MEANS TO WHAT END?

Policymaking and State-Building in Afghanistan

Sarah Parkinson

November 2010

AREU

MEANS TO WHAT END?

Policymaking and State-Building in Afghanistan

Sarah Parkinson

Editing: Shannon Mathieu

Layout: Jay Lamey

Cover Photograph: Sarah Parkinson

AREU Publication Code: 1039E

About the Author

Sarah Parkinson is Communications and Advocacy Manager at AREU and has been managing AREU's policy process research project since August 2008. She has a background in communication for development, holding a Post-Graduate Certificate in Community Economic Development from Simon Fraser University in Canada, and an MSc in Rural Planning and Development (International Focus) and a PhD in Rural Studies from the University of Guelph in Canada. She has worked, researched and taught in areas related to communications and research for development for ten years, in Afghanistan, Canada, Colombia, Ghana, South Africa and Uganda. Prior to joining AREU, her most recent work was a research project focused on understanding how farmers in Uganda were able to exert influence on the policy and practice of the national extension system.

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 through conducting high-quality, policy-relevant research and actively disseminating the results, and to promote a culture of research and learning. To achieve its mission AREU engages with policymakers, 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 working in Afghanistan and has a board of directors with representation from donors, the United Nations and other multilateral agencies, and non-governmental organisations. AREU currently receives core funds from the governments of Denmark, Finland, Norway, Sweden, Switzerland and the United Kingdom. Specific projects have been funded by the Foundation of the Open Society Institute Afghanistan (FOSIA), the Asia Foundation (TAF), the European Commission (EC) and the International Development Research Centre (IDRC).

Acknowledgements

Table of Contents

List of Figures, Tables, Photos and Boxes

Acronyms

AIHRC	Afghanistan Independent Human Rights Commission
ANDS	Afghanistan National Development Strategy
ARD	Agriculture and Rural Development
ARDSS	Agriculture and Rural Development Sector Strategy
AREU	Afghanistan Research and Evaluation Unit
ARTF	Afghanistan Reconstruction Trust Fund
CDC	Community Development Council
CSO	civil society organisation
DANIDA	Danish International Development Agency
EC	European Community
EDB	Education Development Board
EFA-FTI	Education for All – Fast Track Initiative
EU	European Union
HIPC	Highly Indebted Poor Country
i-ANDS	Interim Afghanistan National Development Strategy
IARCSC	Independent Administrative Reform and Civil Service Commission
IDLG	Independent Directorate of Local Governance
IIEP	International Institute of Education Planning
IMF	International Monetary Fund
ISAF	International Security Assistance Force
JCMB	Joint Coordination and Monitoring Board
MAIL	Ministry of Agriculture, Irrigation and Livestock
MDGs	Millenium Development Goals
MISFA	Microfinance Investment Support Facility for Afghanistan
MoE	Ministry of Education
MoI	Ministry of Interior
MoWA	Ministry of Women's Affairs
MP	member of parliament
MRRD	Ministry of Rural Rehabilitation and Development
NATO	North Atlantic Treaty Organization
NDF	National Development Framework
NESP-I	National Educational Strategy Paper (First Edition, drafted in 2005-6)
NESP-II	National Educational Strategy Paper (Second Edition, drafted in 2009-10)

NGO	Nongovernmental Organisation
NSP	National Solidarity Programme
ODA	Overseas Development Aid
OECD	Organisation for Economic Co-operation and Development
PDP	Provincial Development Plan
PRSP	Poverty Reduction Strategy Paper
PRT	Provincial Reconstruction Team
RAMP	Rebuilding Agricultural Markets Programme
SAF	Securing Afghanistan's Future
SPSL	Shiite Personal Status Law
UN	United Nations
UNAMA	United Nations Assistance Mission in Afghanistan
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNIFEM	United Nations Development Fund for Women
US	United States (of America)
USAID	United States Agency for International Development

Executive Summary

Policymaking and the state-building agenda in Afghanistan

State-building is a narrative, although not fully coherent or developed, that has served to coordinate and focus international intervention in Afghanistan, in collaboration with the emergent Afghan state, from 2001. Actors engaged with state-building include Afghan politicians, civil servants and national technical advisors, as well as a variety of diplomats and analysts working on behalf of the United Nations or one of the 62 aid-contributing countries and agencies. Many of these actors share some level of commitment to state-building, although they may have different ideas about what a state should be, while simultaneously advocating for the particular sets of interests that they represent. Formal policymaking, especially at the national level, has been one of the most publicly visible means of developing and advancing the state-building agenda. Such processes of policymaking in turn interact with existing organisational cultures and pre-existing, often informal, policy and practice. It is from such interaction that the emerging state is shaped.

This study describes a number of national-level policymaking processes, seeking to provide insight into the broad patterns and recurring issues that characterise such processes in post-9/11 Afghanistan. Findings are drawn primarily from a cross-case analysis of five quite different case studies. Each case provides a window into the relationships between the international community (primarily donors), the government of Afghanistan and the people of Afghanistan. The study focuses particular attention on the concepts of government ownership as key to state sovereignty, and of state legitimacy as the key to a healthy state—the ultimate goal of state-building.

Following is a brief description of each of the five case studies, with analytical highlights.

The drafting of the Afghanistan National Development Strategy

The drafting of the Afghanistan National Development Strategy (ANDS) was an immense undertaking, involving a plethora of consultative groups, subgroups, committees and boards within and across ministries. It also included national and provincial consultations with a broad range of actors. The result was a policy that covered a great deal of ground—so much so that it could almost be said to be all things to all people, and thus very limited in its ability to prioritise and guide action and the allocation of limited resources. Further, the complexity of the process and the time pressure that those within the process felt meant that the result often had limited buy-in within various sectors. These limitations have meant that, at least in some cases, ministries have been fairly quick to move on and redraft strategies with seemingly little regard for the ANDS itself.

As such, the ANDS, although not without its bright spots, highlights some of the limitations and risks of large policymaking processes. As a planning exercise, the ANDS process created intense pressure on a government with limited capacity. The result may have helped meet criteria for debt relief (for Soviet-era debt inherited from Russia) and gain donor pledges for further aid, but at the same time it may have diverted government attention from responding to and addressing the priority needs of its own people.

Policymaking in the agriculture and rural development sectors

A comparison of policymaking experiences within the Ministry of Agriculture, Irrigation and Livestock (MAIL) and the Ministry of Rural Rehabilitation and Development (MRRD) highlights the importance of government leadership in negotiating terms with donors. In MAIL, largely considered to have been quite weak during the period studied (2002-08), the ministry's policy was heavily open to donor influence—so much so that most of the policy

debate appears to have been between the donors, with the ministry on the sidelines. However, on a practical level, MAIL was not very active and most activity took place through donor-driven off-budget programmes, while a number of policymaking exercises designed to build the ministry's capacity for effective management appear to have had little effect.

On the other hand, MRRD put little emphasis on national-level policy as an end in itself, but rather focused on designing and managing programmes. It worked primarily with nongovernmental organisations (NGOs) as implementing partners. It showed strong leadership and gained the trust of donors. Its early leadership—including the minister, deputy ministers and other key leaders—had previously worked in NGOs and had a more results-based and dynamic approach than the traditional government bureaucratic culture. MRRD managed to negotiate enough control over funding that it was able to earmark some funds for its own capacity-building. Without assessing all of the programmes within MRRD, such an approach has clearly yielded some visible results, especially through transferring block grants to communities and engaging in infrastructure projects throughout the country.

More recent changes in leadership in both ministries suggest that the fortunes and the strength of ministries remain fragile and weakly institutionalised, and are rather embedded in the personalities of their leadership.

Building capacity for policymaking in the Ministry of Education

This case compares two consecutive experiences of national policymaking within the Ministry of Education (MoE)—the development of the National Education Strategy Paper (NESP) in 2006 and of a second version of the NESP in 2009-10—and related capacity-building efforts. It found that policymaking capacity in the ministry has been heavily boosted by the "injection" of numerous national technical advisors, paid for by donors, from 2006 onward. While the presence of technical advisors increased ministry capacity to engage

with donors and undertake planning, this "two-tiered" approach has been expensive, and it is not evident that capacity has been transferred to regularly appointed civil servants. On the other hand, support from the International Institute for Education Planning (IIEP) built capacity within the ministry's planning department, allowing it to lead the redraft of the NESP in 2009. This activity meant that the redrafting of the NESP was led by the government and that Dari, rather than English, was the initial language of drafting. Nonetheless, other MoE departments had relatively less engagement and input throughout the second drafting process than during the first. This highlights some of the challenges of civil service capacity-building and its inevitably long-term nature.

Policy surrounding subnational appointments

A study of policy surrounding the appointment of provincial governors and district administrators draws attention to the way that newly introduced formal policy does not simply reform or replace existing informal norms and practices. Rather, the formal policy itself becomes reformed, if not simply circumvented, by such practices and, more particularly, by political interests that are embedded in and reinforced through relationships. For example, efforts by the Independent Administrative Reform and Civil Service Commission (IARCSC), which was formed in 2002 to implement merit-based appointments, have met with various forms of political resistance and limited success. Even when merit-based guidelines are technically applied, they are often manipulated so that the favoured candidate can fulfil the requirements. This largely reflects political interests and the tendency of the majority of political actors to focus on the crucial political and relational credentials of a candidate, rather than on technical merit.

This case highlights the limits of the concept of "government ownership" in an emerging state, in which key government actors can themselves act in ways that appear against the public interest, while mechanisms for public accountability remain extremely weak. As these actors collaborate to protect and benefit each other, they may not be particularly responsive to the wishes and interests

of the people they govern. In fact, the formal state may offer new forms of protection and power to pre-existing political elites, even as state-building efforts weaken some of their other sources of power, such as the use of local militias.

The making of the Shiite Personal Status Law

This case, in which the Shiite Personal Status Law was passed after a protracted and quite irregular journey through parliament, provides insight into both the strengths and the weaknesses of present-day Afghan civil society as a lobbying agent, as well as the lack of connection between most policy actors within Afghanistan and the broader Afghan public. It also highlights disagreements surrounding questions of principled donor behaviour in response to an issue that, on the one hand, contravened international human rights laws to which Afghanistan is party and, on the other hand, touched on core issues of Afghan sovereignty and religious identity. The analysis suggests that strengthening the space for public awareness and debate of such issues could make the potential need for donor intervention less necessary, while, in general, stronger links with and inputs from a variety of other Islamic states could provide more options for publicly acceptable legal development. Both of these approaches could help to break the narrow monopoly of religiously based legal interpretation that a few well-placed political actors have tried to claim. Nonetheless, legal interpretations and the tensions between conservative and modern forces in Afghanistan have long been, and are likely to remain, highly sensitive issues.

Leveraging change: Options for strengthening state legitimacy

The five cases reveal different aspects of policymaking as it links to state-building and, in particular, highlight the complicated and difficult relationship between donors and the government, as well as the rather weak relationships between the people and both of these actors. Nonetheless, the cases also reveal examples of and opportunities for mutually positive collaboration toward a "virtuous circle" of activities that may strengthen

state legitimacy by strengthening the state's ability to effectively respond to the people. Based on the findings from these cases, the following are key recommendations for donors, reform-minded policy actors and researchers seeking to influence policy.

Recommendations for donors

1. **Consider the politics of "technical" interventions:** All donor interventions should be considered in terms of their political and state-building implications: Whose priorities does a policy reflect? Who benefits and who loses from the allocation of resources?

2. **Donors should pursue a policy of "enlightened self-interest":** While donor agents are naturally driven by their domestic interests, they should recognise that unilaterally pursuing national policy agendas through off-budget sourcing undermines state-building and thus may undermine their longer-term interests by forcing long-term engagement in and funding of a continuously fragile state.

3. **Operate based on the notion of a "triple compact":** The relationship between donors and Afghan people—and the trust of Afghan people toward Western countries—is a crucial part of the state-building equation and needs to be factored into donor policy and action. If people do not trust the intentions and principles of the international actors supporting state-building, the legitimacy of the state itself will become undermined.

4. **Engage with the state, while seeking out public opinion:** Based on the above recommendation, while donors must seek foremost to work through the state, they must also seek other ways of checking that their actions are not contrary to the values and practices of the people.

5. **Create more space for drawing on Islamic principles in building the Afghan state:** Donors could do more to ensure that Afghans have the space to determine and negotiate for themselves the nature of a post-Taliban Islamic republic, which is essential to state legitimacy.

6. **Seek to reduce the burden that donor requirements place on Afghan administration:** Heavily top-down reporting and policymaking processes, even when well motivated and intentioned, can overburden the nascent state and threaten to reduce its responsiveness to its own citizens.

7. **Spend responsibly:** Funds should only be spent in situations in which proper accountability mechanisms are in place.

8. **Strengthen the memory and learning of donor institutions within Afghanistan:** This can be achieved through policies favouring longer-term assignments and increased emphasis on handover periods and new staff orientation.

9. **Identify "good" and "bad" aid conditionalities:** Forms of aid conditionality seeking to discourage policies that are clearly at odds with the wishes and well-being of populations, in areas such as human rights and public accountability, should be pursued. Beyond these, aid conditionality and donor direction on internal policy is not warranted.

Recommendations for policymakers

1. **Set realistic expectations about policy processes:** Policy processes have costs as well as benefits, and thus complex processes are as likely to fragment and alienate interests as to create coherent visions, and to overburden systems as to build capacity within them.

2. **Base policymaking, as much as possible, on principles of simplicity and transparency.**

3. **Harmonise high-level policy across ministries:** A number of mechanisms have recently been created within the government for this purpose. To reach their potential, they must be accompanied by effective leadership and political will.

4. **Carefully balance between ministry policy and related programmes:** This can focus efforts more effectively, avoid overlap and reduce the risk of setting forth too many, potentially competing, agendas.

5. **Address the "dual public service":** Current efforts to rationalise the use of technical advisors and improve skills transfer are essential to the long-term stability and viability of the civil service.

6. **Devolve policy and programming as far as possible:** Although it may be gradual, more emphasis on policymaking at the provincial and even district levels will allow policy to be responsive and appropriate to context.

7. **Involve Afghan civil society actors in a more systematic way:** A more comprehensive and ordered engagement between policymakers and civil society has the potential to broaden the representativeness of processes.

Recommendations for research institutes

1. **Influence and broaden general understanding on policy-related issues:** National policymakers are often not well informed of the situation "on the ground"—research that describes and documents existing practices, systems and perceptions in policy-relevant areas can help to redress this.

2. **Build advocacy coalitions with like-minded actors across different policy-related institutions, including government, donor agencies and civil society:** Relationships of mutual trust between policy actors and researchers are a key element in ensuring research evidence is considered in policymaking.

3. **Seek windows of opportunity:** Despite the political pressures, policymakers often recognise the gaps in their own understanding and seek out evidence and knowledge.

4. **Hold up a mirror to the policymaking and state-building processes:** Documenting processes and making this information publicly available increases transparency in policymaking and opens space for debate.

1. Introduction

State-building has been an influential narrative in representing and directing collective Afghan and international efforts and resources over the last nine years. The vagueness of state-building as a concept has been both a weakness and a strength, allowing a shallow level of consensus among a broad range of actors, while concealing substantial differences in understanding. Now, when the viability of the Afghan state is itself being publicly questioned by many people, the validity of state-building as a useful narrative is clearly faltering. And yet, through the 2010 London Conference, National Consultative Peace Jirga and Kabul Conference, it is arguably the most dominant public narrative in explaining the route to the future. To understand what state-building has meant in the context of Afghanistan, and what practical value it might have in guiding collective action to a positive future, it is instructive to consider how state-building has been pursued in practice, through the shared efforts of international and national actors.

Making and implementing policy has been one of the primary means through which state-building, as a formal collective activity, has taken place. Thus, it is through the study of policymaking within Afghanistan that the tensions, contradictions and negotiations that have characterised state-building become apparent. It is also through such a study that it becomes possible to identify the spaces for renegotiating what the state might be, and particularly the crucial trilateral relationship between the Afghan people, the emerging Afghan state and the broader international community that is supporting that state financially and militarily.

This study draws on a broad definition of policy as a plan of action to guide decisions and actions. Formal public policy also has an important role in representing state action in a coherent way. The particular policies that are the focus of this study, while diverse, are all characterised as public policies at the national level, which aim to contribute to the state's effectiveness, and particularly its ability to deliver services and represent its citizens.

This paper is based primarily on a cross-case analysis of five case studies examining policy processes, augmented by the consideration of a number of additional Afghanistan Research and Evaluation Unit (AREU) studies not conducted expressly for this research, and other secondary research reports. The analysis focuses particularly on the relationship between the international community (primarily donors), the government of Afghanistan and the people of Afghanistan. It focuses on two concepts: the concepts of government ownership as key to state sovereignty and of state legitimacy as the key to a healthy state—the ultimate goal of state-building.

The resulting analysis provides some insight into the broad patterns and recurring issues that characterise policy processes in post-9/11 Afghanistan, particularly in view of the many international and Afghan actors and the complex relationships between dependence and sovereignty.

The remainder of this paper is in five chapters:

2: Describes the methodology used in this study.

3: Introduces key concepts regarding policy processes and state-building, and provides some background on state-building in Afghanistan since 2001.

4: Focuses on policymaking at the ministerial and interministerial levels—these are areas where international intervention has generally been quite strong and direct, and where efforts have taken a "technical focus" to delivering services that can improve public welfare.

5: Focuses on policymaking as related to subnational governance and lawmaking in parliament—these are areas where international intervention has been more circumspect and the process has been more overtly political.

6: Reviews the implications of the cases for state legitimacy and presents recommendations for strengthening state-building efforts.

