, respectively) are now managed and processed by the individual ministry or agency at national level with the Minister or Agency Chairperson as the head of the recruitment committee with the process being supervised by IARCSC's Appointment Board. This new recruitment process for senior management grades occurred by presidential decree. Since the establishment of the IARCSC and its Appointments Board and the enforcement of merit-based open competition over the past few years, the senior management recruitment process has been led and managed by the Appointment Board.

The shift in the recruitment process, although in contradiction to civil service laws, was decided, because the Appointment Board of IARCSC had not been transparent in the recruitment process of civil servants in the civil service ministries and agencies.¹⁵ Nevertheless, this change has not ensured transparency in the recruitment process, because ministers, as the head of the recruitment committees of the line ministries, are under the pressure and influence of members of parliament and other political groups, and so they may not be able to ensure transparency and merit-based open competition. In addition, the new recruitment process has not only undermined the achievements of the government in terms of reforms and the establishment of merit-based open competition in

¹² KII, advisor, World Bank.

¹³ KII, senior official, MoPH.

¹⁴ Government of Afghanistan, "Civil Service Law" (Kabul: Independent Administrative Reform and Civil Service Commission, 2003), Art. 4, Para. 1.

¹⁵ KII, advisor, World Bank.

the civil service sector, but it has also merged the political and technical layers of the civil service ministries instead of establishing a clear line of technical and political functions in the civil service sector. As one senior official at the IDLG noted, “The political and technical layers are not distinct in the structure and function of civil service ministries and agencies at both national and subnational levels,”¹⁶ and as a result, this has exacerbated the technicality and professionalism in the civil service sector. A senior official at the IARCSC explained the situation as follows:

For any reform, there needs to be a legal and policy framework and system to improve service delivery and sound human resource management. The current number of civil servants in Afghanistan’s civil service ministries is around 417,000. Around 220,000 are civil servants responsible for direct service delivery. There needs to be an in-depth assessment if this number is sufficient for service delivery. However, looking at the distribution of civil servants, the national civil service is overloaded compared with the provincial and district levels. The current balance is 20% in the centre and 80% of civil servants in provinces.¹⁷

There have been several project implementation units that used major development projects in civil service ministries and hired personnel on a contractual basis, and many such parallel structures continue to exist in the civil service sector. These personnel were paid significantly higher salaries than regular civil servants. They would run projects in the government and then leave after the project completion. This caused a break in the link, as the civil servants would mostly be left unaware as to how to continue with the management of a project. Even during the implementation of donor-funded projects over the last 15 years, projects were not integrated into the permanent structure of the civil service, and knowledge was not transferred to civil servants. This led to the establishment of a parallel structure within ministries without any clear and systematic coordination with permanent tashkeel units. Therefore, the training and development of civil servants are vital, so that they can work on a project in its entirety and also be part of the follow-up process. A key informant from the Ministry of Agriculture, Irrigation, and Livestock summarised the problem as follows:

Currently, the major problem for civil service ministries, particularly those with a high number of externally funded development projects, is the integration of these projects within the ministry’s structure. This is due to the lack of a clear regulatory and legal framework.¹⁸

There should therefore be clear policy directions for the simultaneous integration and coordination of projects. These need sufficient resources in the operating budget of the ministry.

The human resource management system in the ministries is also a challenge. There are many interventions, particularly in the recruitment process of civil servants as well as project and contracted staff. Major challenges in the civil service ministries and agencies are transparency in the recruitment process, staff retention, training and development, and salary levels.¹⁹

Inequality in the salaries of civil servants and project staff is also a great challenge, and there needs to be a proper harmonisation of salaries in the civil service sector. Ministries should focus on inputs such as financial, human, and physical resources rather than outcomes and results.

As the civil service system is managed by civil servants, the rules relating to the employment of civil servants are crucial to the development of the governing structure of Afghanistan. In this context, the Civil Servants Law regulates all of the rules relating to recruitment, promotions, transfers, retention, and termination of the services of civil servants. One key informant from the civil service sector summarised the situation as follows:

One major challenge in the implementation of good governance, service delivery, and reforms is the lack of a proper system of human resource management, particularly in the selection of the wrong people in the leadership of organisations, because there has to be good managers and leaders in organisations for implementation, evaluation, and coordination of the government’s development and reform programmes.²⁰

16 KII, senior official, IDLG.

17 KII, senior official, IARCSC.

18 KII, senior advisor, Ministry of Agriculture, Irrigation, and Livestock.

19 KII, senior official, MoPH.

20 KII, civil society member, research institute.

Human resource management units have been established in civil service ministries and agencies to carry out all functions relating to civil servant management such as capacity-building, performance appraisals, records, promotions, complaints handling, and so forth. The recruitment process is not transparent, and ministries are not responsive in managing their own civil servants, because the current Civil Servants Law limits the management of civil servants.²¹ All human resource management rules for civil service employees are regulated through the relevant civil service regulations and procedures.

Not only does human resource management come under the central administration, but the power and authorities of most key functions also lie with it. The decentralisation and delegation of authority to subnational levels of administration do not sufficiently exist.²²

CSR aims to ensure that recruitments and promotions are based on merit. This is expected to be implemented through the introduction of a merit-based open-competition system of recruitment, which will assist in solving the problem of nepotism and patronage. It is also vital to:

*...distinguish the political layer from the technical layer in the civil service and create a sense of security for civil servants. Civil service should be kept away from the political agenda and from any interference, and civil servants should be managed by the Civil Servants Law rather than by political will, and so avoid the political administration as opposed to the technical administration.*²³

21 KII, senior official, MoPH.

22 KII, senior official, IDLG.

23 KII, senior official, IARCSC.

3. Civil Service Reform in Afghanistan

3.1 Legal framework for civil service reform

The legal basis for administrative reform stems from Article 50 of the Constitution. Indeed, the need to reform the administrative system was required after the overthrowing of the Taliban in 2001 and the introduction of a presidential form of government. The presidential decree that established the IARCSC further provided the legal basis through which reforms could be carried out within the Afghan government system, with a special focus on civil service management and reforms. A senior official from the World Bank commented on this as follows:

Public administration reforms in the new government of Afghanistan started from scratch and have had both successes and failures. There have been constraints in legal, structural, and capacity areas. The civil service has come a long way from 2001 until now. The legislative framework was not clear in terms of reforms, but a clear legal framework is now available. The roles and functions of the civil service are clear, and a working system has been established.²⁴

While the IARCSC was established to carry out several functions of civil service management and administrative reform, it has also played the role of coordinating between different ministries and ensuring that the promulgated legislation was applied in practice. With the evolution of the administrative system and the implementation of the Civil Service Law after the enforcement of the 2004 Constitution, there has been a further debate on enhancing the quality of civil service rules to further strengthen the public administrative system and bring it on a par with the international principles of public administration.

Constitution

The form of the centralised administrative system in the Afghan state stems from the following three articles of the Constitution:

Article 36: “The administration of the Islamic Republic of Afghanistan, based on the units of the central government and local offices, shall be regulated according to the law. The central administration shall be divided into several administrative units, each headed by a Minister. The local administrative unit shall be a province. The number, area, divisions and related provincial organisations as well as number of offices shall be regulated on the basis of population, social and economic conditions, as well as geographical location.”

Article 37: “The government, in preserving the principles of centralism, shall transfer necessary powers, in accordance with the law, to local administrations in order to accelerate and improve economic, social as well as cultural matters, and foster peoples’ participation in developing national life.”

Article 50: “The state shall adopt necessary measures to create a healthy administration and realize reforms in the administrative system of the country. The administration shall perform its duties with complete neutrality and in compliance with the provisions of the laws. The citizens of Afghanistan shall have the right of access to information from state departments in accordance with the provisions of the law. This right shall have no limit except when harming rights of others as well as public security. The citizens of Afghanistan shall be recruited by the state on the basis of ability, without any discrimination, according to the provisions of the law.”

²⁴ KII, senior official, World Bank.

Organic Law

To link all functions of the government, there is a need for a law that forms the core and centre of governance in Afghanistan and provides the mandate to the government to define their role and powers. This would reinforce the policymaking function of the President's Office along with the adjoining bodies and ministries, including the CEO's Office. The government has been in the process of drafting a law to this effect over the past few years. In its current form, the draft law is referred to as the Organic Law, and it seeks to clarify the mandate and basic organisational structure of the different government offices.

In 1964, there was already an early version of the Organic Law, although it is no longer applicable. The current draft considers the structure and functions of the state organisation and extends the area of activity to all three branches of the government. The duties and responsibilities of the 26 ministries have been included in the draft (see the list and functions of the individual ministries in Appendix 1).

The draft Organic Law in its current form has six chapters with 59 articles that state the different provisions and governance structures. The chapters are divided into topics of general provisions, the functions and structures of the different ministries, the national assembly, the judiciary, subnational governance, and final provisions.

The basis of this law is the Constitution, and it is intended to apply to all three branches of government, that is, the executive, legislative, and judiciary. However, the law is currently under debate by the Afghan Parliament, as the IARCSC has recommended that the Organic Law should only apply to the executive branch of government, and it has developed a draft in this regard.²⁵

To make this law the main law of governance functioning, the President has been recommended as the head of all three branches of government. Since Afghanistan is a unitary state with a centralised government, these features are part of the country's core governance. The Afghan governmental system works through a unitary structure, and in political and fiscal terms, it is one of the most highly centralised states in the world. Therefore, to assist in this process of administration, the Organic Law provides for the division of the different ministries that form part of the government.

Subnational governance is covered by Chapter 5 of the Organic Law. For the subnational regions, the governor is the head of the administrative unit of the province. Article 52 lists the 34 different provinces of Afghanistan, while these provinces are further subdivided into districts with specific grades. Each province is provided for with a Provincial Council whose members are elected through free and fair elections. District Councils have additionally been created to organise and ensure people's active participation in subnational governance. The division of power at the subnational level is essential, as in the current civil service system there is no percolation of duties and responsibilities to the lower levels of management. In most instances, the effect is only seen at the top managerial levels.

The Organic Law thus seeks to play a vital role in the organisational and administrative structure of the government of Afghanistan. However, the law is still under debate, and there are several factions that diverge in their perceptions of the purpose of the law. Regarding the circumstances of the government and its transition into a new possible form of cadre management system in the civil service sector, it is considering a law that encompasses the duties of all of the line ministries and specifically details their roles, duties, and functions. Such a law would seek to harmonise the varied administrative functions of the government and centralise all of the activities of the different branches of governance. Thus, the main purpose of this law is to define the structures of government and the relations between the different line ministries. This is pertinent in light of the current transitory phase and unstable history of the Afghan state.

²⁵ KII, senior official, IARCSC.

Draft Administrative Procedure Law²⁶

The primary law for accountability that is currently being drafted by the IARCSC is the Administrative Procedure Law. The Administrative Procedure Law has seven chapters that deal with different administrative aspects relevant to the civil service structure of Afghanistan. The main sections of the law are as follows:

- Administrative actions related to administrative decisions and contracts (two chapters);
- Principles of good administration associated with fairness, natural justice, and equality;
- Complaints mechanism outlining the internal control system, recourse, and remedies for the grievances of the general public toward the public administration;
- Obligation to keep a record of all administrative actions;
- Access to Information Law providing the right to obtain a response in a timely manner.

An important provision that needs to be considered but has not yet been added is the establishment of administrative tribunals. Most government personnel believe that there is a need to establish an administrative tribunal either through the Supreme Court or by a parliamentary act. The establishment of such a tribunal would solve problems relating to administrative reform and internal administrative issues within the government structure. The tribunal would act as an impartial body to adjudicate on these issues.

Civil Service Law

The Afghanistan Civil Service Law was ratified by Article 50, which formed the legal basis for the creation of the IARCSC. The passage of Decree No. 25 and the associated regulations in the form of Decree No. 26 on 10 June 2003 (1382/3/20) amended and extended the responsibilities of the Civil Service Commission to that of the IARCSC.

The Civil Service Law comprises eight chapters and 30 articles. Articles 3, 5, and 6 stipulate the functions and structure of the IARCSC. Articles 22, 23, and 24 relate to reforms in the civil service and civil servants' management. In particular, Article 22 deals with civil service positions, including grading, classification, level of responsibilities, and authorities; Article 23 refers to the appointment of civil servants on the basis of merit and professional skills without discrimination; and Article 24 discusses personnel management and its regulation.

Civil Servants Law

The Civil Servants Law 2008 comprises six chapters and 35 articles. Articles 6-11, 16, 23, 28, 32, and 34 relate to reforms. Articles 6 to 11 set out the employment requirements and appointment arrangements; Article 16 outlines the performance appraisal process; Article 23 deals with promotions; Article 28 stipulates the appeals provisions; Article 32 sets out the requirements for consultation with the IARCSC; and Article 34 confirms that the IARCSC must approve the job requirements for each grade.

The purpose of any civil service legislation is to regulate the special relations between the state and civil servants. As civil servants form a link between the government and the citizens through service delivery, a robust civil service is essential in order for the state to create an ongoing governance structure and allow for social, political, and economic development of the country and its people.

In the context of public administration reform (PAR), the law regulating the civil service is central. The Civil Servants Law is thus important, as it describes the rules for civil servants with respect to recruitment, promotions, transfers, retention, and termination. The Civil Servants Law is the primary document in this regard.

²⁶ Government of Afghanistan, "Administrative Procedure Law Draft Document" (Kabul: Independent Administrative Reform and Civil Service Commission, 2015).

New draft of Civil Servants Law²⁷

Discussions for reforming the Civil Servants Law have been ongoing in Afghanistan for the past two years. The process for amending this law and changing the extant system was initiated by the IARCSC, which first prepared its own draft of the law before circulating it among the various ministries. Suggestions and recommendations from these ministries were then incorporated, and a new updated text was prepared. This text was then submitted to the MoJ, which is in charge of submitting it to the Parliament.

Therefore, by introducing a new law now, there would be yet another change in the system. Yet as the existing system along with its merits and demerits had not been completely analysed, there was no primary reason to change the system. Despite the concerns about the draft law, the majority of the line ministries agreed on the need to move toward a cadre-based system,²⁸ and therefore the decision was taken to amend the law accordingly.

An interviewed senior official at the IARCSC argued in favour of the new law: “A new Civil Servants Law needs to be established and enforced for more professional structures in civil service sector as well as for the establishment of a sound cadre management system.”²⁹ However, a constructive recommendation was to amend the existing law instead of creating a new law. It was felt across the government that the old system functioned well and that it could be developed instead of overhauling the entire system for a new form of governance.

Over the course of developing new systems of governance and different reform programmes in Afghanistan, there has been an excessive focus on outcomes and designing reform programmes rather than developing an efficient and sustainable agenda for a functional and appropriate civil service sector. Therefore, several quick-fix methods for short-term reform such as the priority restructuring and reform (PRR), PAR, and pay and grading (P&G) reform were implemented to resolve the issues. Now, however, there is a need to develop long-term solutions to sustain the civil service system.

In the current system, there is a dependency on international donors, as their officers are always available to fill in the gaps. This situation needs to change, and the onus of running the government should instead be placed on skilled and trained Afghans.

The greatest change is the shift from a position- to cadre-based appointment system. This has created an improvised legal framework for recruitments, promotions, transfers, and termination. Further, salary scales have been modified to adjust to market rates, and a host of incentives to attract qualified personnel have been added to the law. Pension regulations have been updated, and a new system of entry examinations has been added for recruitments.

During the current transitory period, both laws will coexist simultaneously until all civil servants are integrated into the new system, after which time the Civil Servants Law 2008 will be phased out.

Position- versus cadre-based system

The change from a position- to cadre-based system is drastic, and the two years of discussions and debates on the proposed change concluded that it would be beneficial to the civil service of Afghanistan. All of the civil service ministries involved explained the advantages and disadvantages of the system, and the majority agreed to this transition. It was accepted that the cadre system should be implemented at some point in the civil service, although its success would depend on how the government implements it.

It is important to invest more in the civil service, and the adoption of a merit-based cadre system is a step in this direction. However, the subnational level of governance is very weak, and even with this change to the system of governance, the issue of the percolation of resources and responsibilities still needs to be addressed at the subnational level.

²⁷ Government of Afghanistan, “Civil Servants Law Draft Document” (Kabul: Independent Administrative Reform and Civil Service Commission, 2015).

²⁸ See the following subsection for an explanation of the cadre-based system.

²⁹ KII, senior official, IARCSC.

The cadre system is completely new to Afghanistan. Before 2001, there was a permanent civil service, although it was not based on any specific system. All civil servants were grouped together under one structure. The cadre system attempts to disassociate civil servants from ministers. It is the only way to grow, maintain, and specialise the civil service. Specific provisions in the draft law provide for the transition from a position- to cadre-based system. The key to implementing this transition process successfully is to adopt a gradual approach and apply the transition on a needs basis and not simultaneously to the entire civil service. It is important to allow the core of the civil services to grow instead of creating a jungle of recruited civil servants without personalised responsibility. To prevent an explosion in civil service cadres, the transition will take place on a needs basis and only for essential requirements. Further, it will promote a specialisation in services and create skilled posts. This gradual approach allows for the services to develop without any time limitation, as there is no rush to convert all appointments to the cadre-based system. The Civil Servants Law 2008 will still remain active until all civil servants have been absorbed into the new law. Therefore, the move to a new civil service system does not mean that the entire system is being changed. Instead, both systems will function simultaneously for a few years until the transition is complete. In the current transitory phase, it is not known how many cadres will be required and whether all existing positions can fit under the cadre structure.

In the draft law, all public institutions have been divided into sectors such as health, mining, public finance, foreign affairs, and so forth, and each sector has its own cadre system.

A senior official at the IARCSC noted that “In the legal context, there are three major laws to be approved and enforced to allow future reforms in the civil service ministries.”³⁰ Firstly, the **Organic Law** articulates the mandate and structures of all government entities, including the judiciary, legislative and executive branches of the state. This law should have been in place and enforced within 18 months after the enforcement of new Constitution. Its absence has nevertheless caused duplications and overlaps in the functions of civil service ministries and agencies. Some ministries perform certain functions fulfilled by others, as there is no differentiation in the functions and structures of an independent agency, office, commission, authority, and so forth. The **Administrative Procedure Law** outlines the service delivery methodology for the government and sets the norms and standards for service delivery. As core to the governance issue, this law also defines certain rules and standards for service delivery. Finally, the **Civil Servants Law** articulates the personnel management of civil servants. The P&G system established simple and more general reforms in the administration of civil service ministries and agencies rather than a professional cadre-based system.

3.2 Laws applicable to the civil service sector

The process of issuing various laws and decrees (*furmaan*) begins when the legislative decrees (*furmaantaknini*) are approved by the President and Cabinet. The President has the sole authority to approve all administrative decrees. Regulations are adopted by the Cabinet, and different legislative documents such as rules, directives, and guidelines are passed by the individual ministers and heads of independent agencies. The National Assembly has the authority to ratify, modify, or abrogate laws and legislative decrees. Therefore, in effect, laws passed by the National Assembly are considered as the most important and first in the legal hierarchy.

The new Constitution provides for a specific system of legislation. Strategies and policies are announced by the President as well as different individual ministers and independent agencies in civil service sector. During the second stage, these policies are assessed by the operating and development budgets. The government is then in a position to issue various laws and decrees (see Table 1 below for a summary).

The law is referred to as *kanoon*, and decrees are called *furmaan*. Regulations are referred to as *muqarrara*, and the procedures formulated as *tarzul-amal*. The drafts provided by the government are known as *musawida*, and promulgated administrative orders are *hukums*.

30 KII, senior official, IARCSC.

Certain legislative documents (rules, directives, and guidelines) can be decreed by individual ministers. A proposed bill or signed decree should be passed by the National Assembly within one month of its submission.

Table 1: Applicable regulatory documents in the civil service sector

Local name	Type of law	Function of the law
<i>Qanoon</i>	Law	Legislative document enforced by the President after the legislative process and parliamentary approval
<i>Furmaan</i>	Decree	Legislative document issued by the President
<i>Tarzul-amal</i>	Procedure	Regulatory document issued by individual ministries to manage their own specific process or function
<i>Musaweda</i>	Legal draft provided by the government	
<i>Hukum</i>	Administrative order	
<i>Furmaan-e-Taqnini</i>	Legislative decree	Legislative decrees are first approved by the President and Cabinet. The President has the sole authority to approve administrative decrees. The National Assembly then ratifies, modifies, or abrogates the laws and legislative decrees.
<i>Muqarrara</i>	Regulation	Regulations are adopted by the Cabinet, while different legislative documents such as rules, directives, and guidelines are passed by the individual ministers.

Legislative process in the civil service sector

During the legislation process, civil service ministries and agencies all have a particular role to play. When a draft law is prepared by a ministry, it is first circulated among all relevant ministries for comments and suggestions. Once these suggestions have been incorporated, representatives from each ministry are invited to participate in discussions to finalise the legislative document. Only after the opinions of all stakeholders are recorded is the draft sent to the MoJ.

The MoJ follows a similar process of evaluation with comments and suggestions sought from all relevant ministries and stakeholders. Within the MoJ, a Taqneen Directorate (Legislation Directorate) is responsible for drafting legislation for the government. The Taqneen Directorate drafts legislations, circulates them within ministries, accepts comments and suggestions, and then forwards the draft to the Council of Ministers. However, the MoJ's Takhneek Directorate requires an overhaul to conform to the new political environment. In the current framework, "The key challenge for the reform of legal and regulatory issues is the Legislative Department in the Ministry of Justice, mainly because of the low capacity in the department. Most laws are pending and are not processed in this department."³¹ Thus, following a basic change to the structure of the legislative policy drafting and implementation process, laws will be implemented at a faster pace in keeping with the needs of the NUG. These changes are therefore essential to further strengthen the civil services.

Policies and legislation can be initiated by the President's Office, individual ministries, or the National Assembly, and become law after being passed by both houses of the National Assembly and endorsed by the President. Article 94 of the Constitution states that:

31 KII, senior official, IARCSC.

- Law is what both Houses of the National Assembly approve and the President endorses unless this Constitution states otherwise.
- In case the President does not agree to what the National Assembly approves, he can send the document back with justifiable reasons to the Wolesi Jirga within 15 days of its submission.
- With the passage of this period or in case the Wolesi Jirga approves a particular case again with a two-third majority vote, the bill is considered endorsed and enforced.

3.3 Major public administration reform programs in the civil service sector

The legal basis for administrative reforms stems from Article 50 of the Constitution. In addition, the need to reform the administrative system was also required after the overthrow of the Taliban in 2001 and the introduction of the presidential form of government. The presidential decree that established the IARCSC further provided the legal basis through which reforms could be carried out within the Afghan government system with a special focus on CSR.