Figure 1: Structure of the Afghanistan National Development Strategy (ANDS)

PILLAR I — Security

1.1 - Security

- 1.1.1 - National Defence
- 1.1.2 - Internal Security and Law Enforcement
- 1.1.3 - Disbandment of Illegal Armed Groups
- 1.1.4 - De-Mining

PILLAR II — Governance, Rule of Law and Human Rights

2.1 - Governance, Rule of Law and Human Rights

- 2.1.1 - Empowering the National Assembly
- 2.1.2 - Justice and the Rule of Law
- 2.1.3 - Religious Affairs
- 2.1.4 - Public Administration Reform
- 2.1.5 - Human Rights, Including Women's Rights Program

PILLAR III — Economic and Social Development

3.1 - Infrastructure & Natural Resources
- 3.1.1 - National Roads and Road Transport
- 3.1.2 - Air Transport
- 3.1.3 - Power and Water
- 3.1.4 - Telecommunications
- 3.1.5 - Mining and Natural Resources
- 3.1.6 - Urban Development

3.2 - Education
- 3.2.1 - Primary and Secondary Education
- 3.2.2 - Higher Education
- 3.2.3 - Skills Development
- 3.2.4 - Culture, Media and Sport

3.3 - Health
- 3.3.1 - Extending the Basic Package of Health Services
- 3.3.2 - Extending the Essential Package of Hospital Services
- 3.3.3 - National Communicable / Non-communicable Diseases Control Program
- 3.3.4 - Health Sector Human Resource Management

3.4 - Agriculture & Rural Development
- 3.4.1 - Agriculture
- 3.4.2 - Rural Infrastructure Including Irrigation Water Management
- 3.4.3 - Community Development
- 3.4.4 - Rural Financial Services
- 3.4.5 - Rural Enterprise Development

3.5 - Social Protection
- 3.5.1 - Humanitarian & Disaster Response
- 3.5.2 - Support to Vulnerable Women
- 3.5.3 - Support to Unemployed Youth and Demobilised Soldiers
- 3.5.4 - Support to the Disabled
- 3.5.5 - Refugees and Returnees

3.6 - Economic Governance & Private Sector Development
- 3.6.1 - Putting in place a Medium Term Fiscal Framework
- 3.6.2 - Enhancing Revenue Collection
- 3.6.3 - Enhancing Public Finance Management
- 3.6.4 - Strengthening the Investment Climate
- 3.6.5 - Trade
- 3.6.6 - Financial Services and Markets

1.1 - Gender Equity (Cross Cutting Issue 1) – Women's Affairs (Lead)

1.2 - Counter Narcotics (Cross Cutting Issue 2) – Counter Narcotics (Lead)

1.3 - Regional Cooperation (Cross Cutting Issue 3) – Foreign Affairs (Lead)

1.4 - Anti-Corruption (Cross Cutting Issue 4) - GIAAC (Lead)

1.5 - Environment (Cross Cutting Issue 5) - NEPA (Lead)

CONCERNED MINISTRIES AND OTHER INSTITUTIONS INVOLVED IN ABOVE PROGRAM IMPLEMENTATION

- National Security Council
- Interior Affairs
- Defense
- Border, Tribal Affairs and Kuchis
- Foreign Affairs (Mine Action)
- Counter Narcotics
- National Directorate of Security
- DDR/GIRA
- Anti-Corruption Commission
- Human Rights Commission
- Independent Electoral Commission

- National Assembly
- Justice
- Supreme Court
- Hajj and Endowment
- Women's Affairs
- Attorney General
- Civil Service Commission
- Audit and Control Office

- Public Works
- Transport
- Communications
- Water and Energy
- Urban Development & Housing
- Mines and Industries
- Geodesy and Cartography
- National Environment Protection

- Education
- Higher Education
- Women's Affairs
- Youth Affairs
- Labour and Social Affairs
- Information, Culture & Tourism
- Border, Tribal Affairs and Kuchis
- National Olympic Committee
- Science Academy

- Public Health

- Agriculture, Animal Husbandry & Food
- Rural Rehabilitation and Development
- Counter Narcotics (Alternative Livelihoods)
- Water and Energy
- National Environment Protection

- Refugees & Repatriation
- Women's Affairs
- Martyrs and Disabled
- Border, Tribal Affairs and Kuchis
- Labor and Social Affairs
- Youth Affairs
- Office of Disaster Preparedness
- Red Crescent

- Economy
- Finance
- Commerce
- Central Bank
- Information, Culture & Tourism
- Audit and Control Office
- Financial Service Providers
- Chambers of Commerce (AICC)

Source: Government of Afghanistan

2. Methodology

This study uses a comparative analysis of case studies to examine the nature of policy processes as they relate to the broader state-building agenda, and particularly to explore the notion of government ownership of policy, what it means in practice and how it translates into state legitimacy.

Selection of cases

While policy processes take place at multiple levels, these studies focus mainly on high- and mid-level policies, including national development policies and sectoral policies, rather than lower-level policies and procedures at the level of programme implementation.

The selection of cases for this study draws on the sector structure of the Afghanistan National Development Strategy (ANDS) and seeks to contrast more political and contentious policy areas (such as governance or police reform) and the apparently more technical sectors (such as agriculture and education). The selection of sector studies also draws on a World Bank assessment[1] of Afghanistan's development policies and their performance, which found that progress in some sectors (health, education and small-scale rural infrastructure) was quite promising, while other areas (including agriculture and counternarcotics) were very weak in terms of policy and management, as well as performance. The selection of cases was again focused on seeking contrast between sectors and ministries that were seen as performing relatively well and those that were assessed as weak. The case studies that were analysed for the purposes of this paper are shown in Table 1.

Two other cases that were not originally conducted as part of this study, but which addressed policy processes in complementary areas, were also considered within the cross-case analysis, although to a lesser extent than the original five.

Methodology within the cases

Each case study was conducted by a different researcher or researchers, and the findings of the individual cases are all available as separate reports. The framing of the case studies was shaped by a concept note written for this series, but was also based on the particularities of the sector and the case involved.

In addition to covering very different sectors with different levels of performance, each case study took a slightly different approach to the issue of policy processes. An analysis of written policy content, making links between the agenda-setting process and underlying interests and assumptions, was one aspect of the ANDS study and the study on agriculture and rural development (ARD). Studies on police reform, subnational appointments and gender mainstreaming examined policies not only in terms of identifying underlying agendas and how they were drafted, but also in terms of how they were interpreted and implemented. The studies on the formation of the National Education Strategy Paper (NESP) and the drafting of the Shiite Personal Status Law focused on the outputs of the policy processes, not so much in terms of content, but in terms of changed relationships and process-related goals—namely capacity-building of the institutions carrying out the process in both cases, and also mobilisation of civil society and representation of constituent interests in the case of the Shiite Personal Status Law.

The case studies drew from documentary evidence, including policy documents, legislation, budgets, supporting documents, programme evaluations, media reports, observation of meetings and personal interviews with key informants involved in or close to policy processes. The particular sources depended on the nature of the case and available information and are detailed within the case reports.

---

1   William Byrd, *Responding to Afghanistan's Development Challenge: An Assessment of Experience During 2002-2007 and Issues and Priorities for the Future* (Washington DC: World Bank, 2008).

Table 1: Case studies

Case	Relevant ANDS sector or theme	Link to state-building (key function) (based on definition on p. 10)
1. ANDS	All—overarching	Welfare PRSP and overarching national development policy
2. Drafting of the Shiite Personal Status Law	Governance, rule of law and human rights	Representation/lawmaking
3. Senior subnational appointments	Governance, rule of law and human rights	Representation: the means by which provincial governors and district administrators gain authority on behalf of the state
4. Drafting the NESP	Education	Welfare Public education is also key to nation-building
5. Policymaking in the agriculture and rural development sector	Agriculture and rural development	Welfare

Table 1.1: Extra cases examined

6. Police reform	Security	Security
7. Gender mainstreaming	Gender equity	Representation/welfare Fitting in with broader international community norms and commitments

The cases on the reform of the Afghan National Police and on gender mainstreaming were not informed by the series concept note, but nonetheless addressed many of the same concerns by considering competing agendas, actors, motivations and the implementation of various reform policies.

Analysis of cases

A cross-case analysis was carried out for the purposes of this study. The cases were clustered into two groups: one group that focused more on policy processes within and across ministries, and a second group that focused more on policy processes outside of ministries, which were also less directly influenced by donors. Again, this cluster-group comparison provides contrasts, as well as some enduring observations and themes across the two groups. The analysis is qualitative and draws mainly on the final written reports emerging from each of the case studies. It also draws fairly extensively on existing literature, and particularly other AREU studies, to further contextualise the findings of the

cases and deepen exploration of key issues regarding the relationship between people, government and the international community.

Limitations of the research

The idiosyncrasies of the policy processes revealed by the studies, and the need to tailor methodology around the particularities of each case, mean that comparisons and generalisations across the cases must be made with caution. Nonetheless, there are strong patterns and emerging themes across the cases, many of which are further reinforced by a review of existing literature.

The analysis of the data is further complicated by the fact that the cases reveal many nuances, which different analytical frameworks would draw out in different ways. Thus, there are many points of interest in the details of the studies that might warrant further exploration. The approach of this study is to seek resonance across cases in terms of recurring themes and issues, while seeking to

identify spaces where state-building goals and assumptions have seemed more plausible.

While, on one hand, the cases are data rich, on the other hand, there is much about policy processes, actors, motivations and interactions that the cases did not capture. Some of this is due to the nature of the policy environment—it is often highly politicised and secretive, and key actors play their hands close to their chests. Definitive accounts of key events and the motivations driving different agendas are often elusive. Also, international diplomats, advisors and other aid actors are constantly arriving and leaving, so the memory of policymaking processes fades quite quickly. Key national actors also change institutional allegiances with a fair degree of frequency and can also be difficult to track.

The cross-case approach to some degree manages to address some of these limitations by piecing together a broader picture of policymaking dynamics and recurring themes. However, a further limitation of the methodology is the decision to focus specifically on formal policymaking within the government and how this affects the donor-government relationship, national ownership of the policy, its implementation and results, and hence state legitimacy. Clearly, the making of government policy is only one piece of the bigger picture. Other factors, particularly the significant activity by the international military forces, also impact upon, and may overshadow, the importance of these formal efforts—a possibility that must be borne in mind when interpreting these largely centrally focused efforts at state-building.

A government urban planning office, Herat.
By Daniel Esser (AREU file photo)

3. Policymaking and the State-Building Agenda in Afghanistan

Introduction

Following the overthrow of the Taliban in 2001, state-building activity has focused on building up a legitimate, sovereign state that can take on the governance of Afghanistan. International military presence, diplomacy, aid funding and technical assistance have been the tools through which international actors could support the emergence and strengthening of the state. The majority of Afghans throughout the country welcomed the prospect of peace, security and greater personal liberty and economic opportunity than they had experienced under the Taliban regime.[2]

Despite the general agreement among Afghans and international actors on the need to build a state, there was much less clarity about what sort of state and how exactly to go about building it.[3] This chapter briefly explores the concepts of state, state-building and state legitimacy, before presenting a brief overview of major policymaking efforts since 2001, and then considering the role of government, donors and people in the emergence of the present-day Afghan state.

3.1 State-building in Afghanistan

Weber classically defined a state as an entity that has a monopoly over the legitimate use of force within its territory.[4] Most modern definitions also suggest that the state has key functions that it must carry out vis-à-vis both its population and the broader community of nations. A modern democratic state is commonly expected to provide basic functions in areas of security, welfare and representation.[5] Definitions of state often appear to be describing what a state should be, rather than what a state is.[6] As a practical intervention, often following a conflict, it is thus unclear whether state-building[7] aspires to create the conditions for a flourishing modern democracy, a basic arrangement in which civil war is unlikely, or some middle ground between the two, as Woodward observes:

> *The concept represents a coming together of four distinct communities—the humanitarian, human rights, development (in the sense of development banks and donors), and security— but it means very different things to each of these communities, there is no common ground, and it is not clear that they even realize it. They appear to be speaking past each other.[8]*

Beneath such conceptual fuzziness, there are some general assumptions that tend to shape thinking around state-building, even if these are by no means universal. Firstly, state-building tends, by and large, to assume its ultimate goal is the creation of a modern, democratic state—of the type that North has termed "an open access order." Such a state is rule-bound and impersonal, and as such all citizens have access to rights and privileges within it—the right to free expression, the right to

---

2 See, for example, Sarah Chayes, *The Punishment of Virtue: Inside Afghanistan After the Taliban* (New York: Penguin Press, 2006).

3 Clare Lockhart, for example, speaks of "standing in the rubble of Afghanistan" and realising there were no written guides or manuals to support state-building efforts. "Ashraf Ghani and Clare Lockhart speak about their book 'Fixing Failed States,'" authors@Google speakers' series (New York: Google, 2008). Video available at: http://www.youtube.com/watch?v=mplebSY9xM4.

4 Max Weber, "The Politics of Vocation," in *A Speech to the Free Students Society* (Munich: Munich University, 1919).

5 Sarah Lister, "Changing the Rules: State-Building and Local Government in Afghanistan" (London: Crisis States Research Centre, 2007).

6 See, for example, Ashraf Ghani, Clare Lockhart and Michael Carnahan, *Closing the Sovereignty Gap: An Approach to State-Building* (London: Overseas Development Institute, 2005).

7 Note that this paper assumes "state-building" to be a deliberate intervention, whereas some work, including the work on fragile states by OECD, treats "state-building" as an all-encompassing concept that includes all means by which a state forms.

8 Susan L. Woodward, "Fragile States," in *Peace and Social Justice Meeting, November 29* (Rio de Janeiro, Brazil: Ford Foundation, 2004), 5.

free association, the right to vote and the right to receive state services. This kind of state can be contrasted with what North terms a "closed access order" or a "natural state." In such a state, a relatively small minority of the population act as the ruling elite, and in the pursuit of self-interest they negotiate a balance of power with each other, maintaining special rights and privileges not open to the general population.[9]

Dichotomising states into two types—either democratic and egalitarian or undemocratic and elite-focused—is clearly an oversimplification. But it does usefully highlight the point that different kinds of states, and people's differing expectations about how power operates within a state, will give rise to different kinds of assumptions and behaviour. "Natural states" place primacy on the importance of personal relationships and individualised trust, whereas "open access orders" in the form of modern democracies place primacy on impersonal rules that apply equally to everyone.

There is a large body of literature theorising how states come into being, with varying schools of thought. Tilly has famously argued that states are formed through war, and through preparations for war that require taxes. It is through the elite's pursuit of self-interest and greater power that most nation states have historically come into being.[10] This view suggests that a major aim of post-conflict state-building in Afghanistan ought to be the consolidation of a political settlement in which those who are able to incite violence see greater advantage in maintaining peace. Other authors have argued that high levels of aid can actually weaken the formation of a democratic state, by weakening the economic and social compact between a state and its people.[11]

This leads finally to the issue of state legitimacy. Legitimacy can be defined as "the recognised authority to hold and exercise power."[12] State legitimacy is conferred both by the population living under the authority of the state and by other nation states, especially through bodies such as the United Nations. The legitimacy of a state depends on the expectations of its population, in terms of what they believe a state ought to do and whether they believe it is performing adequately. Internationally, states require recognition from other states so that they can maintain their borders and trade, and enter into other international agreements. In the case of Afghanistan, the state is heavily dependent on external support of various kinds, most notably financial and military, and thus must maintain a relationship that allows it to continue receiving such support.

3.2 Policymaking in aid of state-building from 2001

Policy, as noted in Chapter 1, is broadly defined as a plan to guide action. Formal public policy also works as a representation and rationalisation of state activity, and as such is another potential means of strengthening state legitimacy. According to its own goals and logic, formal public policy can help the emerging state deliver on its obligations to its people to provide welfare, representation and security. Policymaking processes in the emerging Afghan state can be a means for state institutions to develop. Policymaking processes in Afghanistan further provide means of negotiating relationships among state actors, and between the state and its donors.

Internationally led state-building efforts in Afghanistan after the fall of the Taliban have been articulated through a series of formal national policies, as shown in Table 2.[13]

---

9   Douglass North, John Joseph Wallis and Barry Weingast, *Violence and Social Orders: A Conceptual Framework for Interpreting Recorded Human History* (Cambridge: Cambridge University Press, 2009).

10   Charles Tilly, "War Making and State Making as Organized Crime," in *Bringing the State Back In*, ed. Peter Evans, Dietrich Rueschemeyer and Theda Skocpol, 169-187 (Cambridge: Cambridge University Press, 1985).

11   Mick Moore, "Revenues, State Formation, and the Quality of Governance in Developing Countries." *International Political Science*

Review 25, no. 3 (2004): 297-319; Astri Suhrke, "When More is Less: Aiding Statebuilding in Afghanistan" (Madrid: Fundación para las Relaciones Internacionales y el Diálogo Exterior, 2006).

12   As defined in AREU's Strategic Plan 2010-12, page 9.

13   Many of these have been launched at international conferences outside of Afghanistan, and have also served as platforms to rally aid resources for reconstruction.

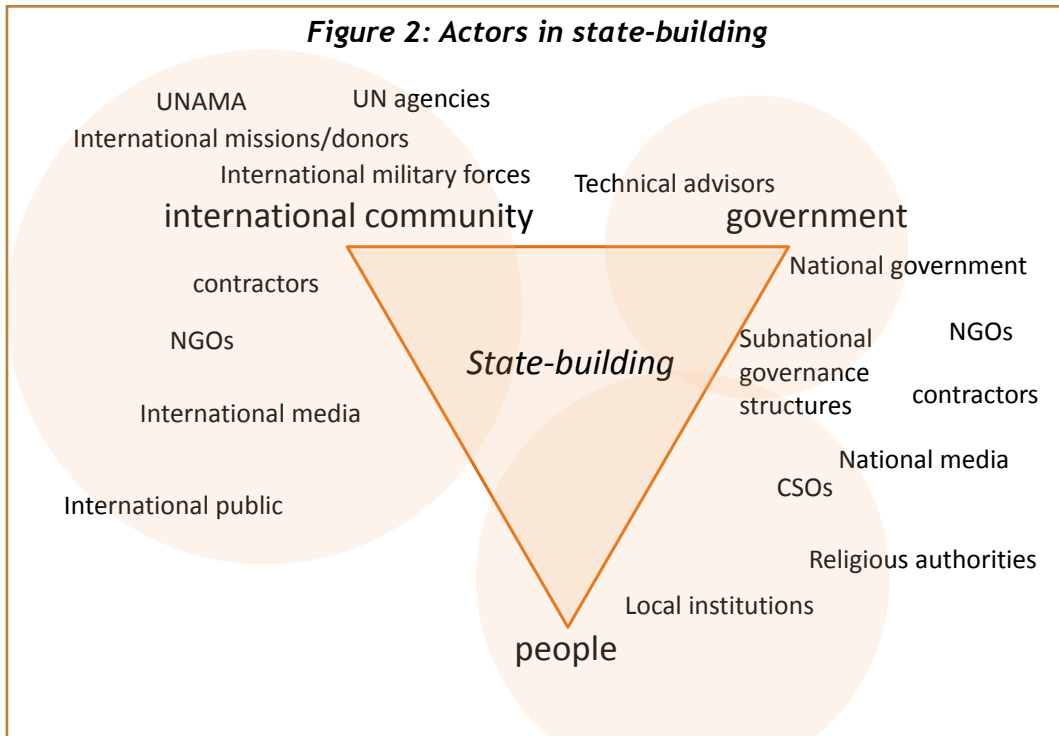*Table 2: National-level policies in the post-Taliban period*

Date	Title	Major features
2001	Bonn Agreement	Brokered by the UN, provided foundation for post-conflict political settlement, transitional period and administration
2002	National Development Framework (NDF)	Asserted government ownership of the reconstruction process; identified priority objectives and programmes to avert humanitarian crisis and lay foundations for state-building
2004	Securing Afghanistan's Future (SAF)	Defined strategic goals of Afghanistan's development; used to garner donor pledges toward reconstruction
2004	Constitution of Afghanistan	Highest level of law of Afghanistan; commits to vision of liberal, democratic Islamic republic with full suffrage and respect for human rights
2006	Afghanistan Compact	Agreement between Afghanistan and international community on joint establishment and monitoring of five year benchmarks in security, governance, rule of law and human rights, economic and social development, and counternarcotics
2006	Interim Afghanistan National Development Strategy (i-ANDS)	Strategy consistent with guiding principles for an interim poverty reduction strategy paper (PRSP) to ensure eligibility for debt forgiveness and concessional loans
2008	Afghanistan National Development Strategy (ANDS)	Poverty reduction strategy designed to coordinate national development efforts through the government and to gain debt relief status for Afghanistan
2010	Jan: London Conference on Afghanistan	Re-emphasis on Afghan government accountability and transfer of security to Afghan government; announcement of planned reconciliation and reintegration initiative to end conflict.
	July: Kabul Conference	Attempt to specify and recommit to priorities for key areas (economic and social development, security, governance and reconciliation/reintegration)

The UN has officially led and coordinated international efforts at state-building since 2001 through the United Nations Assistance Mission in Afghanistan (UNAMA), which combines political, reconstruction and humanitarian efforts into one mission. The UN has had relatively few resources at its disposal to engage in reconstruction and state-building, in comparison to the per capita allocation in other countries. While part of this "light footprint" approach was due to a reluctance on the part of donor countries, and particularly the United States, to invest more heavily, senior UN officials also have argued that it would help protect Afghanistan from the neo-colonial zeal of supply-driven development efforts and allow Afghans to take the lead in the reconstruction of their own country.[14]

The Bonn Agreement, signed on 5 December 2001, set the stage for transitional state-building efforts from 2001 to September 2005, when the first parliamentary elections took place. In the absence of a strong state and the international community often choosing to use local commanders as convenient proxies, the Afghan administration opted for a "big tent" approach of incorporating potential spoilers into the new government. As van Bijlert writes, "The post-Taliban government under President Karzai surprised many Afghans in that it largely reinstated the commander networks that held power before the Taliban, instead of seeking the support of the older networks of landowners, tribal elders and urban elites."[15] This created a

14 Simon Chesterman, *Tiptoeing through Afghanistan: The Future of UN State-Building* (New York: Carnegie Corporation, 2002).