Public administration reforms in the new Afghan government started from scratch and have had both successes and failures. There have been constraints in legal, structural, and capacity areas. The civil service has come a long way since 2001. Initially, the legislative framework was unclear in terms of reforms, but now a clear legal framework is available. The roles and functions of the civil service are well defined, and a working system has been established.³²

While the IARCSC was established to conduct several functions of civil service management and administrative reform, it also played the role of coordinating between different ministries and ensuring that the promulgated legislation was applied in practice. With the evolution of the administrative system and the implementation of Civil Service Law since the adoption of the 2004 Constitution, there has been further debate on enhancing the quality of civil service rules to further strengthen the public administrative system and bring it in line with international principles of public administration. A key informant from the IARCSC, however, highlighted the lack of leadership in terms of CSR:

*Ambiguity regarding the policies and priorities of the political leadership with regard to public administration reforms is a great challenge for reforms in the civil service sector, particularly for the IARCSC. The IARCSC still does not have a clear direction from the top political leadership on CSR. No decision has yet been made by the leadership on what the priorities of the reforms in the civil service should be. There is currently no political priority, willingness, or support for civil service reform.*³³

However, the lack of a clear direction and objective in CSR is also evident:

*Before the implementation of reforms and the evolution toward a new civil service system, there were around 300,000 civil servants, but now and after the different stages of reform, there are more than 400,000 civil servants. This has mainly been due to the lack of clear objectives in terms of the results/outcomes of CSR. For instance, the previous 12-grade structure changed to an 8-grade structure of P&G without a clear objective for this transformation.*³⁴

Nevertheless, the IARCSC has developed and implemented several reform programmes in civil service ministries and independent agencies since its establishments in 2002. At that time:

*...ministries and agencies did not even have appropriate buildings. There was no legal basis for the civil service, no classical and traditional human resource management, and a lack of regulation and proper frameworks for the functions of public administration. For the last 14 years, many achievements have been made in CSR, but they are insufficient.*³⁵

32 KII, senior advisor, World Bank.

33 KII, senior official, IARCSC.

34 KII, senior official, IARCSC.

35 KII, senior official, IARCSC.

Priority restructuring and reform programme

The first reform programme for the organisational restructuring of the civil service sector was the PRR. Through this reform programme, initial improvements were made to the organisational structures of the civil service ministries. These reforms included a review of the allocated number of positions for the individual ministries, adjustments to the official hierarchy, and an initial division of functions among the technical and support services.

PRR was introduced as part of the first-generation PAR to facilitate reform in the ministries that play an important role in economic and social development such as the Ministry of Agriculture, Irrigation, and Livestock, MoPH, Ministry of Education, MoF, MOJ, and a few other ministries. Later, PRR was applied to all civil service ministries in the following two stages:

- Stage 1: Analyse the purpose (mission and vision) of the ministry/agency and design an organisational structure to help the ministry/agency fulfil that purpose.
- Stage 2: Develop the design identified in Stage 1 to include positions within each department and develop job descriptions and specifications for each position.

PRR was an important first step (first-generation PAR) in CSR. PRR's objectives were as follows: an efficient and service-oriented public administration, standardised services, a professional civil service (separate political and civil roles), reduced costs, and the merging of central and provincial government administrations.

The PRR programme included seven main elements:³⁶

1. A new legal framework for the civil service;
2. Improved personnel management;
3. Streamlining the institutions and functions of government;
4. Improved financial management, accountability processes, and procedures;
5. Better policy management and central government mechanisms;
6. Administrative efficiency; and
7. Better physical infrastructure.

The PRR programme was a key component in the PAR strategy. It was adopted by the government in 2003 by a presidential decree and implemented through the IARCSC. Originally targeted at specific "high-priority" functions of the government, PRR was later extended to "all" government institutions, which must follow an application process and then an implementation process.

Public administration reform programme

In 2005, PRR was redesigned as PAR to shift the focus from one-off initiatives to more comprehensive reforms covering entire ministries and agencies, while also extending the reforms from the centre to the provinces and districts. The second-generation PAR³⁷ programme had five "pillars":

1. Administrative reform;
2. Salaries and incentives;
3. Civil service management;
4. Ensuring and expanding merit-based appointments;
5. Capacity enhancement.

³⁶ Government of Afghanistan, "Priority Reform and Restructuring Strategic Work Plan" (Kabul: Government of Afghanistan, 2003).

³⁷ Government of Afghanistan, "Public Administration Reform Strategy" (Kabul: Independent Administrative Reform and Civil Service Commission, 2003).

The second reform programme, PAR, was developed and implemented by the IARCSC across the civil service ministries. This reform programme was intended to bring broader reforms and improvements to the civil service sector. In addition to more specific structural reform changes, which included developing departmental terms of reference, job descriptions for individual positions, and an initial alignment of the organisational structure with the strategic objectives of the line ministries, it also included reforms on human resource management, business processes, and policy and legal framework adjustments.

PAR was intended to lead to further changes, including higher salaries and a reduced numbers of civil servants. The P&G system aimed to achieve both of above objectives with the following purposes:

- Improved pay scales at all levels of the civil service;
- Abolition of the existing salary top-up schemes;
- Simplification of the current system of allowances;
- Transparent, merit-based mechanisms for promotion and career progression;
- Transparent mechanisms for performance evaluation;
- Improved accountability of civil servants;
- Improved service delivery.

Pay and grading

P&G was considered as the third-generation PAR in the civil service sector. P&G was required in the position-based system, in which there was no scope for reform. The main philosophy behind P&G was that in a closed-shop permanent civil service that was not organised through the cadre system, reform was required in order for people to be paid according to their grade and level of work and not according to seniority. The P&G framework stopped the payment scales based on seniority by dividing and classifying jobs and associating payments with the corresponding position. The existing P&G framework will now be adapted to the new cadre system of the draft Civil Servants Law. The specific details have not been included in the draft law, as it will be decided in a legislative document.

As the latest and more comprehensive reform programme, particularly for the organisational structure of government ministries and agencies, P&G established a new single grade structure with eight grades replacing the previous 12-grade structure. It defined clear differences between the main responsibilities of each grade and applied to all civil service positions across all ministries and agencies; it also established a single pay structure for each grade with five pay steps applicable to all civil servants.

The legal basis for P&G is found in the Civil Servants Law. This law sets out the following aspects for reform in the civil service ministries and agencies:

- Eight-grade organisational structure for all civil service ministries and agencies;
- Five steps for each grade;
- Pay ranges for each grade and each step;
- Appointment criteria for each grade;
- Performance management and evaluation.

The main purpose of the implementation of P&G reform was to help the civil service ministries have better organisational structures, remove any duplications and overlaps in functions, and improve the efficiency and effectiveness in the performance of ministries.

In the reform programme, jobs are well defined and organised for each position in the organisational structure. Job descriptions have been developed for all positions and for all departments and units of the line ministries. However, there are contradictions in the legal documents that clarify the roles and functions of individual ministries and agencies.³⁸

Overall, the challenges and problems in the implementation of P&G include the lack of a legal framework for the structuring and mandating of civil service ministries and independent agencies. This has caused a lack of clarity in the roles and functions of civil service ministries and agencies, which leads to overlapping and blurred delineations of the objectives in the strategies of most ministries and agencies, as the majority determine their own objectives. There are still duplications in the functions of ministers at the national level and governors at subnational level.³⁹

Next Generation of Public Administration Reform

In December 2014, the NUG released its reform and modernisation programme aimed at “Realizing Self-Reliance.” As the London Conference paper and the national strategic plan made resoundingly clear, the need for modernising reforms is compelling.

The government is aware of the central role that the civil service sector plays in implementing the policies of the state and in maintaining law and order, which drive productivity and growth. In line with the “Self-Reliance” strategy, the Next Generation of Public Administration Reform (NGPAR) reflects a commitment to realizing self-reliance by enhancing revenues, productivity, and growth; improving the welfare and well-being of people through better governance, opportunities, and the respect for citizens’ rights; and ensuring good governance through improved performance and better institutional arrangements.

The NGPAR strategy represents the fourth stage of PAR since the establishment of the Interim Government in 2001. It follows three phases: PRR, PAR, and P&G. The NGPAR strategy has three main objectives, notably to improve state capacity, national revenues, and service delivery.

The main investment priorities of the strategy are the capacity for self-sustainability, fiscal sustainability, improved economic governance, a major push to combat corruption, and greater focus on decentralisation.

The NGPAR strategy also has two main components,⁴⁰ with the priority areas of the components being as follows:

- **State effectiveness (effective policy formulation and service delivery execution):** strengthening the legal and regulatory framework; improved government coordination; advanced restructuring and reorganisation; business process segregation; implementation of a cadre management system; personnel training policy; decentralisation; and gender mainstreaming.
- **Fiscal sustainability (value-for-money government and long-term fiscal sustainability):** right-sizing; salary reform and a national technical assistant (NTA) policy; public private partnership; support to introduce VAT; business process simplification; and e-governance.

The strategy will cover the period from 2016 to 2020.

NGPAR proposes for one agency to lead the PAR process and give a clear direction in terms of both leading and implementing reforms in the civil service sector. As a senior official at the IARCSC suggested, “At this critical moment in the transformation decade, the NUG should give a clear vision and prioritise the reform agenda, support and back the leading agency for reforms, and remove any overlaps and duplications among the IARCSC, President’s Office, MoF, and Special Representative of President on Good Governance and Reforms.”⁴¹

38 KII, senior official, IARCSC.

39 KII, senior official, IDLG.

40 Government of Afghanistan, “New Generation of Public Administration Reform Draft Document” (Kabul: Independent Administrative Reform and Civil Service Commission, 2015).

41 KII, senior official, IARCSC.

Capacity-building to facilitate results

CSR is implemented in different stages: PRR, PAR, and P&G. These three reform stages have brought about general reforms in the civil service. Now, the size and function of the civil service is controlled. For the capacity-building of the civil service, the Lateral Entry Programme injected new human capacity to civil service ministries, although there is now capacity-building for results (CBR) in the civil service ministries.

CBR is a building programme, funded through the Afghanistan Reconstruction Trust Fund under the Afghan National Budget. The CBR programme is managed by the IARCSC and MoF and supervised by a steering committee comprising the Minister of Finance and the Chairman of the IARCSC. CBR aims to assist the government in improving the capacity and performance of select line ministries in carrying out their mandates and delivering services to the Afghan people. To help reduce the reliance on externally financed staff, CBR supports the creation of a specialised and highly qualified cadre of civil servants, with the capacity to manage critical government reforms and ensure that critical services are sustained. Specific capacity- and institution-building programmes will be implemented with the systematic monitoring and reporting of results. All civil service ministries and independent agencies can participate in CBR, while the level of support is based on results.

Independent Administrative Reform and Civil Service Commission

The IARCSC was established as per Article 50 of the Constitution of Afghanistan in accordance with the Bonn Agreement and Presidential Decree No. 257 dated 23 May 2002 (1381/3/2) promulgated to this effect.

Prior to the creation of the IARCSC, there was no single agency or ministry responsible for public administration reforms in Afghanistan. Civil servants and human resource management functions were spread out among different ministries such as the Ministry of Labour and Social Affairs and MoF along with the Office of Administrative Affairs. Initially, due to the lack of harmonisation between the different government organs, there was no space for public administrative reform or for the creation of a new civil service policy.

The IARCSC is headed by a Chairman who is directly responsible to the President. The primary aim of the IARCSC is to standardise the different civil service institutions and to improve the delivery of standard services. It has introduced changes in the legal, cultural, managerial, human, and technical capacity of the Afghan civil service. The IARCSC is clear in its vision to ensure the legal stability of the civil services, make it self-reliant, and provide public services through a service-delivery process. Among its most important goals is improving the capacity of the civil services and creating a recruitment process based on merit, competency, and open competition.

The IARCSC has brought about several major changes in the Afghan civil service system. Some of the significant changes include the implementation of a basic civil service management programme, the creation of a P&G system, the application of new technical and administrative technology, the introduction of merit-based recruitment, and the provision of capacity-building programmes for staff. However, a former civil servant in the MoPH highlighted the deficiencies in the reform process:

Reform implementation is not the sole responsibility of individual ministries. The Civil Service Commission should be strong and competent enough, and it should also be politically supported for the implementation of reforms. For instance, the IARCSC itself lacks a human resource management information system or a database for civil servants. There needs to be a change in managing civil servants in the civil service sector.⁴²

42 KII, former senior official, MoPH.

The primary responsibility of the IARCSC is divided into four functions: appointments, appeals, civil service management, and civil servants training. The main task in terms of appointments is the recruitment of civil servants, while the duty of the appeals board is to deal with grievances from civil servants. Two independent boards are appointed for this purpose, namely the Appointments Board and Appeals Board.

The role of the Civil Service Management Department includes the development of new civil service laws and the amendment of existing legislations on civil service employment. The management team is also required to review the internal structures and coordinate between the different ministries to ensure that the legislations are applied in practice. For this, “there should be a strong Civil Service Commission that plays a greater role in policy improvements and the implementation and monitoring of reforms in civil service ministries and agencies.”⁴³

The IARCSC is also the focal point for administrative reform within the government, including the management of the NGPAR programme, which is part of the Effective and Efficient Governance National Priority Programme.

Weaknesses in the structure and functioning of the Independent Administrative Reform and Civil Service Commission

The primary function of the Appointments Board is to hire civil servants through the recruitment process set out in the Civil Servants Law 2008. Since its inception, of all of the organs of the IARCSC, the Appointments Board seems to be most compromised to political influence and patronage. The Appointments Board, as it is currently structured, strives to function within the system. However, when they receive direct instructions from the President’s Office, they are left with no choice but to succumb to patronage and nepotism. Due to the delegation of authority to the Appointments Board, there is no real independence in its functioning. As a result, the existing merit-based recruitment system is not truly merit-based, and the methods used for recruitment are unable to identify good talent, especially because, at present, the responsibility for senior management recruitment is shifted to the individual ministries.

When the Civil Service Law was implemented, it was supposed to create a separation between the Civil Service Management Department and the Appointments Board. However, this separation is yet to occur, and as a result, the independence of the Appointments Board has been compromised. The draft law focuses on this separation and division of work, which will help overcome a major challenge in its functioning. A Member of Parliament summarised the obstacles faced by the IARCSC as follows:

*The IARCSC, as a leading agency for reforms, did not have sufficient capabilities to implement reform, particularly in the appointment and recruitment of civil servants, where they considered political and ethnical favouritism rather than merits and competency. Thus, service delivery and the quality of services with such incapable civil servants and managers have been considerably reduced. Also, less political backing and attention were given to supporting the IARCSC.*⁴⁴

43 KII, former senior official, MoPH.

44 KII, Member of Parliament.

4. Challenges

It is obvious that Afghanistan has made great achievements in terms of reforms, as many achievements have been accomplished in state-building and particularly in the civil service sector over the last 15 years.

As the government had inherited the post-Taliban regime, where all institutions had been annihilated or were in a very basic and primary form, institutional building and governance were started from scratch. The constraints in legal, structural, and capacity areas were superimposed by security-related issues. Decisions about the priorities, substance, and processes of CSR had to be made under intense time pressure and often on the basis of very inadequate information. The proliferation of both domestic and international actors made effective coordination very difficult to achieve, and a continuous lack of domestic financial and organisational resources led to dependencies on external planning, funding, and implementing arrangements.

However, CSR has been implemented in different stages through PRR, PAR, and P&G, which helped to establish new organisational development systems and structures. In general, government institutions and service delivery processes are now in accordance with the programmes and objectives.

Yet, despite substantial progress in many areas of national governance, particularly in CSR, the progress in CSR has still been rather slow, with considerable challenges remaining.

4.1 Civil service policy

Turning the public service into trusted institutions is a key challenge in building the legitimacy of the state in a country with little history of good government. Policymakers concerned with developing the Afghan civil service face two major challenges: the commitment to continue the constant pursuit of sustainable reforms and the need to determine substantive priorities.

Obviously, there is political willingness for reforms, but sometimes this appears to be mere rhetoric. At the same time, the NUG has several pressing issues such as the security situation and resource and budgetary problems, and many other challenges and obstacles are preventing it from pursuing reforms. It lacks an overall vision as well a clear picture for reforms in the civil service despite the substantial analysis of the situation.

A lack of clarity in the structure and functions of the government, mainly in the civil service sector, has caused issues and challenges in areas of strategic planning, service delivery, proper reporting systems and mechanisms, and coordination among civil service ministries at national and subnational levels.

Another reason for the deficit of a clear strategy in terms of CSR is the sheer number of multiple players in the country: donors, Afghan policymakers, and so forth. Everyone plays an important part, although the government, because of the war and lack of human capital, does not have the capacity to develop its own agenda. In the words of one key informant, “We listen to everyone and then we implement everyone’s policies.”⁴⁵

There have also been fewer resources for development programmes and services to the civil service ministries responsible for service delivery, mainly due to the politicisation of resource and budget allocations and the lack of coordination with donor counterparts.

Weak political and leadership commitment on reforms have led to the appointment and selection of managers and leaders of government organisations with short-minded visions, who are committed to their own personal and political interests rather than the development objectives of their organisations.

45 KII, Member of Parliament.

Ministries and agencies are at different stages of reform readiness. Some ministries have a basic platform of competencies in place, with P&G and trained civil servants performing their duties according to the job descriptions aligned with the ministry's mandate. Others, however, lack even the basic competencies.

Arrogant behaviour, particularly among managers in both government entities and NGOs where most of donor assistance development programmes are implemented, have lessened the sense of ownership among other staff and citizens. There should be assessments to inform about the needs of all citizens.

There are also interfering bodies like the Special Representative of President on Good Governance and Reforms, the Vice Presidents, and MoF. The roles and responsibilities of all of these actors are not clearly defined. And let us not forget the existent informal, feudal relationships where patronage trumps law enforcement.

The Parliament has been very weak in monitoring the performance of ministries and agencies in the civil service sector. Indeed, favouritism is preferred over qualifications. The Afghan Constitution does not provide the criteria required for the selection and election of members of parliament in terms of monitoring government performance and regulation and developing laws for the government.

Procedures that would ensure effective inter-ministerial coordination remain weak. The President's Office does not have the capacity to plan strategically and provide clear direction to the government as a whole, and in particular, to serve as an effective manager of inter-ministerial and interagency coordination. There is an urgent need to develop structures and procedures for effective coordination both at the political level—among members of the government—and at the administrative level—across ministries and agencies—as well as between the two. The centre of government needs to be capable of driving the formulation and implementation of the government's agenda:

One main problem that we have in Afghanistan is the lack of written documents. Another challenge is that we shift responsibilities between one another. The Ministry of Finance says that it's the responsibility of Civil Service Commission, and the commission says its Ministry of Economy's problem.⁴⁶

There is no integrated governmental approach with respect to the specification of functions, roles, and structures, particularly in the civil service sector. The government lacks a clear comprehensive policy and prioritised implementation strategy in CSR that reflect the specific political, economic, social, and cultural context of Afghanistan. Unfortunately, one of the most significant factors is that important policy discussions on reform are superimposed by security related issues.

4.2 Legal framework

The legal and policy frameworks for supporting civil service and public administration reform remain inadequate and need further development. Several key laws are still outstanding. Policy analysis and development through proper laws and regulations are often bypassed in favour of rapid programme interventions that lack cohesion or relationship to a long-term reform agenda.

The government has many steps to take for CSR and the improvement of service delivery. The **Organic Law** needs to be in place to outline the clear roles and responsibilities for civil service ministries and agencies. The absence of this law has not only caused duplications, overlaps, a multiplicity of functions, and unclear roles and responsibilities in ministries, but it has also led to the inadequate definition of policymaking, service delivery, and support functions for both the civil service sector and individual ministries and agencies at central and provincial levels.

⁴⁶ Open Dialogue, Kabul, 12 December 2015.

The Organic Law would help the government to better determine its fiscal capacity as well as the volume of civil service ministries and agencies needed to perform their associated functions and mandates. This law was once sent to the Parliament for approval, but numerous factors—for example, the government’s inability, other priorities, multiple laws pending approval, presidential decrees, work overload, and a general lack of interest—have contributed to the delay in reviewing and approving this law.

Another example is the **Civil Servants Law**, which started to be revised and amended in 2010 with the aim of transitioning from an open position-based system to cadre-based system. The law also seeks to promote professionalism and stability in the civil service by introducing a civil servants protection mechanism, preventing a conflict of interests, creating post-employment obligations, rationalising P&G, promoting talent, and de-politicising civil servants above and beyond grade ranks. The law will also introduce sector-based differentiation, allowing the unique aspects of each sector to be dealt with independently and human resource management to be improved. The law will also improve cadre management and allowance systems, while introducing general entry examinations. The IARCSC, MoJ, and MoF have been working on this law, but it is still in the draft phase.

Obstacles to the finalisation and endorsement of these laws are mainly due to a lack of political will and ministers’ insistence on their roles and functions in the law. In addition, the judiciary branch is resisting the Administrative Procedure Law. The key challenge to the legal and regulatory issue for reforms is the MoJ’s Legislative Department, mainly because of its low capacity. The majority of laws are still pending and are not in process in this department. Many of the regulations are stuck in the MoJ.

4.3 Structural and managerial issues

During the last decade, several bilateral and multilateral donor agencies created autonomous implementation units to carry out targeted social policy programmes and projects. While these initiatives resulted in fast service delivery, particularly in the remote areas of the country, they created multiple layers of organisations and parallel executive structures, often with staff not aligned to the country’s civil service and not accountable to ministries and governmental agencies.

The current civil service system does not function well in the NUG. Transparent business processes do not exist. One major challenge to reform and institutional building has been the selection of candidates for leading government entities based mainly on nepotism and personal relationships rather than competency. These organisational leaders often lack motivation, and they work in favour of their relevant parties or groups of people to whom they are connected.

Civil service ministries tend to think and focus on their scope and authority based on their own objectives and programmes rather than the ad hoc and sustainable mandates and structures in line with the overall government development programmes. There is a lack of coordination in the government ministries, while the mandates of ministries overlap, resulting in conflicts rather than cooperation. Patronage is rife, and too many ministries are full of ghost or unqualified staff.

Government ministries and agencies lack operational and senior-level management as well as professional and functional capacities, which, combined with a lack of modern management and public policy practices, contribute to poor service delivery, low budget execution, and a range of inefficiencies.