15 Martine van Bijlert, *Between Discipline and Discretion: Policies Surrounding Senior Subnational Appointments* (Kabul: Afghanistan Research and Evaluation Unit, 2009), 7.

Figure 2: Actors in state-building

UNAMA   UN agencies
International missions/donors
International military forces   Technical advisors
international community   government
                        National government
contractors
                        NGOs
NGOs   Subnational
        governance
State-building   structures   contractors
International media   National media
                    CSOs
International public   Religious authorities
                Local institutions
        people

rather strong contradictory dynamic within the state-building effort that still persists and arguably has come to characterise some of the more ugly aspects of the current Afghan administration and a widely perceived "culture of impunity."[16]

Despite the "light footprint" and the UN commitment to Afghan ownership, international development brought with it blueprints and best practices from elsewhere, drawn from good governance agendas. It also brought a constellation of new actors and extra funding, in addition to those aid actors who had already been working in Afghanistan and with Afghan refugees in border regions.[17] There were also a few very strong leaders within the Afghan administration during the early years, who lobbied for aid to be channelled through the Afghan government and distributed according to government-set priorities.

A large number of actors have been linked together under the rubric of state-building since 2001. These actors have had different interests, understandings, expectations and resources to bring to bear. The evolving relationships and negotiations between these actors through and around formal policymaking processes reveal much about the emerging nature of the Afghan state.

3.3 Actors in state-building

As shown in Figure 2, the state-building agenda depends on the relationships between three main groups of actors: the international community, the formal government and the people who are supposed to be both governed and represented by their state. Non-state actors including civil society organisations and the media may represent an additional means through which people can connect to and influence their government and gain representation.

Literature on policymaking stresses that policy is often made by loose coalitions of actors who are joined together by a shared belief in a discourse, or common outlook, as well as their relationships.

16   Rama Mani, *Ending Impunity and Building Justice in Afghanistan* (Kabul: Afghanistan Research and Evaluation Unit, 2003).

17   Nicholas Stockton, *Strategic Coordination in Afghanistan* (Kabul: Afghanistan Research and Evaluation Unit, 2002).

These coalitions may cut across formal institutional divisions, bringing together individuals within government, donor agencies and civil society based upon these relationships and shared interests or values. Structures that shape policy processes may emerge from such coalitions, and if these are informal they may tend to have greater de facto influence than formal structures created for policymaking.[18]

Policy coalitions are often united by a particular policy narrative—a story that provides a coherent, linear explanation of events.[19] Such narratives serve the important function of simplifying reality to a point where action can be decided. Of course, such simplification also reinforces a certain perspective and set of values, and can often serve to limit debate or stifle opposition. When political leaders use the narrative of state-building, it is as much to represent reality in a coherent, attractive way as it is to guide action. For example, state-building is often said to be a slow, long-term process, so it is a narrative that can be called on to explain the need for patience and for longer-term commitment, and to present small achievements as significant incremental steps in a larger process.

When considering the way the vision of the state has been negotiated between key policy actors, particularly donors and the government of Afghanistan, the role of these policy coalitions becomes quite important. In state-building discourse, the term "ownership" is often used to suggest that the government has control over state-building processes, including the direction of resources.[20] Focusing more specifically on aid, the 2005 Paris Declaration for Aid Effectiveness focuses "ownership" around the notion that governments of countries receiving aid should be able to "exercise effective leadership over their development policies and strategies and coordinate development actions."[21] Nonetheless, the degree to which the government is dependent upon Western aid means that it is highly open to donor intervention. If the government is seen not to have ownership over state-building, but the control is rather in the hands of donors, this can be damaging to state legitimacy—since ownership essentially equates to sovereignty. In Afghanistan, because of the historical and political context, there is a particular risk that the popular legitimacy of the government is undermined by Western support, as Suhrke argues:

> Afghan nationalism, however diffuse, has a distinct core defined by pride in a country that was never colonised and a people that repeatedly has driven out foreign invaders... [M]ore narrowly defined, the ideology of the militant Islamists specifically attacks the Western foreign presence and development model as illegitimate. In an international context where the US-led "war on terror", invasion of Iraq and support for Israel's warfare against Lebanon have created perceptions of a Western crusade against Islam, the Afghan government's deep support base in the Western Christian powers is a liability.[22]

If the government is seen to reflect the will and interests of the people, then government ownership can further be equated with the broader notion of national ownership.

The following sections overview key characteristics of government, donors and the Afghan people in relation to policymaking and to each other. The analysis of this paper focuses attention particularly on the relationship between donors and the formal government, and considers how this relationship influences national ownership and the evolving relationship between the state and the people.

18   Evert A. Lindquist, "Discerning Policy Influence: Framework for a Strategic Evaluation of IDRC-Supported Research" (Ottawa: IDRC, 2001).

19   Rebecca Sutton, "The Policy Process: An Overview" (London: Overseas Development Institute, 1999), 7.

20   Jonathan Goodhand and Mark Sedra, *Bargains for Peace? Aid, Conditionalities and Reconstruction in Afghanistan* (The Hague: Netherlands Institute of International Relations, 2006); Miles Kahler, "Statebuilding after Afghanistan and Iraq," in *The Dilemmas of Statebuilding: Confronting the Contradictions of Postwar Peace Operations* (San Diego: Routledge, 2008).

21   "Paris Declaration on Aid Effectiveness," 2005 High Level Forum, Paris, 28 February – 2 March 2005, 3.

22   Suhrke, "When More is Less," 15.

Government

The government of Afghanistan, as set out in the 2004 constitution, consists of the executive branch (the Office of the President, two vice-presidents, the attorney general, a cabinet with 26 ministers and a number of independent bodies) and the legislature (consisting of the National Assembly—the *Wolesi Jirga* and the *Meshrano Jirga*). In addition, there are 34 elected provincial councils. The constitution also calls for the election of district councils, village councils and municipal councils, although to date no elections for these bodies have been held.[23] Officials within the provinces report directly to line ministries in Kabul, rather than through local governance structures, making Afghanistan, on paper, one of the most centralised governments in the world.[24] The decision to create a strong central government was favoured by many Afghans, who felt it was necessary in order to counter the influence of local strongmen.[25] In practice, as mentioned earlier in this chapter, President Hamid Karzai has taken a conciliatory approach to local powerbrokers, and many of them maintain power. The centralised nature of the state means that, while the central government has limited reach beyond the capital, the executive, and particularly the president's office, maintains a high level of discretionary power in appointments, policymaking and lawmaking, and has the capacity to pass decrees and overturn decisions made by other government bodies in many instances.

The political landscape in Afghanistan is still largely shaped by old Islamist political parties, which gained most of their strength during the time of resistance to the Soviets and, to a lesser ex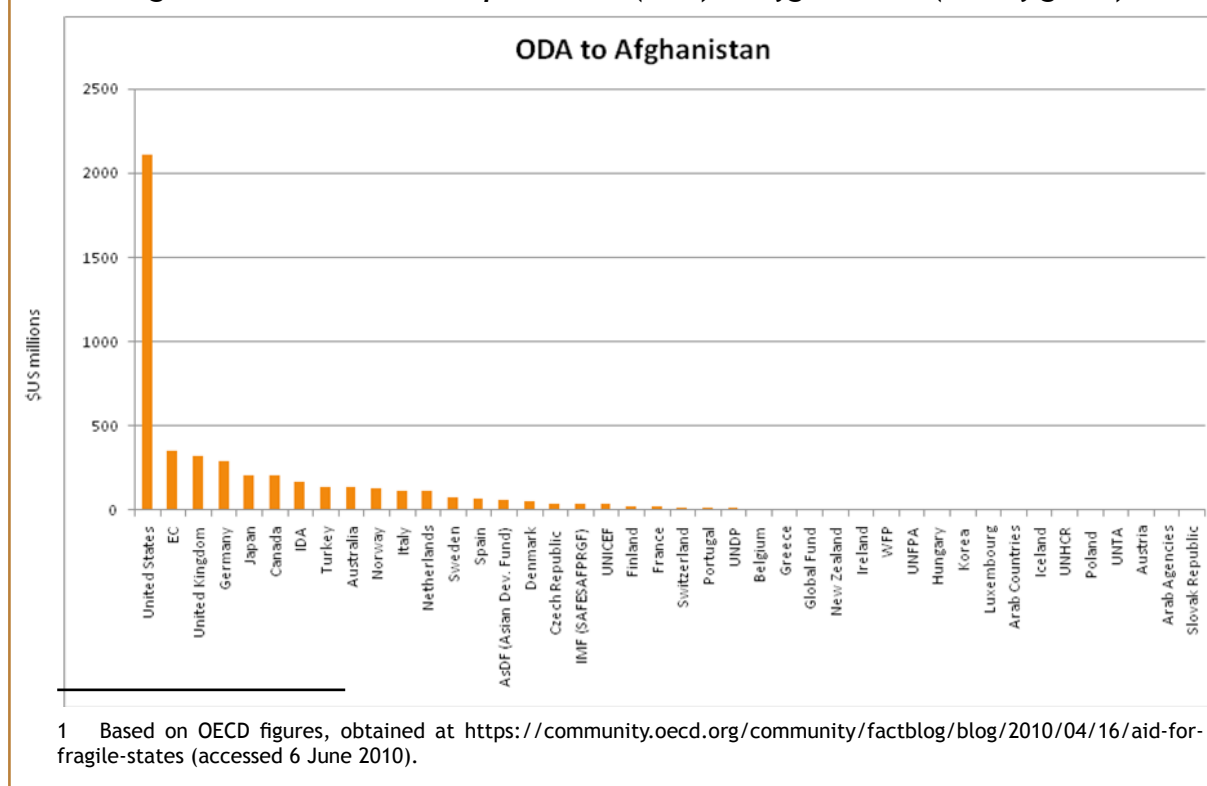tent, old communist parties.[26] Within the civil service, much of the institutional culture is reflective of the Soviet era, which was a time when government in Afghanistan was at its most active. Some influential new actors within government are Afghan returnees with dual nationalities and previous careers outside Afghanistan or within the aid sector. These actors appear more able to gain the trust of donors and act as interlocutors between the government and donor community. For example, Ashraf Ghani, Minister of Finance from 2002-04, was effective in lobbying for greater government ownership vis-à-vis the donors, including government control over fiscal resources and expenditures, and had major input into the early programme-focused development efforts and the design of the National Solidarity Programme (NSP).[27] Notably, Ghani, a returnee who had spent several decades away from Afghanistan and who had worked for many years in the World Bank, is as much an aid community insider as an Afghan, which no doubt strengthened his ability to corral donors with some success.

The apparent agendas of political leaders within Afghanistan do not always line up well with official government policy. Hence, while the Constitution guarantees human rights and rule of law, there is a widely acknowledged culture of impunity and strong criminal links within the government itself.[28] Political factors often take precedence over and conflict with official aims and public interest, as reflected in the mounting public discontent with government corruption. In many ways, these contradictions can be tied back to the nature of the domestic political settlement in Afghanistan, which involved rewarding and reinstalling mujahiddin commander networks. This approach has been clearly at odds with the normative kind of state assumed by developmentalist state-building discourse. As such, local political actors have bought into quite a different kind of state, one

---

23 Afghanistan Research and Evaluation Unit, *The 2010 A to Z Guide to Afghanistan Assistance (Eighth Edition)* (Kabul: Afghanistan Research and Evaluation Unit, 2010).

24 For example, provincial police chiefs report to the Ministry of Interior and are not answerable to provincial governors. Andrew Wilder, *Cops or Robbers? The Struggle to Reform the Afghan National Police* (Kabul: Afghanistan Research and Evaluation Unit, 2007).

25 Lister, "Changing the Rules."

26 Thomas Ruttig, "Islamists, Leftists, and a Void in the Centre: Afghanistan's Political Parties and Where They Came From 1902-2006"

(Kabul: Konrad Adenauer Stiftung, 2006).

27 Jonathan Goodhand and Mark Sedra, "Who owns the peace? Aid, reconstruction, and peacebuilding in Afghanistan," *Disasters* 34, no. S1 (2010): S78-S102.

28 Manija Gardizi, Karen Hussmann and Yama Torabi, *Corrupting the State or State-Crafted Corruption? Exploring the Nexus between Corruption and Subnational Governance* (Kabul: Afghanistan Research and Evaluation Unit, 2010).

Figure 3: Overseas development aid (ODA) to Afghanistan (2008 figures)[1]

1   Based on OECD figures, obtained at https://community.oecd.org/community/factblog/blog/2010/04/16/aid-for-fragile-states (accessed 6 June 2010).

that is based on the ability of powerful individuals to control territory, and the ability of the central state to negotiate for their loyalty. The influence of these actors in the emerging state is pervasive but is most clearly seen in areas related to local governance and security, and within the dynamics of the parliament.

Donors

Donor funding is integral to the existing Afghan state, and provides donors with a great deal of de facto power in negotiating formal policy and placing demands on the central government. According to the 1388 National Budget prepared by the Ministry of Finance, 33 percent of Afghanistan's core budget (including the operational budget and the development budget) was projected to be paid for by domestic revenue generation from customs duties and a variety of taxes. However, about 80 percent of aid to Afghanistan is off budget, which means that the government has no control over it and may not even be able to track it—this is why exact figures for off-budget spending are not

available. Waldman estimates that, as of 2008, about 90 percent of public expenditure in Afghanistan came from official development assistance.[29]

Although donors are collectively powerful, they are by no means unified or uniform in their approaches and their relative degrees of influence. Statistics from the Organisation for Economic Co-operation and Development (OECD) show 42 national and multilateral donors to Afghanistan, contributing a total of US$4.858 billion per year (based on 2008 figures), making Afghanistan the largest aid recipient of any "fragile state."[30] Of these 42 donors, the US is by far the largest single donor, dwarfing contributions by the European Commission, the World Bank International Development Association and others. This does not include non-OECD countries (for example, India has contributed a large amount

29   Matt Waldman, "Falling Short: Aid Effectiveness in Afghanistan" (Kabul: Agency Coordinating Body for Afghan Relief, 2008), 6.

30   The OECD classifies 40 of 152 aid recipients as "fragile states." See https://community.oecd.org/community/factblog/blog/2010/04/16/aid-for-fragile-states for a comparison of ODA flows to fragile states.

of aid and technical assistance to Afghanistan) or independent foundations, such as the Foundation of the Open Society Institute Afghanistan and The Asia Foundation. In total, Byrd estimates 62 donors, including nongovernmental actors.[31]

The US is clearly the dominant donor in terms of the amount of money spent, while the UN, through UNAMA, is charged with a central coordinating role among all of the aid actors, although it is curtailed by the insistent independence of both donors and nongovernmental organisations (NGOs) and perceived weaknesses in its effectiveness. Most donor countries are also troop-contributing countries to the NATO-led International Security Assistance Force (ISAF), and varying portions of their aid contributions are tied to broader military and strategic objectives.

Regional and international diplomatic tensions and concerns, emergent economic opportunities, ideological predispositions toward differing ideas of how states should function—all these mean that different international actors often have goals that diverge from collectively agreed goals, and sometimes are at odds with these collective goals and with each other. For example, Rubin[32] provides a rather daunting, although not exhaustive, list of political issues and problems involving other international actors, which may sidetrack efforts at coherent joint action and weaken commitments to state-building in Afghanistan. These include the war on terror, the India-Pakistan conflict, Sunni-Shia conflict, US relations with its NATO allies, Russia's relations with the US and NATO, and strained US-Iranian relations. All of these factors mean that donors are constantly responding to multiple objectives and concerns, as well as to their home constituencies. Further, the capacity of donor agencies in Afghanistan to be well informed on policy-relevant issues is constrained by limited mobility, limited institutional learning and memory due to high staff turnover, and thus

a relatively limited capacity to come to terms with the complex and dynamic Afghan context.[33]

People

Whatever kind of state is created through a state-building process, perhaps the most fundamental requirement is that it has perceived legitimacy among the population. Without this, the state may be tyrannical or unstable, or both. As such, state-building is about the social contract between the government and the people, which is based on the degree to which the state is seen by the population to meet their expectations of it. Linkages between the formal Afghan state and the people remain quite weak, and links between the Afghan public and donors are weaker still.[34] This means that the donor-government relationship and negotiations dominate high-level policymaking processes, and public opinion is considered through indirect means at best.