Several bilateral and multilateral donor agencies have created autonomous implementation units to carry out programmes and projects, resulting in parallel executive structures, often with staff that are not aligned to the country’s civil service and not accountable to ministries and governmental agencies. Moreover, international partners have not been set particular benchmarks for government performance.

Little attention has been given to the on-the-ground realities of Afghanistan. Indeed, the World Bank designed PRR, PAR, and P&G based on global experience rather than the Afghan reality.

The **organisational structure** is inflated with overlaps and duplications in civil service ministries and agencies. The Civil Service Management Department has identified 21 areas of duplication and overlap in the civil service. For instance, in the area of financial audits, there are five different authorities: the Supreme Audit Office, the MoF, the internal audit departments of different ministries and institutions, the High Office of Oversight and Anti-Corruption, and the Independent Joint Anti-Corruption Monitoring and Evaluation Committee. Clarifying this complex structure is not only a question of financial resources, but also an issue of effective control and transparency.

There are no appropriate guidelines or procedures for the establishment of units or departments in civil service ministries. For instance, the gender units in ministries were established under the finance and administration division, even though gender is a policy issue. The lack of a clear regulatory framework and customised structures gives rise to the fact that certain projects within a ministry do not fit into a given structure. In addition, the one-size-fits-all policy has continued in the organisational structuring in the civil service sector, particularly with subnational entities, while this should occur in a context-based approach.

4.4 Business processes

Business processes in the civil service are complex and have not yet been simplified and reformed. The regulation and standardisation of key administrative processes remain weak and unreliable, including budgeting, resource management, planning, decision-making, and implementation; vertical and horizontal cooperation and coordination, and, particularly, the procedures governing the interaction between the government administration, private sector, and citizens. These complexities in business processes have consequently affected the delivery of services.

A large number of lengthy and complicated business and administrative procedures undermine operational performance and expand the potential for corrupt practices both within the government and with the public. To illustrate this protracted process, one key informant explained that “In terms of business processes, I have been told by people in the Ministry of Finance that it takes 54 signatures and 6 months to hire a teacher in a district.”⁴⁷

The legal framework that sets out the structure of public administration, including the Organic Law, Civil Service Law, and Civil Servants Law as the cornerstones of the legal framework, is in need of revision. Crucial elements, such as the laws that regulate the principles of executive organisation and essential administrative procedures, are not yet in place. Thus, the regulation and standardisation of key administrative processes remain weak, especially in terms of budgeting, resource management, planning, decision-making, and implementation.

Low capacity and the lack of professionalism among civil servants are further challenges to service delivery. Less than one-third of civil servants are skilled with the required capacity to perform their jobs. There is not a scarcity in the workforce, but rather too many incompetent employees in government organisations, particularly in managerial and technical positions. Only 15% of employees in government organisations are competent, while the remaining 85% are much less productive. Work efficiency does not exist in government agencies.

To date, there has been no systematic analysis of the usage of e-government and internet-based tools to improve key administrative processes, both within the public sector and the administrative authorities’ exchanges (and consultations) with citizens and private enterprises.

4.5 Civil servants

Despite the large number of civil servants in Afghanistan, it is unclear whether they are well distributed throughout the structure of civil service.

The current number of civil servants in Afghanistan civil service ministries is around 417,000. Approximately 220,000 are civil servants responsible for direct service delivery. However, there needs to be an in-depth assessment to confirm whether this number is sufficient.

⁴⁷ Open Dialogue, Kabul, 12 December 2015.

Previously, the civil service was a closed system, and the admission of new employees occurred from the bottom. With the implementation of the P&G system, the new open competition with a bottom-up approach to appoint civil servants was introduced. New staff with new expertise have thus entered the civil service ministries at all levels.

This open competition paved the way for the capacity-building of the civil service sector, but due to widespread corruption, many key managerial positions were filled based on relationships and political observation. This led to both corruption and low service delivery in the civil service ministries, because the transparency of the recruitment process was undermined by political favours, personal relationships, nepotism, and corruption. In the appointment and recruitment of civil servants, political and ethnicity issues especially outweigh individual merits and competency. Deeply embedded patronage networks across government institutions mean that the merit- or competence-based selection of civil servants (competitive recruitment and performance appraisal) is not the norm, which translates into a very low capacity in many core areas of government policymaking and service delivery.

One of the most ambitious initiatives in terms of CSR was the P&G reform in 2008. It attempted to create a common classification of eight grades, each with five steps, which was expected to cover the entire civil service. The main achievements of this reform are the introduction of precise job descriptions and the principles of meritocratic recruitment. However, problems exist in its design and implementation. Design problems include a lack of attention to the needs of functionally differentiated administrations and an overly encompassing, rigid, and compressed grading system that allows too little differentiation across the different sectors of the public service. The previous P&G system did not have a career-based system, and it lacked professionalism and ignored the variant systems in the different sectoral areas of the civil service.

According to the IARCSC, some 365,000 positions have been reformed under P&G, and some 305,000 positions have been refilled using the new P&G system. The partial implementation of the P&G reform is also the result of resistance in some parts of the central agencies.

The proliferation of salary scales financed by international donors has resulted in a lack of coordination in the various salary systems, serious shortcomings in terms of meritocratic recruitment and promotion, and a lack of medium- and long-term planning of personnel needs in the public sector along with the associated training requirements.

The civil service has increasingly seen qualified civil servants and specialists leave the government for better pay and working conditions with international agencies and contractors. Development agencies and their Afghan partners have partly tried to overcome the lost capacity and poor performance of the civil service by using contracted staff embedded within ministries to execute urgently needed programmes, thus creating what has been called a “second civil service,” which has in turn exacerbated other tashkeel challenges in the civil service.

Partly as a result of rigidity and in response to the donor community, a proliferation of super-scales has evolved. A variety of schemes allows salaries to be supplemented. CBR is the most recent of these schemes. In effect, this leads to the rise of parallel services that co-exist within the same organisation. The creation of such a “second civil service” will have a lasting impact on long-term administrative capacities, as most senior Afghan experts have been absorbed into the aid community.

There are three sorts of civil servants in Afghanistan. For instance, the MoPH employs 18,396 regular civil servants, 23,000 contracted staff, and around 400 contracted staff/advisors employed on short-term basis. The inequality of salaries also weakens the commitment of the “normal” (tashkeel) staff and demotivates them. The monthly salary of “normal” staff is 8,000 Afs (equivalent to US\$120) compared to US\$800 to 4,000 for contracted staff.

Multiple, concurrent pay scales in the public sector, the scarcity of qualified human capital, and heightened competition among donors and between donors and the government, in which individuals performing similar jobs are paid different salaries, all negatively impact

the performance of the government and public perception. Salary demands and expectations have escalated to the point where the government cannot compete. Long-standing practices of cronyism, nepotism, and hiring on the basis of ethnicity are common. A merit-based recruitment system has not yet been institutionalised in many ministries and agencies. This means that the “best and brightest” are often discounted in favour of those who are “known,” thus contributing to an attitude of resignation and a lack of motivation to work hard for advancement.

The current position-based system of P&G does not respond to a professional management system in the civil service sector, and instead a cadre management system should be established. Human resource management, public financial management, and other professional cadre management systems should be in place in the civil service sector.

The human resource management system in the civil service sector in ministries also represents a challenge. Many interventions occur, particularly in the recruitment process of both civil servants and project and contracted staff in ministries. Even the Appointment Board of the IARCSC has not been clear and transparent in the recruitment process of civil servants in ministries and agencies. There is therefore an urgent need for transparency in the recruitment process, staff retention, training and development, and salary scales in order to reduce corruption.

The integration of project staff with government civil servants is a major problem in the ministries. International consultants were hired and assessments of extant systems conducted, and integration has now started. Salary harmonisation is a problem for the integration of projects and associated staff along with tashkeel staff. Integration programmes in ministries need capacity-building programmes like CBR, although CBR has very limited resources in this regard.

Little sustained attention has been paid to how to create the adequate conditions under which staff can work effectively.

The purpose of the Human Resource Management Information System is to manage information across the entire government sector to maintain an accurate picture of civil service trends, including the number of employees, their position, and length of employment. Timely, accurate, and complete information is also essential to support decision-making, policy analysis, planning, and related functions associated with the sound and modern management of the civil service.

One of the most important and critical issues in the civil service is the lack of appropriate policies and procedures for the human resource management of professional cadres. Furthermore, the implementation and consideration of the Civil Service Law is too difficult in terms of the process of recruitment and selection, job design (setting job qualifications and requirements), promotion, and staff retention.

Career development is not encouraged by the current system of civil service management. Other related factors such as performance appraisal and training are often not well coordinated, as they are not based on the realities on the ground. Human resource management practices are disconnected, thus undermining the long-term sustainability of the civil service.

Basic information on the civil service is incomplete and not always accurate, and the supporting systems do not adequately support management decision-making. A Human Resource Management Information System has been developed to provide basic data on the civil service, but it does not meet broader human resource management information needs.

Training and management development are costly and often unavailable to those who need it and when they need it. Duplicative training is delivered through a mixture of modalities and donor-funded projects, and not linked to longer-term career development and performance appraisal. The lack of a comprehensive capacity-building and training policy and strategy across the country has allowed both international and national stakeholders to become involved in the costly and inconsistent implementation of education.

Considerable progress has been made by the government in setting up the training facilities at the Afghanistan Civil Service Institute and in developing and delivering a wide range of training to civil servants. However, the demands for training at both the central and subnational levels far outstrip the capacity to conduct such training. Training delivery has not given sufficient emphasis to quality and sustainability, while too little attention has been paid to planning the medium- and longer-term needs of the public sector and the associated academic training of future administrators.

Traditional barriers, security challenges, limited education and investment in capacity development, and insufficient policy supports are the major challenges faced by gender equity/equality in the civil service.

4.6 Independent Administrative Reform and Civil Service Commission

Formally, the prime responsibility for the policies aimed at the continuous development of the civil service and public administration lies with the IARCSC. However, there are other very important actors with a broad remit, notably key international donor organisations, the IDLG, MoF, and other ministries with a large portfolio. Thus, the IARCSC has often found its mandate weakened by a proliferation of actors and agencies involved in the design, funding, and implementation of initiatives within their own environment.

As a leading agency for reform, the IARCSC does not have sufficient capability for reform implementation. Thus, service delivery and the quality of services with such incapable civil servants and managers have been considerably reduced. The Appointment Board of the IARCSC has not been clear and transparent about the recruitment process of civil servants in ministries and agencies⁴⁸.

Furthermore, the IARCSC receives little support. IARCSC management often find themselves in a reactive rather than a proactive position, as they recognise the lack of substantive and procedural integration of initiatives across different levels and sectors of the government. The overall position of the IARCSC within the country's public administration has often been challenged.

Ambiguity regarding the policies and priorities of the political leadership is a great challenge for reforms in the civil service sector, particularly with regard to the IARCSC. Indeed, the IARCSC still does not have a clear idea of what the political leadership want from CSR. No decision has been made by the leadership on what the priorities of CSR should be. For instance, CBR is coordinated by the IARCSC and MoF, while there exists a multiplicity of functions for leading reforms in the IARCSC, MoF, and Office of Special Representative of President on Reforms and Governance. There are several players and actors for specific functions in the government.

Due to the lack of high-ranking support as well as internal and external constraints and obstacles, the IARCSC performs far behind its assignment, which results in slow, weak, and only partly coordinated progress in terms of CSR.