In Afghanistan, it has often been argued that previous states had limited interaction with the rural majority of the population and, hence, popular expectations of the state have historically been quite low. However, people's expectations of the state have generally increased and continue to change, in part because of the regime change and international intervention. Due to displacement resulting from conflict, millions of Afghans have spent time outside of the country and returned, and many also have broader political awareness and affiliations.[35] The changing context—including a rapidly growing population, an increasingly unpredictable climate with frequent droughts, and other changes wrought from war—means that people's circumstances and needs are also

---

31   Byrd, *Responding to Afghanistan's Development Challenge*.

32   Barnett Rubin, "The Transformation of the Afghan State," in *The Future of Afghanistan*, ed. J. Alexander Thier (Washington DC: Endowment of the United States Institute of Peace, 2009), 16.

33   Francoise Jacob, "Monitoring the Principles for Good International Engagement in Fragile States and Situations Country Report 1: Islamic Republic of Afghanistan" (OECD, 2010).

34   For some explanation of the expectations of and engagement with the Afghan state among Afghans, see Noah Coburn, *Connecting with Kabul: The Importance of the Wolesi Jirga Election and Local Political Networks in Afghanistan* (Kabul: Afghanistan Research and Evaluation Unit, 2010); and Noah Coburn and Anna Larson, *Patronage, Posturing, Duty, Demographics: Why Afghans Voted in 2009* (Kabul: Afghanistan Research and Evaluation Unit, 2009).

35   Rubin, "The Transformation of the Afghan State," 13-22.

changing. On the one hand, this combination of increasing needs and an increasing expectation that the state has a role in responding to these needs creates an unprecedented public demand for a functional state but, on the other hand, creates the setting for public discontent if the state is not capable of meeting their needs. Various surveys of Afghans show an increasing concern regarding the prevalence of corruption in government, while there has also been broad discontent regarding international development.[36] These surveys further suggest that unemployment and poverty are the greatest concern for the majority of Afghans.

Afghan people do not have homogenous interests or identities; their geographic and ethnic links influence their identities and loyalties. This can clearly be seen in voting patterns from the 2009 presidential election, for example, which show that voters tended to favour candidates of their own ethnicity, or those candidates who promised patronage to their supporters.[37] People are also usually attuned and responsive to local political dynamics, sometimes more so than to national issues.[38] As Afghanistan is undergoing rapid social change as well as ongoing political contestation, many values are also being challenged and renegotiated within communities, and this makes the relationship between society and state even more potentially unstable.

3.4 Conclusion

This chapter has explored state-building as an overarching, if not fully coherent or developed, policy narrative that has served to represent and coordinate the intervention of international actors in Afghanistan, in collaboration with the

36 See Gardizi et al., *Corrupting the State or State-Crafted Corruption?*; Integrity Watch Afghanistan, "Afghan Perceptions and Experiences of Corruption: A National Survey 2010" (Kabul: Integrity Watch Afghanistan, 2010), http://www.iwaweb.org/corruptionsurvey2010/Main_findings_files/IWA National Corruption Survey 2010.pdf.

37 Noah Coburn and Anna Larson, *Voting Together: Why Afghanistan's 2009 Elections were (and were not) a Disaster*. (Kabul: Afghanistan Research and Evaluation Unit, 2009).

38 Coburn and Larson, *Voting Together*.

> Increasing needs combined with increasing expectations regarding the state have created unprecedented public demand for a functional state and a risk of public discontent if the state is not capable of meeting these expectations.

emergent Afghan state, from 2001. As such, formal policymaking and implementation is a tool for developing and advancing the state-building agenda, which competes with a multitude of other actors' agendas, both domestic and international.

The competing agendas of those who are engaged in deciding high-level policies mean that much of the policymaking in Afghanistan, perhaps more so than in other countries, takes place as a series of quiet, backroom negotiations conducted by a variety of skilled diplomats and analysts working on behalf of the UN, the government or one of the 62 aid-contributing countries and agencies. Many of these actors share some level of commitment to the official agenda, while they may be simultaneously advocating for a particular set of interests that they represent. It is through these processes of policymaking, and the degree to which they guide the development of the government and its functionality, that the emerging state is being shaped.

The following two chapters focus more particularly on how policy processes have unfolded in Afghanistan, which reveals much about what state-building has amounted to in practice. The analysis focuses on the relationship between donors and the government, the degree to which the government has exercised and developed ownership over state-building processes, and the implications for state legitimacy. Chapter 4 looks at policies within and across government ministries, where donor intervention has been quite strong. Chapter 5 considers policy processes related to subnational governance and lawmaking—areas where donor intervention has been relatively limited. A comparison of these two clusters of cases reveals some of the tensions in state-building as donors particularly have tended to conceptualise it and as it has happened in practice.

4. Policymaking at the Ministerial and Interministerial Level

Introduction

Chapter 3 provided an overview of national-level policymaking from the time of the Bonn Agreement of 2001. This section provides a more detailed examination of policymaking dynamics, presented through three case studies covering: the formulation of the ANDS; policymaking in the Ministry of Agriculture, Irrigation and Livestock (MAIL) and the Ministry of Rural Rehabilitation and Development (MRRD); and the process of drafting the initial and the revised NESP in the Ministry of Education (MoE). All of these cases show a high degree of involvement on the part of international actors, particularly donors and foreign technical advisors.[39]

Within the development sector, a large part of the rationale for investing in state-building is that fragile or failing states are unable to deliver welfare services to their populations, and particularly that they threaten the global commitment to meeting the Millennium Development Goals (MDGs).[40] It is this developmentalist orientation that motivates much of the formal policymaking and discourse examined within this chapter.

Each case considers the motivations underlying policy and how agendas are negotiated and set, the way formal policy processes have been structured and how different actors have engaged in these processes, and what these processes and outcomes have contributed to government ownership and state legitimacy. In the chapter's conclusion, common findings and patterns across the cases are considered. The findings from these cases, and the "technical assumption" that allows for heavy donor intervention in this area, are quite different from

the dynamics of donor engagement explored in the more explicitly political cases of Chapter 5. Within the cases in this chapter, advocacy coalitions of donors and reform-minded Afghan technocrats have pushed through reforms, often in the presence of a "passive political will" that characterises many of the ministries. The presence or absence of personal relationships of trust between donors and senior Afghan officials has been instrumental in determining the fates of ministries. However, with limited links to local governance structures and a broader public, the results of policy programmes have remained "upward looking."

4.1 The mother of all policies: The Afghanistan National Development Strategy

Background and motivation

One of the main drivers of national- and ministry-level policymaking has been the need to lobby for international aid, and sometimes to explicitly meet the criteria for aid-related benefits. The ANDS provides an obvious example of national-level policy processes being driven by the need to lobby for international aid and to meet explicit criteria for aid-related benefits.[41] The ANDS qualified as a PRSP, and its completion allowed Afghanistan to qualify for Heavily Indebted Poor Countries (HIPC) status and associated debt relief from the World Bank and the International Monetary Fund (IMF).[42] Afghan leadership has been willing to

---

39   The salaries of foreign and national technical advisors are usually paid for directly by donors.

40   See, for example, Simone Bertoli and Elisa Ticci, "The Fragile Consensus on Fragility: European Report on Development" (Florence: 2010), and Ashraf Ghani, "A Ten-Year Framework for Afghanistan: Executing the Obama Plan...and Beyond" (Washington DC: The Atlantic Council of the United States, 2009).

41   At the launch of the iANDS in 2006, donors pledged $10.5 billion in aid. When the final ANDS was presented to donors at the Paris Conference in June 2008, they pledged an additional $20 billion. See Sayed Mohammed Shah, "Afghanistan National Development Strategy (ANDS) Formulation Process: Influencing Factors and Challenges" (Kabul: Afghanistan Research and Evaluation Unit, 2009).

42   Indeed, in agreeing to pursue HIPC status, the Afghan government also agreed, under pressure from Russia and the IMF, to take on $10.6 billion of Russia's debt, incurred during the Soviet occupation of Afghanistan. See Shah, "Afghanistan National Development Strategy (ANDS) Formulation Process," 10.

Table 3: Overview of the ANDS formulation process[1]

Stage	Timeframe	Participants	Output
Ministry/agency strategies	March-May 07	Ministries, government agencies, ANDS Secretariat, donors	43 individual ministry/agency strategies
ANDS consultations (national & subnational)	June-Nov 07	Ministries and agencies, ANDS Secretariat, civil society, parliamentarians, communities, national and international development organisations, donors, embassies, academics	35 provincial development plans (PDPs), input for sector strategies
Sector strategies	June-Dec 07	Ministries and agencies, ANDS Secretariat, donors	17 sector strategies and 6 crosscutting strategies
Donor dialogue	Oct-Dec 07	Donors, UN agencies, ANDS Secretariat, ministries	Consolidated donor comments
Final ANDS	Dec 07-Apr 08	ANDS Secretariat	ANDS document

1   Reproduced from Shah, "Afghanistan National Development Strategy (ANDS) Formulation Process," 5.

undergo fairly exhaustive processes of national-level policymaking for this end because the Afghan state is heavily dependent upon donor funds. The outcomes of the ANDS also promised opportunities for the government to gain more control by potentially attracting off-budget aid funds back into government-controlled budgetary systems.

The process for generating a PRSP is, in accordance with donor requirements, designed based on the ideal of creating broad-based involvement and national ownership, resulting in the political will to implement the final policy. Nongovernmental and international interests, including donors and NGOs, continue to have an important role as "partners" in the policy drafting.[43] Previous studies on PRSP processes in other places suggest that "the implicit theory about political change that underlay the concept and its operationalisation has been proven naïve. The theory says that the more participatory reform processes are, the more likely they are to be effective."[44] However, in the case of the ANDS, while a large number of stakeholders was involved, the motivations, relative power of the different

actors, requirements of the process, and the ultimate control of the IMF in approving or denying the eligibility of the ANDS as a PRSP all shaped, and often limited, the degree of authority that most participants had in the process.

While qualifying for debt relief and encouraging further donor pledges was clearly the primary motivation driving the formulation of the ANDS, many of those leading and involved in the process expressed a sense that the process itself represented a genuine and welcomed opportunity for national ownership of policy, in part because the previous policies—the NDF and SAF—were seen to have been drafted by foreign consultants with limited Afghan input.[45] Thus, it would be simplistic to say that fundraising was the only objective behind the ANDS; rather it was an ambitious policymaking process that generated expectations across a wide variety of stakeholders.

Process

The process of drafting the ANDS, which began following the London Conference in February 2006, was most likely the largest policymaking event in

43 World Bank, "Poverty Reduction Strategy Papers: Operational Issues" (Washington DC: World Bank, 1999).

44 David Booth, "Missing Links in the Politics of Development: Learning from the PRSP Experiment" (London: ODI, 2005).

45 Shah, "Afghanistan National Development Strategy (ANDS) Formulation Process," 9.

Box 1: The example of drafting the Agriculture and Rural Development Sector Strategy (ARDSS)

The drafting of the ARDSS clearly illustrates the discretionary power that well-placed actors had in shaping the process and resulting written policy. The two ministries involved (MAIL and MRRD) produced a draft strategy that essentially contained two different approaches based on their separate perspectives—one focused on increasing agricultural production and one focused on a more mixed development approach. Presented with this document, the ANDS Secretariat had to work with the ministries to turn it into something coherent. However, the ANDS Secretariat did not take the role of a neutral facilitator—the Chair particularly favoured an emphasis on the commercialisation of agriculture. This perspective was mainly in line with the thinking of USAID, although in contrast with the ideas of the majority of staff in both ministries. The ANDS Secretariat tasked the USAID-funded Accelerating Sustainable Agriculture Program with redrafting of the agriculture and rural development (ARD) sector strategy so that it would meet ANDS requirements. The ministries were largely excluded from this redrafting process, and the final document has a strong orientation toward commercialisation, with traces of the original ministerial inputs.

Afghanistan's history. The formal drafting period took just over a year and required US$8.2 million, through a process designed by the United Nations Development Programme (UNDP) and funded by multiple donors.

The content of the ANDS was divided into eight subpillars, consisting of 17 sectors, with an additional seven issues crosscutting all sectors (see Figure 1 on page 6). The drafting process was coordinated by creating eight consultative groups corresponding to the eight subpillars; five crosscutting thematic groups; and, beneath these, 22 technical working groups, each responsible for one or more of the Afghanistan Compact benchmarks. The drafting process took place from March 2007 until April 2008 and consisted of five distinct stages, as shown in Table 3.

The ANDS Secretariat coordinated the ANDS preparation and consisted of about 40 members, both international and national. They reported to the ANDS Oversight Committee, which consisted of seven senior government representatives who also sat on the Joint Coordination and Monitoring Board (JCMB) and had been appointed by the president. The JCMB is a board consisting of 21 international representatives and seven national representatives, and its main mandate has been to oversee the coordination and implementation of the Afghanistan Compact. The Afghanistan Compact, agreed in 2006, is a formal partnership between the Islamic Republic of Afghanistan and the international community, representing a joint commitment in the areas of security, governance,

rule of law and human rights, economic and social development, and counternarcotics. It set out benchmarks and timelines for specific action points within each of these areas. The ANDS, although produced through a much more comprehensive process with more opportunities for Afghan-led decision-making, was bound to the specific commitments of the Afghanistan Compact. This constrained autonomous decision-making, while people working on sector strategies commonly noted that the Afghanistan Compact benchmarks were not realistic, having been set without enough evidence or information.[46]

Because of an IMF deadline regarding HIPC status, the Ministry of Finance accelerated the process of drafting the ANDS. This rush created a sense of pressure and some tension between those coordinating the process and those drafting different sections of the strategy. For example, one person involved in drafting the Agriculture and Rural Development Sector Strategy (ARDSS) referred to his contact in the ANDS Secretariat as "Mr Two Hours" because he was said to be always imposing impossible deadlines.[47] Nonetheless, the process

---

46 Professor Ishaq Nadiri, Chairman of the Oversight Committee, was also reported to have said Afghanistan Compact benchmarks had been based on untested assumptions and thus were difficult to realise; Shah, "Afghanistan National Development Strategy (ANDS) Formulation Process," 14. Respondents within the ARD case study from both MAIL and MRRD also criticised the benchmarks—that they had been set before the strategies were developed, and that they were inflexible, too ambitious and sometimes unclear.

47 Adam Pain and Sayed Mohammed Shah, "Policymaking in

also included broad-based national consultations in Kabul and in the provinces. While provincial consultations had been part of the original scope of the ANDS drafting, the idea about how to proceed originated from the Provincial Reconstruction Team (PRT) Steering Board, which proposed that provincial development plans (PDPs) be drafted and incorporated into the final ANDS.[48] MRRD worked with the ANDS Secretariat to complete the provincial consultation process to draft PDPs, while at the same time civil society networks undertook a participatory poverty assessment to document how poor people perceived poverty—which was to then feed into the poverty profile of the final ANDS. While these consultations were on a scale never before seen in the history of Afghanistan, still some observers worried that because they were rushed, the results were of poor quality. Also, since PDPs had not been part of the original plan, there was no mechanism and no time to integrate them into the final strategy.

Sector strategies incorporated the information from the PDPs and from the sector-relevant government ministry and agency strategies. These were drafted by groups consisting of senior government staff and senior foreign advisors. When it was found that the groups required extra technical assistance, especially because the drafts were to be written in English, foreign advisors were hired by UNDP and the United States Agency for International Development (USAID), the latter using consultants from BearingPoint.

Once the sector strategies were drafted, 19 separate "donor dialogues" allowed for donor input, resulting in a 219-page document capturing the donors' comments, which were not all in agreement.

A final overarching ANDS document was then drafted by the ANDS Secretariat but was initially

> Tight deadlines created pressure and some tension between those coordinating the process and those drafting different sections of the strategy: One person involved in drafting a sector strategy referred to his contact in the ANDS Secretariat as "Mr Two Hours."

rejected by the IMF, which wanted changes made, especially in the section addressing private sector development. The document was hastily redrafted, approved by President Karzai on 21 April 2008 and then presented to donors on 12 June 2008 at a conference in Paris. At this conference, donors pledged more than $20 billion to finance ANDS implementation, in addition to funds already pledged at the start of the process, for a total of $36 billion in donor pledges toward the ANDS.

Content

The final written ANDS consists of a master document, 17 sector strategies and six crosscutting strategy papers, which are linked to 43 ministry and agency strategies. The ANDS is broad and all encompassing. Across the sector strategies and, to a lesser extent, within the master document, there are inconsistencies in the definition and treatment of key concepts such as poverty and gender equity. The master document itself presents a number of vision statements but does not specify how to achieve them, does not prioritise or sequence the many actions it proposes, and tends to treat these issues as primarily technical, with very little consideration of the political.[49]

The lack of prioritisation and the vastness of the ANDS are reflective of the hope that by presenting the country's development needs, the ANDS would convince donors to pledge funds to meet them. It was also due to the large number of actors who were involved, with different interests and different viewpoints, and a tendency to accommodate these views without the time to reconcile them into a

---

Agriculture and Rural Development in Afghanistan" (Kabul: Afghanistan Research and Evaluation Unit, 2009), 42.

48 PRTs are development units embedded in the international military. Staffed with a mix of civilians and soldiers, they have the mandate to improve security by "winning hearts and minds" of Afghans through development projects, and are often oriented toward visible, quick impact projects.

49 Paula Kantor and Adam Pain, *Delivering on Poverty Reduction: Focusing ANDS Implementation on Pro-Poor Outcomes* (Kabul: Afghanistan Research and Evaluation Unit, 2009).

more consistent vision. This inclusive approach tends to mask differences in perspectives and overlook political issues, and particularly the issue of how to allocate limited resources, including funding and capacity, to achieve the ANDS aims. As such, the ANDS document as it was approved in 2008 was limited as a guide to action, since it prescribed everything without prioritising and did not provide details on how to achieve the goals it set out. In 2010, new efforts, coordinated through the Ministry of Finance, to use the ANDS as a foundation for developing national priority programmes are attempting to bridge this gap. However, the degree to which the content of the ANDS has guided the selection and refinement of these programmes is again questionable.

Implications for government ownership

Despite the rhetoric of government ownership, donors played a very large and influential role throughout the process. This included involvement in setting the benchmarks and action points which the ANDS was pre-committed to address; providing technical advisors who were often directly involved in drafting the ANDS, as well as critiquing the drafts; and, on the part of the IMF, ultimately judging whether the ANDS was acceptable or not. On the other hand, many donors used their influence to push for broader public consultations. For example, many donors expressed concern that the results of the subnational consultations were not adequately incorporated in the sector strategies.