⁴⁸ KII, senior advisor, World Bank.

5. Conclusion and Recommendations

The persistent fragile situation in Afghanistan prevents the government from undertaking reforms and change, as security undermines the reform priorities. Nevertheless, after more than a decade of successive major administrative reform programmes and a large number of individual—often uncoordinated and short-term—initiatives and projects, there is a major chance for the NUG to promote Afghanistan’s development of the civil service.

The civil service sector as the visible and acting tool of the government has to contribute toward developments and improvements in the quality and reliability of services to citizens and businesses. Services such as measures to reduce poverty, combat corruption, improve living standards, and enhance private sector development are crucial for the improvement and development of the country itself. Therefore, the entire government should focus on CSR. A whole-of-government, systematic, and sustainable policy framework and programme are necessary in this respect. In general, a clear roadmap is needed, as is a determined strategy in terms of prioritising the issues to be addressed and the solutions to be implemented continuously and consistently.

The basic requirement to achieve this is a consensual and comprehensive understanding of CSR. Most important are the high motivation, unquestionable will, and commitment of the government, from the President down to the management and civil servants. This requires the diligent selection of competent and qualified people at every place and level.

Considerable reform roadmaps and plans have been developed such as the National Priority Programme 3, NGPAR, and CBR. However, less attention has been given to sustainable implementation systems and approaches. A comprehensive monitoring framework is needed to ensure the smooth and sustainable implementation of reform programmes.

Apart from a large number of challenges, there are some key issues that should be processed and implemented urgently for CSR.

5.1 Legal framework

A clear legal framework is required to establish the basic organisational principles of the state executive, including ministries and central agencies (and their subnational organisations). These organisational principles should encompass these very structures and the central executive procedures. The framework should allow flexibility in terms of the reallocation of tasks, while the principles governing the establishment, merging, and reorganisation of ministries and central agencies and the allocation of tasks between ministries and agencies need to be clear and transparent.

Three key laws should be approved and enforced to allow for future reforms in the civil service ministries.

Firstly, the Organic Law seeks to clarify the mandate and functional assignments of the vertical and horizontal structures, including state-owned enterprises. The IARCSC and MoJ have been assigned to develop a unified draft of the law to be presented to the Cabinet and Parliament. The draft is still pending at the MoJ.

Secondly, the **Administrative Procedure Law** articulates the methodology of service delivery for the government and sets out its norms and standards. It also defines certain rules and standards for service delivery as well as the rules for the participation of citizens in the administrative procedure. However, it appears that the judiciary branch is resisting this law.

Finally, the **Civil Servants Law** details the employment rules of civil servants. This law started to be revised and amended in 2010. The IARCSC and MoJ are working on the text, but it is still in the draft phase under the final review of the MoJ.

Decisions urgently need to be taken regarding the long-awaited revision of the existing laws that govern the public sector and the completion of the legal framework. There is a pressing need to establish common binding regulations that govern key administrative processes, notably with regard to planning, budgeting, and resource management

Obstacles to the finalisation and endorsement of these laws are mainly due to a lack of political will, low capacity, inability, other priorities, multiple laws pending approval, work overload, and simply a lack of interest. Often regulations become stuck in the Legislative Department of the MoJ.

Reform implementation should not be the sole responsibility of the individual ministries. The IARCSC must be strong and competent enough to pursue and push for the implementation of reforms. Additionally, Parliament should fulfil one of its main tasks in monitoring the performance of ministries and agencies.

5.2 Structural and management issues

There should be a **functional review** and radical reform that focuses on the structural reform and right-sizing of the organisational structure of the civil service sector. The structure of the civil service sector should be made responsive to its mandate and functions. There is a need to analyse the competences and responsibilities allocated to the ministries and to undertake a subsequent revision to establish a clear division of tasks to eliminate duplication and dysfunctional overlap.

The organisational structures of ministries and agencies should be reformed, and any overlaps, parallels structures, and duplications should be removed. For instance, obvious overlaps and duplications exist in economic policy and planning at the MoF and Ministry of Economy.

There is an urgent need to develop structures and procedures for effective coordination both at the political level—among members of the government—and at the administrative level—across ministries and agencies—and between the two. The main objective should be to provide recommendations for the reorganisation of structures at both the centre and subnational levels, with the aim to identify actions to right-size (decrease or increase) certain functions of government so as to enhance administrative efficiency and effectiveness. This review could also identify parallel (external aid-funded) delivery mechanisms and integrate them (where reasonable) to allow the savings to be reallocated to service delivery.

Government **work processes** need to be reengineered and reformed to improve government administrative execution through simplifying and accelerating the processes. Reforming government work processes to optimise administrative execution should be of high priority for the government. The major focus should be on transparency, accountability, efficiency and effectiveness, unification, streamlining, simplification, and standardisation of procedures supplemented by an interconnected document management and data archiving system.

This should first be applied to all existing laws, rules, and regulations concerning the civil service and public service delivery to assess the necessity and dispensability of procedural issues. This assessment should result in a comprehensive list with concrete proposals for amendment or elimination. For this purpose, the government could establish an independent commission composed of members of parliament, high representatives of the President's Office, the IARCSC, members of the judiciary, and delegates of civil society. The IARCSC could follow up on the commission's proposals with respect to their implementation.

Furthermore, the government could compile a list of best and worst practices in the civil service sector in order to develop guidelines for unified, sustained, streamlined, and simplified procedures.

An improvement of **e-governance** will contribute to increasing efficiency and effectiveness as well as accelerating economic growth, promoting sustainable development and empowerment, and reducing poverty. It will also give citizens electronic access to governmental services. Given the immense potential of e-governance, the government should push for its development and

implementation throughout the entire country. Procedures and processes that could be made electronic should be identified in this respect. A national civil service data centre could be established in order to develop, programme, implement, and maintain a comprehensive national e-governance system. Besides other advantages such as the standardisation, streamlining, and acceleration of procedures, this would also contribute to legal conviction and reduce the cost spent on separate systems. All entities dealing with civil service issues should successively be equipped with hardware using the unified software. Staff should be properly trained and citizens instructed to use this tool.

There is a need for the development and establishment of a modern and comprehensive system for **human resource management**. The objective is to move the civil service from a system that is currently constructed around patronage and loyalty to one that is based on rules and merit. Human resource management across the entire government would provide an accurate picture of the civil service, including the number of employees, their positions, and length of employment, and it would also address the longer-term career development and performance of civil servants.

Human resource management should be based on career development and individual performance and incorporate unique traditional and cultural factors. This should include a national training policy for the civil service that is linked to performance and career development as well as a civil service performance appraisal policy that can be implemented across the government. Regarding performance appraisal, a reward and punishment system could be established.

A human resource management policy, when implemented, would result in the following:

1. A more efficient and effective civil service through enhanced job security;
2. The opening up of career opportunities for both young and established Afghan professionals;
3. Increased employment in the public sector; and
4. The prevention of a brain drain.

A human resource management policy would also feature better planning in terms of civil service needs and recruitment plans for all levels both at the centre and in the provinces. The outcomes would be assessed through the routine monitoring of the policies, laws, regulations, and systems related to the implementation of human resource management.

To ensure timely, accurate, and complete information on the civil service to better support decision-making, planning and policy development, a **Human Resource Management Information System** was developed to provide basic data on the civil service, but it does not meet broader human resources needs. The Human Resource Management Information System needs to be modernised to reflect a more comprehensive human resource management strategy. This would better support the human resource management functions within ministries and agencies at the central and subnational levels, help develop strategic plans and policymaking, and facilitate the transition from data collector to system implementer.

Neither PRR nor P&G accorded sufficient attention to strengthening the **cadre management**. The IARCSC therefore rightly proposes to establish a system of career-based civil service development, allowing talent to be attracted, hired, and promoted across the core functions of the government.

To develop both common cadres (human resources, financial management, procurement, etc.) and technical cadres (foreign affairs, public health, etc.), national general administrative examinations should be established, while the strength and composition of each cadre should be clearly defined. The cadre management system would establish both technical and common cadres in all sectors of the civil service. The main objective would be the professionalization of the civil service to ensure the relevance of qualifications with the concerned position. Moreover, it would link recruitment with the background education and qualification of potential candidates.

5.3 Capacity-building and training

Only a portion of civil servants have the appropriate skills and capacity to perform their jobs competently. Therefore, it is of uppermost importance to strengthen the skills, capacities, and operational performance of civil servants at all levels through the development and implementation of a national training policy, training strategy, and training plan. As a side effect, this action could even gradually replace costly international experts with Afghan nationals. The existing training policy as well as the Afghan Civil Service Institute's capacity to deliver should be reviewed by a training needs assessment in order to identify the actions for capacity strengthening. In general, there should be a comprehensive programme for in-service training and for new appointees. The training should include different options and modalities from basic knowledge and general or specific skills up to higher-level training. It should address senior and middle-level managers, senior civil servants, and newly recruited junior civil servants. It is also crucial to create opportunities in higher education to develop middle- and high-level civil service managers through Bachelor's and Master's degrees at universities. The education of an elite civil service following the example of the French *École Nationale d'Administration* (ENA) or German University of Administrative Sciences Speyer could be worthwhile to take into consideration.

The entire training programme should be not restricted to merely imparting specific professional expertise but to educate people in social capital issues so that they become trustworthy, highly committed, and responsible employees and citizens. Moreover, the training policy should be interlinked and correspond with the P&G system.

5.4 Pay and grading system

The current position-based system of P&G does not respond to a professional management system. Therefore, this issue should be immediately addressed and revised so as to produce a fair, consistent, and equitable system of remuneration through the harmonisation of all salary scales and to allow greater differentiation across different sectors of the public service, in particular those requiring specialist technical skills rather than generalist administrative skills. Super scales will need to be phased out gradually and replaced by a fair and equitable scheme that attracts and retains people in the civil service. This would also prevent people from seeking supplementary work in addition to their civil service employment.

Salary reform should be based on the following broad principles:

- Ensuring that public service pay is attractive but affordable to the government;
- Gradually replacing “super scales” and externally funded staff by establishing a unified national P&G system;
- Achieving competitiveness with pay outside of the public service to the extent possible;
- Promoting greater transparency in public pay; and
- Ensuring that there is equal pay for equal work.

Presidential Decree No. 635 was developed to harmonise the **salary scales of national technical assistants (NTAs)**⁴⁹ who work for the Afghan government inside or outside of the tashkeel, including externally funded staff paid by international donors. The NTA scale provides a common pay framework agreed to by donors and designed to accommodate the existing salary payments. The greatest challenge with implementing the NTA scale is that it was designed based on the joint fiscal capacity of the government and the international community. With the reduction in external funding, the current NTA scale is significantly above the pay scale offered to civil servants by the government, and it is therefore unaffordable.

49 Government of Afghanistan, “National Technical Assistance Remuneration Policy” (Kabul: Ministry of Finance, 2014).

Given the importance of the NTA scale for securing senior Afghan professional staff, it is important to undertake an assessment of the NTA scale and determine the P&G structure that can fit into the medium-term fiscal and expenditure framework. It even could be necessary to reduce NTA salaries to a level that does not undermine the government's ability to sustain professional capacities through the cadre management system.

5.5 Appointment process

The government needs to signal clearly that favouritism, political interference, and clientelism must stop and be replaced by transparent meritocratic practices for hiring, dismissing, and promoting civil servants. This would result in achieving and ensuring better qualified and better motivated staff. Additionally, this would contribute to creating confidence in the government.