The complexity of the process, combined with very ambitious timelines and a multitude of different perspectives and entrenched interests, meant that opportunities to develop shared understandings were relatively scarce, and the process became so cumbersome that it risked becoming an obstacle to any clear action. This is particularly true because of the relatively limited human resource capacity within the ministries; most ministry staff had little exposure to strategic planning as required in drafting the ANDS. Further, the drafts of ANDS sector strategies had to be in English so that donors could comment, which imposed a further limitation on the ability of most ministry staff to engage effectively. Ministries were somewhat disposed to

see such a process as a competition for funding, which did little to encourage cooperation. Given such a cumbersome formal process, there was a clear incentive among those who were capable and well-situated to do so to move the process forward informally—through side activities in which smaller groups of influential people would make decisions—or else a relatively small subgroup within the formal process would be likely to have undue influence.[50] In this case, foreign technical advisors were sometimes in this position of being the key authors of a policy section, although it may have called for much broader input. These actions may arguably have been necessary to move the process forward, but also afforded great discretionary power to those able to partake in them, which undermined the collaborative potential of a formally inclusive policy process.

Ultimately, because the ANDS document is so broad and, to some degree, inconsistent, it will continue to be limited as a guide to action unless much more is done to prioritise and further develop specific areas within it.[51] Furthermore, because those involved in drafting the ANDS were often not satisfied that the outcome reflected their input or that the process was balanced, it appears to have been relatively easy for the ministries to ignore sector strategies. For example, the National Agricultural Framework developed by MAIL in 2009 does not appear to draw substantially on the ARDSS, which is understandable given the process by which it was created and the resulting uneven content (see Box 1).

In terms of broader state legitimacy, the ANDS process may have generated public expectations through the public consultation process that were then unlikely to be met in any immediate or visible way, thus increasing the risk of damaging state legitimacy. Several study respondents raised this

---

50   For example, see Neumann's account of his time as US ambassador, during which he organised a variety of informal policy processes as workarounds to sluggish formal processes, including in the development of the Afghanistan Compact: Ronald E. Neumann, *The Other War: Winning and Losing in Afghanistan* (Dulles, VA, USA: Potomac Books, 2009). One international respondent interviewed by AREU in 2008 also spoke of a "tea club" of key ambassadors who defined ANDS priorities.

51   Efforts in 2010 surrounding the planning and follow-through on the Kabul Conference are meant in part to address this concern.

concern. Although hard to substantiate, such a concern is mirrored by the broader public discontent with both state and non-state development actors and the broad perception that aid money has not benefitted communities.[52] Otherwise, because the ANDS is so broad, focused upward on meeting donor requirements for a PRSP, and disconnected from any action plan, it is arguably largely irrelevant in terms of generating popular support for the state.

4.2 A tale of two ministries: The agriculture and rural development sector

The comparison of the two ministries within the agricultural and rural development (ARD) sector[53] over the period from 2002-08 provides insight into how the different institutional histories, identities and leadership of the two ministries led to very different relationships between each ministry and donors.

The Ministry of Agriculture, Irrigation and Livestock (MAIL)

While it has been a historically important institution, MAIL in the period from 2002-08 was widely perceived by donors as a weak ministry.[54] In the words of one observer, it had been "lost in a mythical past and looking to a mythical future,"[55] while lacking much capacity to plan or take effective action. Those within MAIL tended to focus on the role of agriculture in producing enough food for household food security and national self-sufficiency. Their understanding of the role of agriculture appeared based on memories of a time when Afghanistan had a net surplus of food, and

they thought MAIL should help Afghanistan regain this status. The staff of MAIL was largely made up of career civil servants who had had little chance to maintain or upgrade their skills over the years, and who had relatively little exposure to donor ideas. Because donors perceived MAIL as weak, it was not able to gain control over most of the budget allocated to the sector, which was instead spent by donors in their own separate projects. In an effort to strengthen the ministry, as well as to coordinate donor efforts, no less than eight major national agricultural policies were drafted between 2002-09.[56]

Most European donors have shared a view of the agricultural sector which is distinct from that held by MAIL. Their viewpoint was better characterised as "developmentalist," embracing the importance of good governance, private sector-led development, growth and poverty reduction, and considering agriculture as one important element in this broader picture. USAID, the single largest donor within the ARD sector, held a minority view, subscribing to a "market driven" approach focused on supporting the private sector as the driver of development, with little attention given to the other aspects of the broader developmentalist approach.

An example of the making of a particular policy within MAIL provides insight into the nature of the relationship between the ministry and the donors. In 2004, MAIL[57] had drafted a policy titled "A Policy and Strategy Framework for the Rehabilitation and Development of Agriculture and Natural Resource Sector of Afghanistan," and had approached donors to fund it. While donors agreed to support the ministry, they also requested that it make a new policy—a ministry master plan—and provided technical help with its drafting. This was also seen as a useful way to build ministry capacity to plan, with donor-provided technical experts playing a facilitative rather than directive role. In practice, however, there were differences of opinion between

---

52 Gardizi et al., *Corrupting the State or State-Crafted Corruption?*

53 Sectors that grouped ministries together were defined in the iANDS; the ARD sector consists of two ministries: MRRD and MAIL. This approach was adjusted in 2010 with the creation of clusters, which are slightly broader.

54 This dynamic appears to have shifted significantly with the appointment of Asif Rahimi as minister. Rahimi was previously Deputy Minister in MRRD.

55 AREU interview, 1 August 2007.

56 Pain and Shah, "Policymaking in Agriculture and Rural Development," 15.

57 At this stage, MAIL was called the Ministry of Agriculture, Animal Husbandry and Foodstuffs; its name has undergone a number of changes since 2001.

ministry staff and donors, particularly over the role of the market and the role of the ministry. MAIL staff generally felt that Afghanistan was not ready for an open market, that it was likely to exacerbate inequalities and rural vulnerabilities, and that the ministry should play a direct role in ensuring rural food needs were met.[58] Donors had different ideological orientations, as well as doubts about the ministry's capacity to implement programmes.

Respondents involved in this process recalled the differences of perspective between USAID and the other donors, with both the "developmentalist" and the "market-driven" strategies being presented to MAIL staff. However, some respondents also recalled the minister of the time being "guided more by whoever was sitting closest to him."[59] International advisors from the USAID-funded Rebuilding Agricultural Markets Programme (RAMP) had much greater access to the minister and used this access to influence the outcome. This circumvented the intended capacity-building process championed by the other donors, who had expected a broader collective of ministry staff to have a say in the final policy. Indeed, the RAMP advisors reportedly rewrote the final draft of the master plan so that it reflected a predominately commercial orientation to agriculture.[60]

In this case, the relative weakness of the ministry and the strong influence that the most powerful donor was able to exert on the minister of the time meant that the ministry was quite open, at least superficially, to being co-opted by an agenda that did not reflect the ideas of its own staff.[61] The ministry's focus on agricultural production was

largely discounted as outdated and invalid by other actors. This example reinforces the fact that donors have great discretionary power over the process, and can also opt out by spending their money off budget on their own programmes. One USAID staff member interviewed for this study argued that the European donors had been hypocritical in claiming their efforts would result in an Afghan-owned strategy because the ministry was simply too weak, and that it was more important to focus on implementation and results. Indeed, the biggest ideological debate reported in this process was between USAID and a group of about four other donors with opposing views, rather than between the ministry and the donors.

While this process did not leave much space for government ownership, it also resulted in a policy that depended largely on the minister's endorsement without broader ministry engagement or buy-in. In late 2008, Asif Rahimi, previously a deputy minister within MRRD, was appointed Minister of Agriculture, Irrigation and Livestock. He immediately initiated a review of the ministry's structures and policies, outlining a more holistic vision of the role of agriculture in rural development, the National Agriculture Development Framework.

The Ministry of Rural Rehabilitation and Development (MRRD)

MRRD, although a smaller ministry with historical roots as a rural commission with limited powers, quickly built its reputation and resources to surpass MAIL in core budget, influence and level of activity. Hanif Atmar, who headed MRRD during the period of 2002-06, was a dynamic minister who was well liked by donors, had a Western education and had previously worked for NGOs.[62]

Atmar reduced the number of staff of the ministry and brought in many staff who had previously worked for NGOs during the 1980s and 1990s. This created a shift in the institutional culture within the ministry, away from an inefficient bureaucracy

---

58   Such a perspective is likely rooted also in the Afghan government's institutional culture, which was heavily influenced by the communist era, a time when government was at its height and a "welfare" perspective predominated.

59   Pain and Shah, "Policymaking in Agriculture and Rural Development," 21.

60   Within the ARD sector case study, there were three different examples of USAID-funded consultants taking unilateral action of this kind.

61   MAIL has been led by three different ministers since 2002: Said Hussani Anwari from 2002, followed by Obaidullah Rahmin, and Asif Rahimi from October 2008.

---

62   Atmar was succeeded by Ahsan Zia from 2006-10. Zia had previously been Deputy Minister in MRRD and essentially shared the same vision for the ministry as Atmar, providing continuity in the ministry over this period.

toward a more dynamic, results-based ethos. The ministry staff shared with many donors a "developmentalist" perspective, embracing the importance of good governance, private sector-led development, growth and poverty reduction. Their shared focus was on reducing rural poverty through the development and oversight of a portfolio of national programmes.[63] Several of these programmes were set out as national priority programmes in the NDF of 2002, and so had a strong degree of political commitment, including from the Ministry of Finance.[64]

Because of the good relationship and shared perspective between the ministry and the donors that supported it, MRRD was able to gain much greater control over donor spending within the sector, as evidenced by the total percentage of its budget allocated as core. In 2008, MRRD's core budget was 61 percent of the total budget and valued at US$592 million, whereas for MAIL in the same year, it was 17.5 percent and valued at $55 million.

Overall ministry-level policy was relatively light, and consisted of a few quite brief policy statements. Rather, the majority of policymaking and planning was focused on the development of national programmes and, as such, was somewhat more practical and action-oriented. The first minister made the decision that the ministry did not have the capacity to implement programmes, but rather it should oversee the management and contract out to international and national NGOs as "implementing partners." During the first phase of the programmes, donors insisted that the management of the programmes should also be contracted out, but as the ministry developed and the first funding phase of the programmes ended, MRRD was able in many cases to renegotiate and take over the management.

Compared to MAIL, MRRD appeared to be much stronger in its relationship with donors. Nonetheless, the donors still retained significant discretionary power for the simple reason that they were funding the programmes. Even when they funded through the core budget, donors would often direct their funding regionally, according to where their troops were located, so that programme coverage would be uneven throughout the country. Sometimes donors would get deeply involved in influencing the programme design—this was apparently the case for the World Bank and the NSP, for example. USAID decided to pull funds from the Microfinance Investment Support Facility for Afghanistan (MISFA) and fund a separate microfinance programme of their own.[65]

Despite the approach MRRD took to staffing, its inability to fill key positions with effective managers early on led to delays in some of its programme development. However, MRRD was able to attract and earmark donor funds for ministry staff capacity-building initiatives, both for central and provincially located staff. This, however, created some political backlash, as other ministries resented the funding of MRRD by donors, possibly at their expense. This was particularly true because MRRD programmes cut across areas—including health, water and sanitation, and school construction—that arguably fell within the domain of other ministries, such as the Ministry of Public Health, the Ministry of Energy and Water, and the Ministry of Education.

While it is beyond the scope of this study to consider the implementation of programmes and their impacts, the strong reputation of MRRD has been due in part to the perceived efficacy of its programmes, and particularly the NSP. This programme sets up elected community-level governance structures called Community Development Councils (CDCs) and passes substantial block grants ($200 per household, up to $60,000 per grant) to these CDCs to carry out development projects of their choosing. These projects include building roads and schools, establishing wells, and the like. As Pain and Shah note, the NSP has made a clear difference

---

63 MRRD ran five major programmes, which started in 2002-03, covering rural infrastructure development, institutional development, macroeconomic regeneration, employment programmes linked to infrastructure projects, microcredit, water supply and sanitation, and community development and empowerment. In 2008, it began a national programme focused on rural enterprise. (See Pain and Shah, "Policymaking in Agriculture and Rural Development," 27.)

64 This was not, however, true of all the programmes. MISFA, in particular, did not initially enjoy strong political commitment.

65 Pain and Shah, "Policymaking in Agriculture and Rural Development," 29.

in terms of transferring funds to communities and creating visible development projects in villages across Afghanistan. Its objectives in relation to challenging traditional power structures within villages and building up grassroots democracy are more complex, and the results appear to have been more varied.[66] Nonetheless, a key point here is that focusing significant efforts on programming has in effect bridged the gap between policy and implementation. However, there is continued debate and confusion about the scope of the NSP and how its efforts can and should synchronise with other local governance efforts, and particularly with the work of the Independent Directorate of Local Governance (IDLG).

Implications for government ownership

This comparative case highlights three main issues related to government ownership within the ministries. The first is the key role of leadership, both in reinvigorating the internal culture and practices of the ministries, and in negotiating effectively with donors. The second is the role of policymaking processes, which appear insufficient to transform a ministry and create "capacity" in absence of effective leadership and some pre-existing base level of ministerial capacity. Finally, the case highlights the high discretionary power held by donors in relation to both ministries.

Leadership and institutional revival

The relative success of MRRD in attracting donor funds and directing them according to its own priorities—including capacity development of its central and provincial staff—is often attributed to its leadership. Atmar's background in development and his ability to gain the trust of the donors were both instrumental. Likewise, MRRD was able to bring in a cadre of people with nongovernmental backgrounds. Conversely, MAIL, which had many staff on its payroll who had been in civil service for a long time, and which reportedly did not enjoy strong visionary leadership, was a fairly passive and ineffective institution until at least 2008.

One problem this raises is that, at least in the short term, the success garnered by strong, personality-based leadership does not necessarily get institutionalised into the ministry. The institutional culture within ministries often tends to be hierarchical and personality-based.[67] MRRD did manage to continue strongly after the departure of Atmar under the leadership of Ahsan Zia, but other ministries appear to undergo disjunctures in staffing and overall policy and direction whenever a new minister comes in. This is related in part to the relatively small pool of qualified staff, who are often "taken along" with a minister to his or her next post, and in part to practices of patronage or "*wasita*."[68] For example, Larson notes an institutional culture characterised by the importance of relationships, often client-patron relationships, throughout the six ministries included in her study.[69] As one staff member of the Ministry of Women's Affairs expressed it:

> *In Afghanistan, when we want to build something we start with laying bricks. But in the ministry, one minister starts to build the house with some bricks (meaning putting in place some heads of departments and other staff) and then another minister comes and starts building the house with completely different bricks (bringing in new staff according to their relatives and the ones they want, they change all the staff). This is why when the minister changes, everything changes—the plans, the programmes—so that's why the programmes are not implemented... Relations or rawabit is the way that positions in the ministry are created and there is no motivation.*[70]

---

66 Adam Pain and Sayed Mohammed Shah, *Policymaking in Agricultural and Rural Development* (Kabul: Afghanistan Research and Evaluation Unit, 2009).

67 There are also differences in the dynamics and culture within each ministry, but this refers to a more generally observed tendency. See Anna Larson, *A Mandate to Mainstream: Promoting Gender Equality in Afghanistan* (Kabul: Afghanistan Research and Evaluation Unit, 2008); and Pain and Shah, *Policymaking in Agricultural and Rural Development*.

68 "Wasita" refers to a patron or influential person acting on one's behalf.

69 Larson, "A Mandate to Mainstream," 58.

70 AREU interview, gender mainstreaming study.

The role of policy processes and outcomes in strengthening government ownership

One noteworthy difference between MAIL and MRRD is the relatively large number of national policymaking exercises MAIL has undergone, whereas in MRRD there has been little emphasis on creating comprehensive ministry policy and much more emphasis on programme design and oversight. Within MAIL, policymaking processes have been motivated by the goal of "proving" the ministry to the donors and attracting funding, and, on the donor side, by hopes that these processes could build up capacity within the ministry. However, these processes do not appear to have notably transformed the ministry or addressed the major challenges within the ministry. Rather they have provided an arena in which different donors have attempted to promote their preferred approaches to agriculture and rural development. Also, while the ministry appears to have been open to engaging in such policy processes, the resulting mixed documents do not appear to have provided a strong guide to action, and have been relatively easy for subsequent ministers to set aside. Because policymaking has provided the ministry with a chance to build relationships with donors, necessary for gaining funds, it has actively welcomed chances to engage in such processes but not, perhaps, for the same reasons that donors would like. This is an example of what Larson terms "passive political will"—where the government shows cooperation with donors and is willing to take on donor requests and even broader ideologies, but on a fairly superficial level.[71]

In short, this comparison raises questions about the value of policymaking as a government capacity-building exercise in the absence of some pre-existing level of government leadership and drive.

The discretionary power of donors

Donor conduct in relation to the emerging Afghan state is based on largely voluntary guidelines and principles to which they may choose to adhere or not.[72] This case highlights the discretionary power of donors in relation to both ministries.

USAID particularly stands out because it has been by far the largest donor within the sector and has, in comparison to other donors, held different ideas about what should be done in the sector. It also has a different and more aggressive approach to advocating for its position. This mirrors findings in an earlier study of police sector reform, in which USAID was again the largest donor in the sector and put forward a distinct viewpoint with a minimum of debate or negotiation.[73] While other donors appear to have a greater commitment to consensus and facilitating the development of capacity within MAIL particularly, nonetheless ministry capacity clearly depends in part on the leadership being able to understand and work in response to the views and priorities of donors.

There are, as well, limits to donor power, insofar as ministries may have limited buy-in to many national policies with which they have nominally agreed, and may discard and revise such policies with relative ease.

4.3 National policy for primary education

The reform of the national educational system has been one of the greatest challenges in Afghanistan and is often reported as a "bright spot" in which there has been visible progress. In 2001, there were about 1.7 million children enrolled in Afghan schools. Data from 1999 estimated only 3 percent of girls and 38 percent of boys of primary age were enrolled in school.[74] The public administrative system for education was also extremely weak, although surprisingly centralised. By 2009, the

---

71   Larson, *A Mandate to Mainstream*.

72   Most relevant are the principles contained in the Paris Declaration for Aid Effectiveness and the OECD "Do No Harm" Principles for Good International Engagement in Fragile States. See Jacob, "Monitoring the Principles for Good International Engagement."

73   Wilder, *Cops or Robbers?*

74   Anne Evans, Nick Manning, Yasin Osmani, Anne Tully and Andrew Wilder, *A Guide to Government in Afghanistan* (Kabul: Afghanistan Research and Evaluation Unit, 2004), 115.

Ministry of Education (MoE) reported that nearly seven million children, including 2.5 million girls, were enrolled in schools and the number of teachers had increased eightfold (to 170,000).[75]

A 2004 study found that MoE tended to make all its major decisions in Kabul, which reinforced the importance of having a solid national educational policy in Afghanistan, so that such a centralised system could adequately guide efforts to revive the educational system.[76] The policy process case study of MoE explores whether the ministry's capacity to create policy increased between 2006, when the first National Educational Strategy Paper (NESP) was drafted, and 2009, when the paper was redrafted, and, if so, whether such increased capacity resulted in increased government ownership of the policy.

In this study, capacity is a concept explored through the perspectives of study respondents. Ministry capacity is considered in terms of human resources and also as organisational capacity, and defined in terms of the ministry's ability to shape the policymaking process. As such, it is closely linked to the concept of government ownership described in Chapter 3. A brief description of the motivation and process underlying the drafting and redrafting of the NESP follows, leading to a discussion of implications for government capacity and ownership.

The process of drafting NESP-1

International benchmarks and funding opportunities have played a major role in motivating the development of national educational policy in Afghanistan. The initial drafting of the NESP, which began in 2006, was initiated by a formal request from Afghanistan's Ministry of Education to the International Institute of Education Planning (IIEP) of the United Nations Educational, Scientific and Cultural Organization (UNESCO) for technical assistance in planning. The ministry qualified for such assistance by making a formal request and signing on to the global "Education for All"

goals. This initial process appears to have been motivated primarily by the ministry's pressing need for technical assistance and capacity-building in planning—given the very large demands for education and the overall weakness of the education system following the fall of the Taliban. Before the NESP was drafted, MoE planned its activities based on the budget allocated to it by the Ministry of Finance—an approach that was widely seen as inadequate, as it did not allow MoE to respond to the actual needs for education across the country.

MoE undertook the drafting of the first NESP with the technical assistance of the IIEP. The goal of the NESP was to help Afghanistan meet its commitments to the education MDG, as specified in the Afghanistan Compact.[77] The IIEP, in providing technical assistance for the process, also sought to build ministry capacity in strategic planning, and to ensure that the resultant plan was "owned" by the ministry. To do this, IIEP, along with a counterpart Strategic Planning Team from the ministry's planning department, designed and agreed to a fairly extensive formal planning process. This process was to take 12-16 months and include working groups drawing on all of the ministry's departments plus donors and NGOs, which were working with the ministry as implementing partners. The process also included consultations with ministry staff in the provinces and districts.

However, in early 2006, Hanif Atmar was appointed as the new Minister of Education. He was appointed in large part due to his reputation as a strong minister who could get things moving, and because of the perceived importance and urgency of the work of MoE.[78] When he came in, he took two

---

75 Shamshad Ayobi, "Where We Are Now," http://english.moe.gov.af/index.php?option=com_content&view=article&id=68:where-we-are-now&catid=63:about-moe&Itemid=90 (accessed 7 July 2010).

76 Evans et al., *A Guide to Government in Afghanistan*.

77 The Afghanistan Compact benchmarks for education are as follows: By 1389 (2010) the net enrolment rate for boys and girls in primary grades will be at least 75 percent and 60 percent respectively. Female teachers will be increased by 50 percent. A new curriculum will be operational in secondary schools. Seventy percent of teachers will pass a national competency test. A national annual testing system for students will be in place.

78 Atmar had previously been the head of MRRD, which donors saw as one of the strongest, most effective line ministries. These perceptions about Atmar's leadership are reflected across AREU interviews with educational policy stakeholders, conducted in December 2009. See Sayed Mohammed Shah, "Is Capacity Being Built? A Study of Policymaking Process in the Primary and Secondary Education Subsector" (Kabul:

immediate actions that had a major influence on the unfolding of the NESP process, and that both appeared motivated by the general desire to speed up the ministry's functioning. Firstly, he prioritised the completion of the NESP and tried to speed up the planned process.[79] This meant that the broad consultative process that IIEP had planned was greatly curtailed, although the total planning time eventually amounted to 12 months by the time of completion. Secondly, to immediately increase the capacity of the ministry, he appointed hundreds of technical advisors. These individuals were largely Afghan nationals with work experience in international and national NGOs, whose salaries were paid by donors—mainly USAID, the World Bank and Danish International Development Agency (DANIDA)—at a much higher rate than the salaries of existing civil servants. Many observers felt that this was a necessary move because of the low technical capacity of the regular ministry staff, but it also created an expensive parallel structure, and to some extent appears to have sidelined regular ministry staff.

Over the short term, completing the NESP process within the ministry would have been very difficult without the national technical advisors, who acted as interlocutors between the regular ministry staff and the donors, since most of them spoke English and understood development concepts and terminology. Beyond the process of drafting the NESP, the national advisors also took on much of the management of the ministry, while tasked simultaneously with building capacity of the regular ministry staff. Within the NESP process, departmental staff were consulted extensively and provided input, although the document was drafted largely by the national and international advisors. In the Teacher Education Programme, advisors associated with a range of donors and programmes took the lead on the planning, in part because of the tight deadlines and the need to produce drafts in English. The language barrier limited the participation of civil servants, who in most cases

reportedly felt that they were busy with their own work and did not place much priority on strategic planning. Sometimes participation in planning-related meetings was very low. One international member of a working group recalled, "There were a couple of days when I showed up for a meeting and I was the only one sitting in a room alone. One day I realised I am the only person in the building and that was when the Teacher Education Directorate had no security on the road."[80]

IIEP consultants undertook some of the most technical aspects of the strategic planning, and specifically a simulation model drawn from baseline educational statistics. DANIDA financial advisors took the lead in creating programme budgets, in consultation with the NESP working groups. Broader consultations were done fairly late in the process, and consisted of providing other stakeholders the chance to comment on drafts via email. The involvement of provincial MoE staff was minimal, and was less than initially intended, largely due to time pressures.

The process of drafting NESP-2

The decision to redraft the NESP, one year before the projected cycle for the initial strategy would have expired, was reportedly motivated by a number of factors, including a change in the structure of the ministry and recognition of areas in which the existing NESP could be strengthened. However, the strongest and most pressing motivation appears to have been financial, directly based on the ministry's need to find funding for its developmental budget. Although MoE has been recognised as one of the most active and productive line ministries, and has received a fairly large proportion of the governmental operational budget (largely to pay for teachers' salaries and other general operational costs), it had almost no allocated funds to cover other costs related to developing programmes and expanding services, and so was dependent on wooing donors to fund its budget. Hanif Atmar had initiated the process for applying for the Education for All – Fast Track Initiative (EFA FTI).[81] Membership

---

Afghanistan Research and Evaluation Unit, 2010).

79 Note that despite the deadline and the sense of urgency that it imposed, the completion of the NESP took about 12 months.

80 AREU Interview, 6 December 2009.

81 The EFA FTI is a partnership launched by the World Bank in 2002 to help poor countries reach the education MDG and associated targets.

to the EFA FTI required the creation of an Education Development Board, set up in 2008, and the redrafting of the NESP. When Farooq Wardak assumed the position of Minister of Education in October 2008, he at first had little interest in pursuing this membership. However, he found the ministry had a budgetary projection for the coming fiscal year that far exceeded funds committed from donors. He was reportedly advised by the World Bank that the EFA FTI was a promising source of additional funds.[82]

When the NESP was revised in 2009, the ministry's planning department took the lead. National advisors within the department had received technical support and training from IIEP and were able to convince the minister that they were ready to take charge of the strategic planning process.[83] They were able to draft the NESP-2 in Dari, allowing for more active inclusion of civil servants, before translating it to English for donor input. The process of revision was much simpler than the initial process. The planning department designed a logical framework format and then asked each of the ministry's five departments to complete it within one month. When they did not get much response from the departments, staff from the planning department set up meetings with key staff members of each department, consulted with them to get the information necessary to complete the forms themselves, and then sent them to the programmes for comments and revision. Numerous versions of each draft were passed back and forth between the planning department and

Countries accepted as members can share resources and can receive some technical support, while participating donors agree to harmonise funds to support the educational programmes of FTI partner countries, once these plans have been endorsed by in-country donors. Some additional funds are available through the FTI Catalytic Fund. Hanif Atmar, Education Minister from 2006-08, initiated the application for FTI membership.

82 Based on feedback from respondents familiar with the FTI programme, it appears that ministry officials may have overestimated the potential of the FTI as a source of funds. Firstly, membership does not guarantee funding, and, secondly, the largest amount of funding given out through the FTI Catalytic Fund, in the realm of about US$50 million per year over three years, is much lower than the NESP budget of MoE, which calls for $2 billion per year over four years.

83 This training was part of a "train the trainer" programme hoped to expand capacity throughout the ministry. See Shah, "Is Capacity Being Built?"

the programmes until there was agreement. The simulation modelling was again completed by IIEP consultants, although with data input from the planning department, and the budgeting was done by DANIDA financial advisors.

Staff experience of the revised NESP process within the departments appears to have been mixed. The teacher education department, which was used as a specific example within the case study, was particularly caught up with its ongoing work and, for that reason, a few senior members of the department were delegated the task of completing the plan. There were complaints that the process itself was quite rushed and disorganised. Both within the department and within other forums focused on teacher education issues, the revised NESP does not appear to have been a priority for discussion.

A number of workshops with presentations on the draft programme strategies were held with ministry staff and were relatively well attended. Provincial education directors were consulted at the beginning of the process, and were again given a chance to comment on the final draft of the NESP-2. The establishment of an Education Development Board (EDB), including stakeholders from donors and NGOs, provided a platform for donors' input into at least five drafts of the revised NESP. The ministry maintained the authority to respond to or ignore comments, justifying its response to donors at the EDB meetings. At the time of writing this report, the NESP-2 was still subject to ongoing assessment and final approval by the EFA FTI.

Implications for increasing ministry capacity and ownership of policymaking

The approach to building ministry capacity for policymaking—facilitated by IIEP, combined again with proactive leadership and injection of human capacity in the form of technical advisors—seems to have worked, with some important caveats:

- Institutionalisation of capacity has been limited and fragmented

- Links between the centre and provinces still appear limited and policy is centrally focused

- The NESP-2 content is overambitious and underprioritised according to initial IIEP assessments, suggesting that it aims to secure funds rather than guide action

- Despite some increase in ministry capacity, donors still retain a high level of discretionary power, with wide-ranging implications for ongoing educational reform

Comparatively, the process of drafting the NESP-2 required less external technical assistance from IIEP than the process of NESP-1, suggesting that ministry capacity for planning and thus determining its own direction without international assistance has improved. While the experience of MAIL suggests that policy processes are insufficient by themselves to build capacity, in this case the process of drafting the NESP-1 was reportedly made functional by the strong leadership of Hanif Atmar and, in both the processes of NESP-1 and NESP-2, the injection of human capacity into the ministry in the form of national advisors.[84]

The prevalence of national technical advisors within the ministry, and the ministry's continued heavy dependence upon them, means that the institutionalisation of capacity within the ministry is still uneven and potentially unsustainable. Staff on regular payroll are comparatively weak and were sometimes reported to feel sidelined and unmotivated. The large disparity between salaries of ministry staff and technical advisors can prompt jealousy and create rivalries rather than cooperation, and although there is supposed to be skills transfer between advisors and regular staff, this has reportedly been very limited. This also means that work tends to fall to strong individuals, rather than resulting in team building. Meanwhile, the ministry's capacity to maintain the stronger technical advisors is fully dependent upon the donors' continued willingness to pay their salaries. Technical advisors are expensive—one estimate placed the total annual cost of technical advisor salaries at US$30 million, which is $10 million greater than the total wage bill for the 216,000

civil servants paid by the ministry.[85] Because the advisors are paid by different donors, many report to their donors rather than the ministry, which further erodes the ministry's independence. This issue had been recognised by donors, and there was some movement to coordinate and rationalise the use of technical advisors. However, at the time of study, this had not yet been achieved and the full number of technical advisors was unknown— although, based on best estimates, it is well over 1,000 throughout the country.[86]

In both drafting processes, for the NESP-1 and the NESP-2, the engagement of ministry staff in the process was mixed. For the NESP-1, consultations appeared broader but many meetings were poorly attended. For the NESP-2, the planning department took on much of the responsibility and, at least in the case of teacher education, participation was relatively limited. In both cases, communication links with the provinces were fairly limited.

For both versions of the NESP, and particularly for the NESP-2, the pursuit of a policy that could be used to access greater funding options is a motivation that appears to have affected the resulting content. Initial external feedback on the NESP-2 draft reflects the concern that, much as with the ANDS, it is overambitious, poorly prioritised and fails to reflect the existing constraints and capacity to implement.

Experience with the NESP-1 suggests that the creation and perceived strength of the policy convinced at least some donors to allow the ministry more control over how the funding is directed. But the reality remains that donors continue to have a great deal of discretionary power, and this has direct implications for which parts of the policy get funding. The fact that the entire policy is unlikely to receive full funding essentially passes power back to the donors as they decide which aspects to fund. To date, donors have directed a large

---

84 Dana Holland, *Capacity-Building Through Policymaking: Developing Afghanistan's National Education Strategic Plan* (Kabul: Afghanistan Research and Evaluation Unit, 2010).

85 AREU Interview, 10 March 2009.

86 At the time of study, there was considerable discussion among donors and in the ministry about the issue of technical advisors, with DANIDA in particular pushing for reform and a more coherent approach. See Shah, "Is Capacity Being Built?"

proportion of funds to curriculum development and teacher education, and relatively little toward Islamic education and vocational training.

While this study did not trace the way in which the NESP has influenced implementation in the provinces, a few comments on its relation to educational reform practice can be made. National educational policy has been concerned largely with technical, logistical issues.[87] Giustozzi argues that this approach has failed to address the tension in many Afghan communities between the demand for modern education and the fear of a secular approach that may challenge basic values rooted in Islam.[88] Arguably, this has been a lost opportunity as education is a key part of longer-term nation-building. On the other hand, the huge logistical challenges in delivering education in the post-Taliban period have understandably absorbed a large amount of time. The government has also pursued some degree of community engagement, especially through the establishment of community education *shuras*, in large part motivated by the need to protect schools from being targeted by insurgents.

4.4   Conclusion

This chapter has explored the way policy is made within and across ministries, looking particularly at some large formal policy processes that have been heavily shaped by donor agendas and criteria. Donors have, for their part, attempted to foster government ownership, yet this is pursued in quite a narrow way, which essentially requires government to buy into many of the ideas that donors promote, and to meet preset donor criteria. Thus, these policies are made "looking upward" toward potential sources of funding. The activity of drafting policy tends to be quite isolated from the institutional contexts in which policies get interpreted and

---

87   This may partially be a result of negotiating relations with donors, who have shied away from funding Islamic education, although the case did not investigate this, so the suggestion is based only on light circumstantial evidence.

88   Antonio Giustozzi, "Nation-Building is Not for All: The Politics of Education in Afghanistan" (Kabul: The Afghanistan Analysts Network, 2010).

> The fact that the entire policy is unlikely to receive full funding essentially passes power back to the donors as they decide which aspects to fund.

implemented, with limited grounding in the felt needs and priorities of communities or in likely implementation constraints.

Part of the aim of all these policymaking exercises has been not only to create policy, but also to build up an effective civil service and create greater government capacity to function as an effective bureaucracy. In this, efforts have been limited in large part because of the "dual civil service" that exists, made up of poorly paid civil servants and well paid technical advisors, and in which government staff, donors and implementing partners (often international NGOs) depend highly on a fairly small number of individuals. Sometimes this represents a form of nepotism, but sometimes it is simply because there are relatively few qualified, skilled individuals within the system and because trust is also highly valued. Again, it should be noted here that the notion of capacity is weighted toward skills that donors value and require, including English and familiarity with donor concepts and tools. Capacity, therefore, often exists in fairly limited, exclusive pockets, and transferring capacity more broadly and structurally has proven challenging. The notions of capacity and ownership are linked, and both tend to be achieved in large part when the government is able to meet donors on their own terms. Thus, the government tends to successfully assert ownership over policy and funding allocations in situations in which its leadership is more ideologically and culturally aligned with donors, and has been previously exposed to donor and NGO environments.

Finally, policy is on one level intended to guide action, and the policy produced by ministries has been quite limited in doing this due to the upward-looking orientation already discussed. These policy processes fail to grapple with the political and institutional realities, especially outside of the central government and outside Kabul. They have

rather been oriented as tools to promote particular views and commitments at a high level, and to raise funds. For the latter purpose they have been moderately adequate, although this is a matter also of political will among donors. In terms of promoting particular views, results are mixed, as the limited commitment to most policies also means they are relatively easy to discard and to overlook.

The following chapter considers policymaking in areas where donor intervention has been more limited, and where political motives are more apparent. Chapter 6 then considers what conclusions can be drawn about what policy processes, and particularly the donor-government relationship as expressed through them, mean for state legitimacy and the broader state-building endeavour.
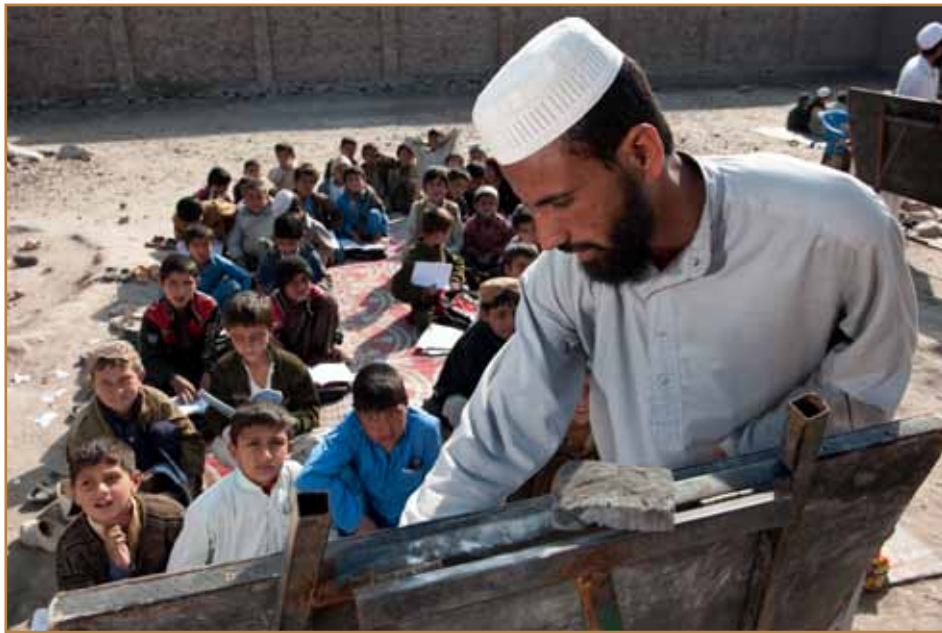
A community-based school in Shamshad Meena, a resettlement area between Jalalabad and the Torkhan Border in Eastern Afghanistan. By Mats Lignell (Save the Children)

5. Beyond the Reach of Donors: Subnational Appointments and Lawmaking

5.1 Introduction

State-building is essentially concerned with the relationship between the state and society. While the policymaking processes within and across ministries, as explored in the previous chapter, serve to formally shape the welfare services that the state delivers to people, they are only one piece of this relationship. In other areas, which are more overtly political, donor involvement is usually less extensive and more circumspect. Nonetheless, these areas are seen to be key to the overall agenda of state-building in which donors are so deeply invested. For example, the OECD Development Assistance Committee Principles for Engagement in Fragile States include:

> *International engagement...will need to be concerted, sustained, and focused on building the relationship between state and society, through engagement in two main areas. Firstly, supporting the legitimacy and accountability of states by addressing issues of democratic governance, human rights, civil society engagement and peace-building. Secondly, strengthening the capability of states to fulfil their core functions is essential in order to reduce poverty...[89]*

This section considers two cases that focus more directly on the government-society relationship as it has evolved post-Bonn, with particular focus again on the role of donor intervention in shaping this relationship. The first case addresses policymaking related to senior subnational appointments, and particularly the appointments of provincial governors and district administrators. This is an area where donors' involvement has still been substantive, although much curtailed in comparison to their role within the ministries. The second case is that of lawmaking within the parliament, focusing

on the particularly high profile and controversial case of the Shiite Personal Status Law. This case is interesting in the context of this study because it highlights the centrality of Islam in the Afghan state—a centrality that is often overlooked in donor-driven state-building—and because it is one of the few lawmaking examples in which there was, in fact, international intervention, which prompted a revision of the law.