It is therefore necessary to immediately develop and implement a consistent, transparent, and accountable merit-based appointment policy and plan to be applied by the IARCSC's Appointment Board, ministries, agencies, and other government structures at the national and provincial levels. Later on, to supervise and ensure merit-based, fair, and transparent appointments, ministerial and provincial appointment committees should be established.

Given the country's high population growth, there is also an urgent need for a comprehensive and continuous assessment of the prospective personnel needs of the public sector in order to identify the specific demands of the different sectors and, in particular, set out how a steady supply of qualified candidates can be ensured through the education system.

Regarding the participation of women in the civil service and gender equity, there is a huge gap to be addressed. Even private-sector workplaces are not very women-friendly. However, the civil service should be composed of a higher percentage of women in the different layers of administration and management. Although there is a Gender Directorate at the IARCSC for the promotion of gender equality in the civil service, it is overburdened and too weak to tackle and enforce the government's policy on gender equity and female promotion. The Gender Directorate should remain the leading agency in developing a gender-equity, female, and anti-harassment policy, but the obligation of each governmental entity to implement and publically account for it should be implemented by presidential decree.

5.6 Accountability

Accountability within the civil service is crucial with respect to its function and the confidence of the citizens in the state. The rule of law requires legally guaranteed civic rights for the people to be protected against mistreatment such as unlawfulness and the arbitrary behaviour of governmental bodies. People must be entitled by law to claim and defend their rights and to take legal proceedings whenever necessary.

Afghanistan has many civil society platforms and societies that are active, but at the same time, it needs to start accountability from within the government itself. Indeed, there needs to be a greater number of accountability laws in the country.

However, there is only one primary law, the Administrative Procedure Law, that sets out the accountability of civil service ministries to citizens. However, the law is still in the draft phase, and—like many others—it has not yet been endorsed. This should be done without any delay.

An important provision that needs to be considered but has yet not been added to the law is the establishment of administrative tribunals, which could be done either through the Supreme Court or by a parliamentary act. The establishment of this tribunal would resolve problems relating to administrative reform and internal administrative issues within the government structure. The tribunal would also act as an impartial body to adjudge these issues and strengthen people's confidence in the constitutional state and government.

Civil society could also play a pivotal role in terms of governmental accountability, acting as both a watchdog and a partner of the government. Due to the imperfect political mechanisms, civil society could provide citizens with the opportunity to engage in political and economic decision-making. Civil society could establish a culture of advocacy and monitoring by publicly overseeing the government's performance. Civil society normally represents a great opportunity for leveraging transparency and accountability.

Another aspect for engaging civil society in the reform process is to make them communicate with the government on the rights of the people and the government's responsibility to meet their demands. Currently, very few government officials are aware of the basic responsibility of the government, which is to protect citizen's rights and address their demands. For this reason, the government should consider civil society as a vital companion rather than an opponent, and therefore encourage the Afghan people to participate actively. Eventually, this would prove to be another important step toward mutual trust and confidence.

Both the government and the international community are called to support civil society in Afghanistan. The efforts to strengthen civil society should focus on building its management and technical capacity through training and other capacity-building efforts coupled with financial support for the work accomplished. For instance, the MoF could conduct a seminar for civil society representatives to help them understand government budgeting and financial management procedures.

5.7 Independent Administrative Reform and Civil Service Commission

Given the multiplicity of functions in the civil service sector and the numerous "heads," even for reforms, the IARCSC should be the leading agency for CSR. This should be clearly communicated and well respected. The IARCSC should be kept away from any political interference. Of uppermost importance is the clear and visible support and acknowledgement given to the IARCSC by the entire government, Parliament, and President.

The IARCSC should remain as the leading entity for providing the strategic direction and management of the civil service and supporting the development of a strong, effective, and efficient system of public administration. Charged with demanding and extensive tasks, the IARCSC requires greater support to strengthen its leadership of the reform programme.

A capable, credible, and effective IARCSC is critical to the implementation of CSR and the creation of a modern system of public administration. While considerable progress has been made in setting up and expanding the IARCSC since its establishment, there remain some significant capacity challenges that, if not addressed, could undermine its ability to effectively discharge its mandate.

The preconditions for the IARCSC to successfully fulfil its important role and function are its independence; the unconditional support of the President; an ambitious, highly committed, and powerful leadership; a highly qualified and adequately salaried personnel; sufficient funding; and—equally important—the respect for its leadership by other stakeholders.

5.8 Private sector

There is only one article in the Procurement Law for public private partnership, although there are private sector development units in every sectoral ministry in the civil service sector. However, there is no overall and clear policy direction for the government to develop private public partnerships. Currently, the MOF, Ministry of Commerce, and Afghanistan Investment Support Agency run private public partnerships in the civil service sector, but without any clear framework and strategy.

It has also been discussed that the IARCSC should outsource its capacity-building programmes to the private sector, universities, and institutions. Indeed, the private sector is an important partner in terms of public service delivery and infrastructure investment. Yet this process needs clear policy guidelines, monitoring, and evaluation by the government.

Furthermore, a well-functioning civil service is needed to carry out these overseeing functions. As long as Afghanistan struggles with various governmental issues and fights on many fronts to establish a functioning and sound civil service, it is reasonable to remain focused on this challenge. However, in the long term, partnering with the private sector could become an interesting option.

With this in mind, proactive measures for the creation of robust systems for procurement and effective frameworks for public-private partnerships could be developed.

In principle, the same applies to the idea of **decentralisation**. Given the country's weaknesses in its central administration and, in particular, the ambivalent experience of decentralisation reforms in other fragile states and developing countries in Asia, the delayed design of such a policy might prove to be advantageous.

5.9 General recommendations

The entire government should focus on CSR. It is impressive to find a vast number of elaborated concepts, projects, and detailed proposals in terms of CSR in Afghanistan. One can find many excellent analyses, studies, strategies, and detailed programmes ready for implementation. However, the process of implementation varies from sluggish to negligent with delaying tactics.

Diligently prepared and designed documents have been placed on the shelves in certain ministries. It is quite extraordinary to witness the lack of a real impetus when it comes to implementation. In this respect, there is a **huge gap between planning and implementation**. As regards implementation, there is the additional need to develop a comprehensive monitoring framework to ensure the smooth and sustainable implementation of reform programmes.

Of course, major steps toward reforms like law making and restructuring are rather complicated and time-consuming. Yet ordinary people and entrepreneurs are in urgent need of improved service delivery that streamlines administrative processes and simplifies procedures.

It is of critical importance to rapidly prioritise and implement the parts of the agenda that bring the most immediate and demonstrable benefits to the greatest number of citizens. If this does not occur, public support for administrative policy will remain weak. Careful attention should be given to the selection of highly visible landmark projects, which are seen to have a decisive impact on the perception of public administration among citizens and businesses. Perhaps a governmental reward programme on suggestions for CSR could provide adequate proposals for reforms. As a side effect, such staff involvement could also lead to increased satisfaction and commitment. To create or foster people's trust and confidence toward the government, it should be feasible to identify and implement such initiatives oriented toward small impacts. This would also demonstrate that the government cares and is willing to act in terms of CSR.

Policies aimed at increasing public revenues will only be accepted if they are accompanied by visible improvements in public sector performance. The drivers of CSR need to signal their readiness for greater consultation and partnering with citizens as well as their strong commitment toward achieving an efficient, effective, and equitable public sector.

Although administrative policy requires strong leadership, a more citizen-oriented government cannot be enacted "top-down." Reforming the entire country and changing the entrenched systems are huge tasks. Therefore, it might be reasonable to think about **pilot projects**. One could select a few ministries and provinces as pilots and tests suitable for reform measures. This could help pave the way for the expansion of the programme in the future.

Although the IARCSC should undoubtedly continue as the leading entity for CSR, the risk of overlapping competencies, political interference, or rivalry still remains high. To support and protect the IARCSC and stress the significance of CSR, the President should establish a **Coordinating Committee** consisting of the relevant ministries and agencies in addition to IARCSC and chaired by the President or/and CEO. This Coordinating Committee could push for, supervise, and evaluate the creation and implementation of CSR measures.

Appendix: Roles and Functions of the Civil Service Ministries

No	Ministry	Roles and functions
1	Ministry of Agriculture, Irrigation, and Livestock	<p>Introducing and organising agriculture and irrigation policy for the country and monitoring its implementation.</p> <p>Taking necessary measures to rehabilitate and develop forests, pastures, and wild animals, and ensure their protection as well as enhance cooperation with relevant organisations for improving the environment.</p> <p>Taking necessary plans for rehabilitating and developing animal and bird husbandry.</p> <p>Using new and scientific techniques and improving research to increase agricultural products and control their quality.</p> <p>Encouraging private sector investment in agriculture.</p> <p>Fighting animal and plant diseases and associated calamities and managing their control.</p> <p>Taking the necessary measures to find and introduce alternative livelihoods for the purpose of eradicating the cultivation of poppy, hashish, and cocoa plants.</p> <p>Rehabilitating, developing, and maintaining the agricultural irrigation network.</p> <p>Controlling and monitoring foodstuff safety.</p> <p>Taking the necessary measures to rehabilitate and develop gardening.</p> <p>Taking the necessary measures for the economic and social betterment of farmers and ranchers' living conditions with the cooperation of the relevant authorities.</p>
2	Ministry of Energy and Water	<p>Introducing and preparing the policy for water resource usage and its development.</p> <p>Introducing and preparing effective plans for the distribution and maximum usage of energy and water resources of the country.</p> <p>Establishing new electricity networks and providing electricity to administrations, industrial organisations, cities, districts, and villages.</p> <p>Introducing long-term plans for the usage of water resources based on modern scientific and technical principles.</p> <p>Re-constructing, building, and maintaining dams, canals, and other later water installations.</p>
3	Ministry of Public Health	<p>Introducing and implementing a balanced health policy and supervising its implementation.</p> <p>Providing health prevention and medical equipment and extending free health facilities through hospitals and health centres to all citizens.</p> <p>Encouraging and supporting the establishment and expansion of medical services and private health centres.</p> <p>Providing health services to the poor, disabled, and families of martyrs and missing people.</p> <p>Taking the necessary measures to eradicate all diseases and prevent the prevalence of contagious diseases.</p> <p>Controlling the production, importation, quality, and distribution of medicine and foodstuff.</p>

4	Ministry of Education	<p>Introducing and preparing educational and training policies and extending training and education throughout the country.</p> <p>Providing obligatory secondary education (basic).</p> <p>Providing the basis for secondary education.</p> <p>Providing the basis for Islamic, vocational, and technical education and training.</p> <p>Providing the basis for teaching in citizens' native language in areas where the language is spoken by the majority of residents.</p> <p>Drafting, compiling, and implementing a unique educational curriculum based on the provisions of the holy religion of Islam, national culture, and scientific principles.</p> <p>Introducing and implementing effective programmes to eradicate illiteracy in the country.</p> <p>Providing education for women, nomads, and all people in society.</p> <p>Training teachers and ensuring the capacity building of cadres for the improvement of education process.</p> <p>According permits to establish private schools for national and foreign citizens.</p> <p>Publicising, explaining, and analysing educational programmes through the mass media.</p> <p>Printing and publishing books and other publications.</p>
5	Ministry of Higher Education	<p>Introducing and preparing educational plans and programmes for higher and professional educational institutions.</p> <p>Establishing and managing higher education, general, and professional institutions.</p> <p>Improving the higher and specialised education system to fully meet the needs of the country.</p> <p>Issuing permission letters (licenses) for the establishment of private higher and specialised educational institutions for local and foreign citizens.</p>
6	Ministry of Public Works	<p>Establishing highways and roads and ensuring their maintenance.</p> <p>Building bridges and airports.</p> <p>Introducing and preparing basic and annual plans for the purpose of regulating affairs related to territorial links.</p> <p>Supervising the quality of buildings, highways, roads, bridges, and airports.</p>
7	Ministry of Justice	<p>Drafting and scrutinising laws, decrees, international agreements, regulations, articles of associations; and other legislative documents.</p> <p>Providing legal consultations to senior authorities of the government, ministries, and other governmental agencies.</p> <p>Defending the substantial interests of the government in courts.</p> <p>Granting rights in accordance with the provisions of the law.</p> <p>Regulating affairs related to jails and custody.</p> <p>Regulating affairs related to children's training and correction centres.</p> <p>Issuing activation permits and registering political parties and social organisations.</p> <p>Publishing legislative documents and business signs of courts in the Official Gazette.</p>
8	Ministry of Finance	<p>Preparing the government's budget and monitoring and controlling the implementation of the approved budget.</p> <p>Organising the financial situation of the government.</p> <p>Protecting government property, documents, and assets.</p> <p>Introducing the financial policy of the government.</p> <p>Organising the payment and expenditure affairs of the government.</p> <p>Collecting and organising government revenues.</p> <p>Monitoring the accounts of state-owned enterprises.</p>

9	Ministry of Communication and Information Technology	<p>Introducing and implementing a policy of information and communication technology.</p> <p>Planning and preparing the development policy of communication infrastructure and facilities and monitoring the implementation process.</p> <p>Regulating and providing postal communication services inside and outside the country and ensuring their control.</p> <p>Regulating and issuing permits for the establishment of communication installations and frequency radio systems and ensuring their supervision.</p> <p>Regulating and managing internal communication affairs and ensuring the connection with other countries.</p> <p>Printing and publishing postage stamps.</p>
10	Ministry of Mines and Petroleum	<p>Researching and exploring mineral resources and conducting scientific studies of land.</p> <p>Providing geological and topographic maps of land.</p> <p>Introducing and implementing mineral, oil, and gas policies.</p> <p>Surveying the underground resources and providing the basis for the economical exploitation of resources.</p> <p>Processing and formulising minerals, oil, and gas and ensuring their supervision.</p> <p>Regulating and issuing licenses and permission letters for the exploration and extraction of minerals, oil, and gas (hydrocarbons).</p>
11	Ministry of Refugees and Repatriates	<p>Ensuring the rights of repatriates.</p> <p>Overseeing immigrants' affairs outside the country.</p> <p>Providing the basis for the respectful return of immigrants.</p> <p>Transferring returnees to residential areas via land or air.</p> <p>Providing the means of support for returnees in camps and guest houses before settling them in residential areas.</p>
12	Ministry of Counter Narcotics	<p>Leading the counter-narcotic campaign in the country.</p> <p>Coordinating the activities and programmes of ministries, agencies, and local and foreign organisations in the counter-narcotic campaign.</p> <p>Supervising and evaluating the implementation of the national strategy of narcotic control as well as the activities and programmes of relevant state agencies and NGOs.</p> <p>Preparing reports on the outcomes of monitoring and evaluation of the relevant agencies' affairs and submitting them to the President's Office and National Assembly.</p> <p>Organising, strengthening, and coordinating the external section of counter narcotics with neighbouring countries, the region, and international organisations.</p>
13	Ministry of Transportation	<p>Developing transportation policies.</p> <p>Supervising and monitoring transportation policies and strategies.</p> <p>Establishing transportation infrastructure across the country.</p> <p>Providing the basis for the improvement and development of transportation systems.</p> <p>Encouraging investment in transportation facilities across the country.</p>

14	Ministry of Commerce and Industries	<p>Introducing and preparing internal and external commercial policies in accordance with economic necessities and interests of the nation. Regulating imports and exports for the benefit of the national economy.</p> <p>Improving and increasing products and industries and preparing markets for Afghan products outside the country.</p> <p>Encouraging and supporting foreign and local investments on the basis of market economy system.</p> <p>Following and implementing norms and standard regulations in producing and distributing materials.</p> <p>Providing the basis for improving the private sector through planning and implementing policies.</p>
15	Ministry of Women's Affairs	<p>Drafting, preparing, and implementing cultural, educational, technical, vocational, and professional plans, holding workshops, seminars, conferences, and cultural and social sessions in different fields for the capacity-building of women for their access to opportunities.</p> <p>Expanding gender equality in society.</p> <p>Introducing and implementing development plans in balancing women's economical and business activities in the centre and provinces in the national development framework.</p> <p>Taking the necessary measures for the spiritual, civil, and legal rights of women.</p> <p>Supervising the implementation and fulfilment of strategies, commitments, working plans, and other activities relevant to women's lives.</p>
16	Ministry of Foreign Affairs	<p>Ensuring the diplomatic relationship of the Islamic Republic of Afghanistan with other foreign governments and international organisations.</p> <p>Providing the basis for observing the United Nation Charter, Human Rights Declaration, treaties with foreign governments, and international conventions.</p> <p>Developing the country's foreign policy on the basis of the Afghan Constitution.</p> <p>Providing assistance to ensure the relations and cooperation of the government, authorities, agencies, and NGOs of the Islamic Republic of Afghanistan with the authorities, agencies, and organisations of foreign countries and international organisations.</p>
17	Ministry of Rural Rehabilitation and Development	<p>Planning effective programmes for rural development in accordance with the needs of people.</p> <p>Ensuring the improvement of rural crafts.</p> <p>Making decisions about the extension of suitable economic and technological improvements in villages.</p> <p>Establishing, repairing, and building small electronic networks and water and irrigation systems in villages with the help of the relevant authorities.</p> <p>Presenting basic and substructure services to the rural population.</p>
18	Ministry of Urban Development	<p>Introducing the policy and strategy of urban development.</p> <p>Introducing and preparing the urban master plans.</p> <p>Designing and preparing urban plans and projects.</p> <p>Planning and designing governmental buildings and directing the affairs of industrial buildings and governmental and non-governmental factories.</p> <p>Introducing urban service plans for irrigation, canalisation, environmental protection, and city transport.</p> <p>Supervising the implementation of urban plans and projects.</p>

19	Ministry of Hajj and Islamic Affairs	<p>Ensuring the observance and expansion of Islamic values.</p> <p>Ensuring freedom for the performance of the religious rites of Muslims and followers of other religions.</p> <p>Guiding, promoting, and directing virtues, good preaching, and prevention of propagation against Islam.</p> <p>Identifying immorality and its prevention in cooperation with relevant authorities.</p> <p>Analysing religious jurisprudence disputes and issuing Islamic orders in its regard.</p> <p>Organising affairs related to the Hajj and visiting holy places both inside and outside the country.</p> <p>Supervising the construction and repair of mosques and holy places.</p>
20	Ministry of Borders and Tribal Affairs	<p>Strengthening national unity and brotherhood among all ethnicities living in Islamic Republic of Afghanistan.</p> <p>Mobilising and assembling all ethnic groups and tribes to defend national independence, integrity, and benefits.</p> <p>Supporting and defending the good and peace-loving objectives of all ethnic groups and tribes and gaining their cooperation for the security and reconstruction of the country.</p> <p>Looking after the affairs of tribes and ethnic groups along the frontiers.</p>
21	Ministry of Economy	<p>Introducing and preparing the policy and strategy of the government's economic development based on the market economy, and controlling and monitoring economic activities in the country.</p> <p>Regulating and coordinating economic, social, reconstruction, and rehabilitation development activities.</p> <p>Planning and arranging development projects with a separation of sectors and identification of priorities.</p> <p>Supervising, inspecting, and arranging the work of local and foreign NGOs and providing work licenses for them.</p> <p>Ensuring the balanced growth and development of the national economy in cities, provinces, and districts.</p>
22	Ministry of Information and Culture	<p>Implementing and extending freedom of speech.</p> <p>Taking measures to preserve and improve national cultural heritage, culture, art, and courtesy in the country.</p> <p>Preserving historical, cultural, and ancient monuments.</p> <p>Promoting the country's culture and tradition by establishing tourist organisations.</p> <p>Planning and arranging the national policy for youths based on the holy religion of Islam and national and international values and supervising its implementation.</p> <p>Providing the basis for the overall participation and active presence of youths in the fields of social, economic, political, and cultural life.</p>

23	Ministry of Labour, Social Affairs, Martyrs, and Disabled	<p>Providing work opportunities for qualified citizens in cooperation with other government administrations.</p> <p>Providing the ministries with highly specialised cadres and coordinating expert and skilled training.</p> <p>Drafting work-related legislative documents and giving technical consultations in the areas of work and social affairs.</p> <p>Monitoring the observance of labour laws and other related legislative documents and giving methodological guidance in this regard.</p> <p>Extending logical methods and kinds of wage payment, and improving work safety, the technical safety environment, and standards and rules related to labour in different areas of the economy.</p> <p>Adopting plans to provide a favourable work environment, prevent work inefficiency, and support work discipline.</p> <p>Regulating affairs related to the recruitment of foreign citizens.</p> <p>Regulating affairs related to vocational and technical training centres and job searching services.</p> <p>Regulating affairs related to kindergartens and nurseries and establishing and developing orphanages to take care of, supervise, and support children.</p> <p>Organising the work affairs of the disabled in administrative and productive areas of governmental, mixed, or private agencies with respect to individuals' education, expertise, and work abilities.</p> <p>Regulating social protection in relation to work.</p> <p>Regulating affairs related to the pension of civil servants.</p> <p>Introducing legislative documents related to the rights and privileges of the disabled and family members of martyrs and supervising their implementation.</p> <p>Providing basic services for the disabled and family members of martyrs.</p> <p>Preparing complete statistics on the disabled and martyrs with the cooperation of the Central Statistics Agency.</p> <p>Regulating, determining, and paying rights and privileges to the disabled and family members of missing people, captives, and martyrs.</p>
24	Ministry of Defence	<p>Defending the sovereignty of the country and taking necessary measures in this regard.</p> <p>Defending and protecting the independence, national sovereignty, and territorial integrity of the country.</p> <p>Making and implementing the national military strategy.</p> <p>Increasing the defence and structural abilities in accordance with geographical and security necessities of the country.</p> <p>Delivering assistance to civil society in emergency conditions.</p>
25	Ministry of Interior	<p>Introducing and implementing the internal security strategy.</p> <p>Ensuring security and protecting the country's borders.</p> <p>Establishing and maintaining public order and security in the country.</p> <p>Fighting against and preventing crimes.</p> <p>Detecting crimes and arresting suspects or the accused.</p> <p>Improving security capacities.</p> <p>Taking the necessary measures to regulate traffic affairs on the roads.</p> <p>Taking the necessary measures for fire extinction.</p> <p>Implementing the final and last decisions of courts.</p> <p>Arranging affairs relevant to population registration and passport distribution.</p>
26	State Ministry for Parliamentary Affairs	<p>Managing and coordinating the parliamentary affairs of the state and ensuring the proper coordination, efficiency, and requisite standardisation in parliamentary affairs.</p> <p>Strengthening the separation of powers of the state.</p>

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