5.2 Nearer the people? Subnational appointments policy[90]

Policy surrounding subnational appointments, and particularly the appointments of provincial governors and district administrators, fits into the broader context of subnational governance. Local governance did not receive a great deal of attention from donors initially, as their attention was largely taken up by state-building efforts in the capital. However, from about 2004 onward, there was an increased recognition among donors that this area was crucial to the success of broader state-building. This was fuelled in part by the increasing public displeasure with the government and the start of insurgency. For example, the Policy Action Group, convened in 2006—a high-level group consisting of Afghan political leaders and international representatives, including ISAF command—identified "bad governance" as a major factor driving the insurgency.

Historically, local governance appointments have been linked to securing and rewarding loyalty, based mainly on ethnic and political affiliations. Under the People's Democratic Party of Afghanistan regime (from 1978-92), reforms toward a more rule-based meritocracy were attempted, and this created a degree of bureaucratic culture among those who were in the civil service during that period. However, most of the appointments of the Karzai regime

---

89 Organisation for Economic Co-operation and Development, Development Assistance Committee, *Principles on Good International Engagement in Fragile States and Situations* (Paris: OECD DAC, 2007), http://www.oecd.org/dataoecd/61/45/38368714.pdf.

90 For a more detailed description of this case, see van Bijlert, *Between Discipline and Discretion*.

were initially based on rewarding and reinstating mujahiddin commander networks that had held power immediately before the Taliban, rather than these older networks. As the credentials of these leaders have been based more on their relationship to central power and ability to use force to control territory, either in support of the government or against it, rather than their capacity to represent or serve the people in any other sense, such leaders are a source of destabilising "bad governance" as much as they have been a fairly quick, if mercurial, source of short-term stability.

While the favouring of such leaders has been a basic source of tension between government elites and the people under their rule, international influence on the situation has been mixed. On the issue of subnational appointments, donors have advocated for public administrative reform with three main, and not fully consistent, agendas: merit-based appointment procedures (as part of a broader public administration reform agenda), vetting and stabilisation. For each of these reforms, there has also been advocacy from national actors, as well as national actors who have actively resisted it. As van Bijlert argues, such resistance is better understood not as something emanating from tradition, but rather from the calculated political strategy of national elites at the centre of government who wish to maintain a high level of discretionary control over such appointments:

> This study...illustrates how the government—in particular the President and his entourage—have consistently sought to use senior subnational appointments and patronage-based politics in ways that have undermined a more formalised form of institution building, while paying lip service to the policies that their practices are undermining. It is thus more a matter of political strategy than of deep-seated culture. In the process, the government has disaffected large parts of the population who, in principle, are not adverse to the idea of reforms at all.[91]

Recent past experiences surrounding each of these three agendas is now briefly considered, feeding into a consideration of the relationships between

central government, local government and the governed, and the way the international community has influenced these relationships.

Institutional reform

During the negotiation of the Bonn Agreement, UN officials pressed for a merit-based technocratic administration and the creation of a strong civil service commission, but the Afghan participants at Bonn resisted this and negotiated for a division of political power based on factional loyalties. The outcome was a compromise: a civil service commission that held only an advisory role.

The Independent Administrative Reform and Civil Service Commission (IARCSC) was established by presidential decree in May 2002 and shifted its mandate to focus on institutional reform. Until 2006, it did not play any role in the appointment of provincial governors and district administrators, which was instead handled by the president on the advice of the Ministry of Interior. It attempted to take on this role in 2006 but was circumvented by the Ministry of Interior, which lobbied the president to issue another decree returning the power of appointments to the ministry.

The few appointments that were carried out by the IARCSC were problematic, as those involved essentially circumvented or ignored the rules meant to ensure the most meritorious candidates (as defined by the formal criteria) won the positions, and rather made sure their preferred candidates would win. From August 2007, the newly formed Independent Directorate for Local Governance (IDLG) was charged with making these appointments. While it claims to use transparent, merit-based practices, the process seems to be unchanged.

Even if merit-based criteria are applied, it is questionable, as van Bijlert notes, as to whether merit-based criteria as currently defined are appropriate tools for awarding such positions. Since definitions of merit focus on technical capacities, they exclude consideration of the relationship of the candidate to the population to be governed and the candidate's political capital or strength to manage the job. In any case, political and economic

---

91   Van Bijlert, *Between Discipline and Discretion*, 3.

interests drive a tendency to keep appointments based on discretionary power of particular people or positions. When a position becomes available, this typically results in a wave of intensive lobbying efforts directed toward those with the power to make the appointment, and particularly the president. If members of the public raise complaints about a candidate's performance, the person is typically reassigned to a post in another location rather than being terminated. In some provinces, local interests are also able to circumvent national decisions at times by delaying appointment processes and appointing "temporary" candidates into key positions.

In short, the merit-based appointments agenda is one that was pushed by the international community and a minority of more technocratically minded Afghans, and it has been embraced only superficially and half-heartedly by different government institutions, which have also struggled among themselves as to which should have the power to influence appointments. The basic tension is between merit-based and discretionary criteria. The widespread preference for the latter is based largely on the desire to maintain political and economic power and build political capital and loyalty.

Vetting

The vetting agenda is focused largely on setting up a mechanism for disqualifying candidates for appointment to positions if they are associated with past war crimes or other criminal activities. This agenda has always been controversial, since many of those who successfully vied for power in post-Taliban Afghanistan had played lead roles in past violence. The initial position of UN political representatives negotiating the peace agreement was to argue that transitional justice was essentially an international agenda that risked undermining the prospects for peace. However, the Afghanistan Independent Human Rights Commission (AIHRC) conducted national consultations and released a report in 2005 that showed popular demand for transitional justice, with vetting of appointments being one major recommendation

of the report.[92] As a result, some international actors—including the UN, Canada, the Netherlands and the European Union—began to more actively support the transitional justice agenda and lobbied for the inclusion of several relevant benchmarks in the Afghanistan Compact, one of which called for the establishment of an independent advisory body to vet senior appointments.

Negotiations between international actors and the president's office mainly revolved around the composition of the advisory board, and thus the degree of independence it would have, rather than the scope of its mandate. The Special Advisory Board to the President for Senior Appointments was established by decree in September 2006. However, continued negotiations over the composition of the board, with the president's office pushing for greater presidential control, stalled its operations, and its terms of reference were not approved until April 2008. By the fall of 2008, it had finally become active, having been consulted on 75 appointments.

The fact that the board was established and has been able to operate, at least somewhat, is a politically impressive feat given the vested interests within the Afghan political establishment, who are firmly against vetting and prefer blanket amnesty.[93] Factors that allowed this to happen include the following:

1. It was the first Afghanistan Compact benchmark to be met; the JCMB were monitoring progress and thus creating a level of accountability

2. At least one influential person close to the president supported the board

3. The drafting of the subnational policy clarified the legal aspects of senior subnational appointments

---

92 Afghanistan Independent Human Rights Commission, "A Call for Justice: A National Consultation on Past Human Rights Violations in Afghanistan" (Kabul: Afghanistan Independent Human Rights Commission, 2005).

93   In 2007, parliament oversaw the drafting of a bill granting amnesty to those involved in civil war prior to 2001. This bill was seen as a reaction by MPs, many of whom were former commanders, against the transitional justice agenda. The bill became law in late 2009.

This does not, however, mean that political resistance to the board is gone, or that its future is assured.

Stabilisation and outreach

The IDLG was established in August 2007 and has both a technical and a political mandate. Its technical mandate focuses on public administrative reforms at the subnational level. Its political mandate, which is focused on strengthening political loyalty to the central government, is framed as a temporary outreach effort focused on stabilising the deteriorating security situation, and is not included in the official written subnational policy. Nonetheless, these mandates have the potential to clash, as those who are most entrenched in existing patronage networks may not have very much else to recommend them as leaders.

This stabilisation agenda predates the IDLG and has been a constant undertow in Afghanistan's state-building efforts since Bonn, as described in Chapter 3. It has been supported by the international community as part of counterinsurgency efforts, even though it sits uneasily with the technocratic approach to public administrative reform. While it may be possible to marry both approaches into one comprehensive approach that recognises the need for both rule-based administrative reform and politically discretionary policies, this has not been done, which means that the IDLG takes a rather mixed approach to appointments, abiding by merit-based procedures and standards for just under half of its appointments.

Implications for Afghan ownership and state legitimacy

While state-building discourse has focused on the importance of "government ownership," the government is itself an emerging formal system that is embraced by a changing coalition of interests. As such interests network to protect and benefit each other, they may not be particularly responsive to the wishes and interests of the people they govern. In fact, the formal state may offer new forms of protection and power to pre-existing political elites, even as state-building efforts weaken some

of their other sources of power, such as the use of local militias.[94]

As Lister has observed,

> *While policy-makers may see state-building as creating a "rule-based" system, in fact it may be more helpful to think of "state-building" initiatives as attempting to replace one type of rules with another, so that formal bureaucratic rules of a Weberian type take precedence over informal rules rooted in patronage and clientalism.*[95]

It is apparent in this review of subnational appointment policy and the way these three agendas have been negotiated that resistance and workarounds to such reform efforts persist. Existing power groups and existing practices enter into the new formal institutions, and the "rules of play" become layered and mixed—the previous ones are not simply replaced by the new ones. These observations are by no means novel, but have been well documented and argued in earlier research on subnational governance.[96]

Nonetheless, this case locates at least two interesting opportunities for international actors to take a less technocratic, politically blind approach toward this ongoing renegotiation of relationships, which is otherwise occurring in a way that undermines public interest and state legitimacy to a degree that it has reached a crisis point and is now seen as a major factor fuelling insurgency.

The first opportunity is found in the argument made by van Bijlert against a purely technocratic approach to public administrative reform. Since these key local governance positions depend upon leadership skills, public perceptions of the selected candidate and the candidate's existing

---

94 For information about disarmament and reconciliation efforts since 2001, see Tazreena Sajjad, *Peace at All Costs? Reintegration and Reconciliation in Afghanistan* (Kabul: Afghanistan Research and Evaluation Unit, 2010).

95 Lister, "Changing the Rules," 3.

96 See, for example, Hamish Nixon, *Subnational State-Building in Afghanistan* (Kabul: Afghanistan Research and Evaluation Unit, 2008).

> The idea that transitional justice was not an Afghan concern appears in part to have been based on the fact that it was not the concern of those in government, many of whom, as already described, were largely opportunistic products of the wartime political period prior to the rise of the Taliban.

relationships and status—aspects that are not captured by the existing formal criteria of the merit-based appointment process—the criteria should be amended to also capture these factors. Such a suggestion does not solve the issue that some of the criteria about "good fit" may allow for more discretion and thus be more open to abuse. But at least the criteria would then fit the situation better, and would respond to a genuine concern that local leadership cannot be judged based purely on formal qualifications.

Likewise, and as an extension to the first point, the search for "middle ground" appointment criteria may also provide a way of balancing short-term stabilisation goals with long-term state-building goals in a manner which is less schizophrenic than at present. The embodiment of this division within the work of the IDLG—with the outreach agenda remaining separate from, and not formally acknowledged by, its written policy—is emblematic of the more widespread tendency to sometimes abstract political negotiations as something happening at the margins of state-building work.

The second opportunity for a more strategic approach is found in the example of the vetting agenda, which, although contested and faltering, has managed to persist and have some modest success. The role of international actors, firstly in relegating transitional justice to the margins based on the convenient assumption that Afghans were not interested in it, and secondly in pushing it forward again once the AIHRC managed to convince them that Afghans were indeed interested, was significant. It points to some of the general confusion that has characterised the international community's involvement in

Afghanistan. The idea that transitional justice was not an Afghan concern appears in part to have been based on the fact that it was not the concern of those in government, many of whom, as already described, were largely opportunistic products of the wartime political period prior to the rise of the Taliban. While state-building champions the idea of government ownership, those who are most well positioned to leap into a power vacuum and seize control following an event such as the ousting of the Taliban cannot be assumed to be the most worthy or benevolent rulers. And neither, in such times of fragility, can they be said to be the choice of the people. Thus, the assumption that, in such a time, government ownership translates to national ownership and healthy sovereignty is a very dangerous one. It means that donors are likely to collude with and resource a nascent state which is essentially predatory.

Of course, the Afghan state is not uniform in character, and what this case reveals is that the identity and composition of the state is developing through an active contest of different interests, in a way that the term "state-building" does not adequately capture. The AIHRC, a body whose formation is mandated by the Afghan constitution, was instrumental in reviving debate on transitional justice. It managed to retain legitimacy for the vetting agenda by showing that this was something that many Afghans supported. From this point of view, the international community's relationship with Afghanistan's emerging state cannot be politically neutral, and is likely to support tyranny when it attempts to be politically blind, or if it conflates the concept of government ownership with the concept of national ownership. Rather, international engagement must be principled political engagement—an engagement that actively seeks to support government policies and actions that represent people's interests, furthering ways through which such interests and demands can be expressed in a nonviolent manner, and that is consistent with Afghanistan's own laws and international commitments. This concept is applicable in the following case as well, although the case also raises some of the complexities and sensitivities around such engagement.

5.3 Parliament and lawmaking: The case of the Shiite Personal Status Law[97]

Afghanistan's legal system is drawn from a mix of traditional, Islamic and Western statutory law. The 2004 constitution, based largely on the 1964 constitution, states that no law is valid unless it is consistent with Islam. It also promises equity before the law for all citizens and respect for human rights. In applying the constitution, there is potential conflict between these different legal traditions. However, there is also potential for negotiation between approaches to establish a "syncratic" system that blends all of these sources. Other Muslim states that likewise draw on a blend of legal traditions probably provide some of the most useful examples of how this might be approached.[98]

In a piece about the role of Islam in Afghanistan's legal system, Lau argues that the issue is particularly sensitive in the development of the new Afghan state because Karzai had to show Afghans that the country was still committed to Islam, while signalling to donors that it was breaking from the fundamentalist approach of the Taliban. As Lau notes:

> *Political Islam is an intensely legalistic movement: Islam's claims to govern virtually all aspects of human life have historically manifested themselves in legal terms. It is the extent and degree of the implementation of Islamic law which is often cited as the litmus test for the Islamic credentials of an Islamic state. The role of Islamic law in Afghanistan's legal system is therefore a most delicate issue.*[99]

However, according to Sukhre and Borchgrevink's assessment, the opportunity to draw on the expertise of other Muslim countries in reforming Afghanistan's legal sector was largely ignored. As Western countries have been the biggest financers of reform, they have also taken the lead in determining the nature of reforms. Italy was placed in charge of legal sector reform, and Italian legal experts drew on their own non-Islamic legal traditions and expertise in deciding how to proceed.[100] This sidelining of Islam within legal reforms arguably undermines the position of those who envision a more liberal Islamic state.[101] Meanwhile, there are no clearly agreed means by which human rights obligations and the supremacy of Islamic law, both upheld within the constitution and not necessarily consistent, can be resolved through the drafting of legislation.

Afghanistan's parliament,[102] consisting of two houses—the *Wolesi Jirga* (the House of the People, which is directly elected and has 249 seats) and the *Meshrano Jirga* (the 102-member House of Elders, one-third of which is appointed by the president and the rest indirectly elected)—plays a key role in passing legislation, and is potentially one of the most important institutions for representing people in the formal government.

The first *Wolesi Jirga* was voted into power on 18 September 2005. The candidates elected were greatly diverse in terms of ethnicity and political affiliations. An impressive number of women candidates won seats in their own right, without the need for the quota system (which guarantees women a minimum of 68 of the 249 total seats). However, one of the great weaknesses of the election was that candidates were not sufficiently vetted. Along with some alleged fraud and intimidation, this "enabled many candidates with links to illegal

---

97 For a more detailed description of this case, see Lauryn Oates, *A Closer Look: The Policy and Law-Making Process Behind the Shiite Personal Status Law* (Kabul: Afghanistan Research and Evaluation Unit, 2009).

98 Astri Suhrke and Kaja Borchgrevink, "Negotiating Justice Sector Reform in Afghanistan," *Crime, Law and Social Change* 51, no. 2 (2008): 211-230, doi:10.1007/s10611-008-9154-0, http://www.springerlink.com/index/10.1007/s10611-008-9154-0.

99 Martin Lau, "Islamic Law and the Afghan Legal System" (Geneva: International Commission of Jurists, 2003), 1.

100 Suhrke and Borchgrevink, "Negotiating Justice Sector Reform."

101 Afghanistan follows the Hanafi school of Islamic jurisprudence, which provides some space for relatively liberal legal interpretations, in comparison to other schools. However, the negotiation of the relationship between Islamic law and secular human rights law is a rather complex and delicate issue.

102 Officially known as the National Assembly.

armed groups, narcotics trafficking, criminal gangs, as well as some facing war crime allegations, to contest and win seats."[103] This discredited the National Assembly in the eyes of many Afghans, as well as among international observers. Nonetheless, research suggests that many mullahs support the idea of the parliament and see it and its mandate as consistent with Islamic principles, even if they find the motivation and conduct of its members questionable.[104]

Within the parliament, two discernable, although amorphous, advocacy coalitions have been conservative Islamists, many of whom have their roots in earlier mujahiddin movements and parties, and more secular-minded reformers—who often have roots in civil society and rights movements, have had more exposure to and sympathy with Western liberal ideas, and who continue to have civil society links. On specific issues, coalitions of members of parliament (MPs) appear to be more idiosyncratic and somewhat opportunistic. For example, in 2006 the parliament overturned Karzai's renomination of the very conservative Chief Justice Faisal Ahmad Shinwari. This show of strength was achieved through a coalition that consisted of women MPs and reformists, but also some radical Islamists whose motivation was more political, and appeared directed particularly at embarrassing Karzai.[105]

While donors have provided some technical support to the parliament, it has been minimal compared to other areas of donor intervention.[106] One reason is that the *Wolesi Jirga* is an elected

body representative of the people, and donor interference would seem particularly inappropriate and intrusive. A second reason is that because so many MPs are viewed as problematic, some donors and government leaders have taken the view that it is better to keep the parliament fairly sidelined. Besides some having criminal links, some MPs are reportedly illiterate and some are said to have forged educational certificates. Thus, many major policies, including the ANDS, have been passed without being properly presented to or debated in parliament.[107] As long as it is weak, parliament is sometimes presented as a good way of keeping potential troublemakers out of trouble. As one Afghan observer commented, "Even now, they have hundreds of thousands of other things they do on the side, imagine how much more it would be if they weren't in parliament?"[108]

Given this background, the case of the Shiite Personal Status Law confronts some of the most contentious and critical issues around lawmaking as it relates to the state, particularly the ambiguity around the role of Islamic jurisprudence and the perceived legitimacy of the parliament. To further complicate matters, this law addresses a minority sect and, relatedly, a minority ethnicity, which have traditionally been politically sidelined within Afghanistan.

The 2004 constitution officially recognised the Shia sect and the right to apply Shia jurisprudence for the first time in Afghanistan's history. This was something that the Hazara and Shia communities had wanted for a long time. One of the main champions of this constitutional provision was the cleric Mohammad Saif Mohseni, a Shia leader with a long political career and strong links to Iran.[109] According to most reports, Mohseni also guided the Shia Mullahs Council in the drafting of the Shia

---

103 Andrew Wilder, *A House Divided? Analysing the 2005 Afghan Elections* (Kabul: Afghanistan Research and Evaluation Unit, 2005), 3. More specific assessment of elected MPs from this report counted "40 commanders still associated with armed groups, 24 members who belong to criminal gangs, 17 drug traffickers, and 19 members who face serious allegations of war crimes and human rights violations" (see page 4).

104 M. Wardak, I. Zaman and K. Nawabi, "The Role and Functions of Religious Civil Society in Afghanistan: Case Studies from Kunduz and Sayedabad" (Kabul: Cooperation for Peace and Unity, 2007).

105 Suhrke and Borchgrevink, "Negotiating Justice Sector Reform," 222.

106 UNDP manages a programme called Support to the Establishment of the Afghan Legislature, which had several contributing donors. USAID also provides support through the National Democratic Institute and the State University of New York's Center for International Development.

107 The ANDS was presented to parliament only briefly as part of "national consultations" and without MPs having any substantial input, which led some MPs to strongly criticise the final policy, as well as the process.

108 AREU interview, Kabul, 16 June 2009.

109 Mohseni is a somewhat controversial political figure, notable because he is Shia but not Hazara.

Personal Status Law, which was allowed for under the new constitution. The law was mainly based on a volume of Islamic jurisprudence from Iran.[110] The *Wolesi Jirga* received the draft law and initially had it reviewed against Sunni law to remove the main contradictory articles. Once this was done, one influential MP advocated for passing the whole law as a package, rather than reviewing and debating it article by article, as is standard.[111]

There was little public awareness or debate about the proposed law, but some MPs with links to civil society organisations informed these organisations of it. The civil society groups in turn obtained copies of the bill and raised concerns about a number of articles that discriminated against women and contravened their rights as guaranteed by the constitution. A small group of MPs and civil society organisations were able to delay the vote, which had been scheduled for February 2008, so that they could research and propose amendments to the articles of the bill they found problematic. They did this and produced a revised draft. However, when the draft went back to parliament most of the revisions were rejected by MPs who were allies of Mohseni. Only four of the revised articles succeeded.

Civil society organisations also lobbied Karzai to amend the law, without success. During this time, the human rights unit within the political wing of the UN, also aware of the law, was tracking the process and providing some information to civil society groups, while high-level UN officials were engaging in some "backroom" diplomacy with senior Afghan leaders to propose amendments to the more discriminatory aspects of the law. The *Wolesi Jirga* finally voted on the law on 30 January 2009. However, this vote, which caused much confusion among the MPs, was not on whether to pass the law itself, but actually on a statement that "implementation of the law does not require separate courts and judges."[112] Nonetheless, this

was taken as tacit approval of the law, which went to the Supreme Court and then to the *Meshrano Jirga*, where it was not debated but approved by party leaders without the knowledge of all members.

These and other deviations from the formally required process were possible because of the political alliances supporting the law. This was possible in this instance particularly because the law was based in Sharia, was seen as relevant only to the Shia minority, and was championed by some key people with strong political networks. These alliances, in turn, were largely opportunistic and not necessarily based on shared values. For example, Abdul Rasul Sayyaf, one of the MPs who was influential in pushing the bill through without debate, is Sunni and known to be anti-Shia, but was rumoured to have made an alliance with Mohseni, the bill's main proponent. Some MPs appeared disengaged, while others were reportedly intimidated. Some individuals within parliament, and particularly those who are former commanders, were evidently much better positioned than others, and they could use their power to circumvent the system to some degree. The manipulations within the procedure also made the passage of the bill very hard to follow, and were further complicated by the lack of an effective system for tracking bills. The bill itself raised fairly emotive debate, not only on the content, but on how the *Wolesi Jirga* should handle such a matter. Some MPs expressed the view that the law should not be debated by members who were not Shia, or who were not clerics with expertise in the Islamic *fiqh* from which the law was derived.[113]

A study of the process surrounding this law also makes it very apparent that no one involved, neither MPs nor civil society actors, whether for or against the content of the law, was aware of public opinion about the law. Indeed, as the public were largely unaware of the law, they were not in a position to have developed an informed opinion. As mentioned earlier, Hazara and Shia communities were strongly

---

110   Ayatollah Khomeini's *Tahrir-al-vasyleh*.

111   The initial draft law consisted of 750 articles, although in subsequent revisions this was reduced to 253 articles, and the final law had 241 articles.

112   Afghanistan Parliamentary Assistance Progject, "Legislative

Session Summary," 5 June 2009.

113   A useful description of the composition of the first *Wolesi Jirga*—in terms of ethnicity, sect, gender, and degree of conservativeness or liberalness—can be found in Wilder, *A House Divided?*

in favour of the existence of such a law because of the official recognition it granted the Shia sect, but it is likely that there would have been much more mixed opinion as to the specific content. Many Shia observers interviewed for the study felt that, while the law itself was welcome, the content and process had been co-opted by someone whose views were not reflective of the wider community.[114] The idea of MPs as representatives of constituent interests appeared to be weak—for example, some Sunni MPs reportedly felt that they were unable to comment on a Shia matter, even if they had Shia constituents.[115]

Despite the problems and the tendency to cut corners and use non-formal means to get the law through, the process gave rise to some genuine debate and concessions on both sides, while overall it showed buy-in to some of the formal aspects of process in parliament. Further, the proponents of the law demonstrated a desire for their interpretation of *fiqh* to be legitimated through parliamentary process, rather than through informal legal structures. Yet many respondents identified a lack of lawmaking capacity within the parliament as a factor that made it easier for bills to become law without following formal processes.

Advocates for the law were, as noted, united through a combination of shared ideas, on the part of those who were involved in creating the content, and opportunism, in terms of using temporary alliances to push the bill through to become law. Mohseni was not himself an MP but was instrumental to the creation of the law and, through his links with powerful MPs, advocating for its passing. Resistance to the law was championed by an advocacy coalition consisting of some MPs, civil society organisations,

academic institutions and the AIHRC, and to some degree the UN—largely the UNAMA human rights unit and the United Nations Development Fund for Women (UNIFEM). The existence of a large number of relatively passive or disengaged MPs was also an important part of the dynamic that allowed the law to be passed, since they were relatively easy to co-opt, intimidate or sidestep.

In addition, and despite initial low public awareness of the law, a group of Shia, largely Hazara women in Kabul, began to organise against the law when one woman discovered that few people knew about it and began to actively solicit opinions from the Hazara community. The group had serious concerns about the law and about proponents' public claims that no one could challenge it. They sought out scholarly advice on the legal basis of the law and also organised a public demonstration against it in April 2009. This demonstration met a counter-demonstration that consisted largely of students from Mohseni's madrassa, including women, and the event turned violent and received mixed coverage by the media. This public protest by women was unique and undertaken at personal risk, as some participants received threats because of their involvement.

The coalition advocating for reforms had met with limited success until the international media picked up the story, by which time Karzai had already signed the law. International outcry against what came to be dubbed "the rape law" was very strong, with NATO leadership and the US president, among others, all speaking out very strongly against it. Under this intense pressure, Karzai promised to withdraw the law for review and amendment. Advocates for reform were nonetheless concerned that these reforms would be delayed and the issue would get overshadowed by the upcoming presidential election. Indeed, reforms were made, but not publicly or transparently, and the law was passed into effect on 22 July 2009, less than a month before the presidential election.

Before the international media picked up the story, the international diplomatic community and the UN were largely perceived by civil society activists and some MPs to be extremely reluctant to address

---

114   It is quite difficult to know what broader public opinion would be, although a fair guess is that many people would have felt that for such a law, the appropriate response would be to defer to the opinion of a religious authority.

115   The fact that the law was derived from Sharia created some dissent over who had the right to interpret and debate it. As Sharia is God's law, it is immutable. The only debate can be about its interpretation, and those MPs who were also clerics were in a stronger position to do so. However, in this case, some non-clerical MPs and civil society organisations sought out alternative interpretations of *fiqh* from multiple religious authorities.

A policewoman during a Shiite Personal Status Law protest in 2009. By Fakhria Shabgeer

the issue and raise public objection to it because they were worried it would be viewed as "Western interference" and argued that it was basically a sovereign issue. Civil society organisations argued that since it was a matter of human rights and since the international community is deeply invested in Afghanistan, this stance did not make sense. They were particularly critical of UNAMA since it has a mandate to champion human rights. UN officials claim that they were engaged on the topic and were engaged in diplomatic efforts that were not public because of the sensitivity of the issue. And, indeed, since proponents of the law tended to brand any opposition to the law as being driven by Western interests, it could be argued that heavy-handed international objection to the law might have had the unintended effect of delegitimising opposition.[116] Nonetheless, following the outcry in international media, embassy officials and the UN

were much more publicly active in seeking reform. Civil society organisations were themselves not entirely united in their response to the content of the law. Particularly in the later review phase, there were reports that Karzai, wishing to reduce the political fallout in the lead-up to the elections, was negotiating with civil society activists to let the law pass in exchange for passing their favoured Law on the Elimination of Violence Against Women.[117]

Implications for Afghan ownership and state legitimacy

This case highlights some of the complications and ambiguity around the role and obligations of donors, who undeniably have a stake and major shaping influence in the emerging Afghan state. Those Afghans who were reformist in their outlooks and advocating for human and women's rights argued that donors have a moral obligation to intervene to uphold human rights. On the other

116   Both MPs and civil society activists reported that their objections to the law were often derided as pro-Western and against Islam, which was somewhat effective in stigmatising their attempts at debate.

117   Personal communication, international respondent, May 2009.

hand, conservative Afghans who supported the law argued this was encroaching on Afghanistan's sovereignty. The view of "common people" is again much less certain, and had limited influence throughout the process, but appears more mixed; nonetheless, many people had strong concerns and reservations about Western interference in issues that touched on religion and ethnic identity.

Donors themselves—and the UN—had at first been hesitant in applying pressure, and had done so subtly and privately, and through some information-sharing activities with Afghan civil society. This approach appears to have resulted from both a genuine concern for sovereignty and a more pragmatic concern about public and political backlash, and about damaging their own relationships with high-level Afghan politicians. They shifted their tactics, however, once the international media picked up the story, because of the strong response from their own publics, who asked why the international military was intervening to support a government that did not respect human rights. It appears that diplomatic representatives of foreign countries within Kabul were generally much more hesitant to speak out against the law, in contrast to officials outside of Afghanistan. This may well have been a reflection of the greater appreciation of the complexity of the debate and the sensitivity surrounding Western, non-Muslim nations taking a public stand. Some embassy staff reportedly apologised to proponents of the law after some of the strongest public statements condemning it were made.[118] In general, as some civil society activists noted, donors have been consistently inconsistent in their intervention, having stayed quiet during the passing of a number of other controversial laws, most notably the Amnesty Law.[119]

Some of the difficulty here seems traceable to the donors' approach to legal reform and the way it has simply ignored the issue of how to integrate Islamic and human rights principles, instead focusing efforts on modelling a modern, secular state. For the vast

majority of Afghans, Islam, as they interpret it, continues to be a central part of their lives. Ignoring this reality risks creating a state that is essentially at odds with the values and perspectives of the Afghan people. The passing of the Shiite Personal Status Law was driven by some divisive and narrow political agendas, and by a small coalition which presented itself as experts who could not be questioned and who were able to determine the law of the country based on their own reading of God's laws. Nonetheless, Afghan civil society actors were somewhat successful in challenging this group by seeking out other examples of religious interpretation. Islam does not specify a single, exclusive authority on the interpretation of *fiqh*, and thus there is potentially the room to question, negotiate and determine which interpretation most reflects Afghan culture and values at present. If legal reform efforts had been led by Afghans, with greater input from Muslim states with diplomatic presence in Afghanistan, Western donor countries would not have found themselves in the impossible position of being arbitrators on an issue in which many Afghans did not feel they had the moral or religious authority to intervene. As Afghanistan's history reveals, there has been tension between modernising and conservative agendas within Afghanistan for over a century now, and the making of such laws will continue to reactivate this tension and require a strong process of negotiation.[120]

One argument against mainstreaming Islam in issues such as legal reform is that advocates of Islamic values in Afghanistan have tended to be extremely conservative and, as many of these actors are ex-mujahiddin, they still retain a great deal of influence. However, part of their continued influence comes from their monopoly on Islamic interpretation. One of the most interesting aspects of the Shiite Personal Status Law process is the way civil society organisations, and even individual women as citizens, stepped forward to question that monopoly and seek alternatives. As a general principle, rather than focusing on legal content, donors' roles in legal reform are better focused on supporting processes that widen the space for

---

118 Personal communication, international respondent, May 2009.

119 The full name of this law is the Law on National Reconciliation, Public Amnesty and National Stability; it was passed in 2007 and gazetted in 2008.

120 Martin Ewans, *Afghanistan: A Short History of Its People and Politics* (New York: Harper Perennial, 2002).

> The much-vaunted concept of government ownership clearly does not equate to national ownership. Within a weak and emerging state order, those who are able to quickly leverage themselves into power are not necessarily those who have a mandate from the people or those who have a benevolent intention to serve the people.

debate among Afghans and enable all sectors of society, including women, to have a say in how their laws are formed. This, however, is a fairly long-term proposition.

The complexities of donor intervention aside, this case also reveals that most of the Afghans involved in the process, whether for or against the law as it was passed, had respect for the institution of parliament and were knowledgeable about the process through which laws should pass. Again, the fact that this law was derived from *fiqh* created some complications in the process, since parliamentary process does not allow for special treatment of religiously derived law, whereas in practice many MPs felt that it was appropriate for the Ulema Council and others with expertise in Islamic jurisprudence to be directly involved in drafting and revising the law. In general, there was also a reported sense among many interviewed for this case that MPs were learning their roles within parliament, and that the institution was gradually gaining strength as a credible instrument of governance.[121]

5.4 Conclusion

The two cases explored in this chapter reveal the extent to which state-building is essentially

a political activity. As such, the nature of donor engagement in the emerging state is a particularly delicate issue. The much-vaunted concept of government ownership, which is in any case not monolithic, clearly does not equate to national ownership. Within a weak and emerging state order, those who are able to quickly leverage themselves into power are not necessarily those who have a mandate from the people or those who have a benevolent intention to serve the people. The UN and the nations that sent military forces to oust the Taliban have all played important contributing roles in the emergence of the post-Bonn political order in Afghanistan. This suggests that donor states have some outstanding moral and diplomatic obligation to act as interlocutors on behalf of the public interest, especially on such issues as human rights, until such time as the new Afghan state truly is sovereign and represents its people. Such a role also seems essential to the success of the state-building project, or else the emerging state will remain fragile and likely to lead to further violent contestation of its legitimacy by those within its territory. Yet the donors themselves do not have a mandate from the people. Donors representing secular Western countries, in particular, are so different in their values and perspectives that their interventions risk being seen as—and, in result, being—a form of imperialist intervention. In addition, these nations do not intervene with the sole or even the primary goal of building a representative, healthy Afghan state; each also has its own political agenda and domestic interests to protect.[122] Thus, donor intervention also risks undermining the emergence of a legitimate Afghan state, and the project of state-building in a situation such as Afghanistan's is mired in paradox. There are no clearly legitimate institutions for representing the interest of the people at a national level, and both Afghans and the broader international community share some responsibility for this state of affairs.

The delicacy of overtly political intervention by donors, in comparison with the fairly heavy handed "technical" intervention, which within the

---

121 A number of developments in 2010, including MPs' rejection of cabinet nominees and their criticism of the lack of satisfactory electoral reform, could be taken as further evidence of parliamentary maturation, although these can also be interpreted as a form of pre-campaign politicking in anticipation of the 2010 parliamentary election. For more in-depth exploration of this topic, see Anna Larson, *The Wolesi Jirga in Flux, 2010: Elections and Instability I*, (Kabul: Afghanistan Research and Evaluation Unit, 2010).

122 Refer back to the discussion in Chapter 3 for some of the dimensions of these interests.

ANDS and Afghanistan Compact are in service of internationally set anti-poverty goals, also raises some crucial questions. To what degree are the policies and the services provided by line ministries addressing technical rather than political issues? How definitively can such a division be made? Issues such as how the market is regulated, what curriculum is taught throughout national public schools, whether the police should be primarily a civilian force or an auxiliary military force—all of these are intensely political issues which will fundamentally shape Afghanistan's future, but which have been addressed as technical issues requiring the expertise of foreign consultants, or decided de facto through donors' decisions of what to spend on and the development of their own off-budget programmes.

The politics behind the formation of the public administration at the local level, and the degree to which it has been resistant to reform, also place doubt on the likelihood that programmes envisaged and designed with heavy international intervention will be interpreted and implemented according to the formal plans. It is upon the formation of these technical plans that donors have had the greatest direct influence, but such influence cannot extend to all areas of implementation, unless the donors and non-state contractors essentially take on the role and functions of the state indefinitely.[123] Given the flawed nature of the political settlement on which the present-day Afghan state is founded, the resources flowing into the system to support these formal plans instead have often appeared to reinforce patterns of corruption and exclusion.[124]

The following chapter will grapple with this dilemma by further considering the crucial and complex issue of legitimacy and, finally, by positing suggestions for strengthening policymaking in aid of state-building.

---

123 Having said this, it is worth noting that line ministries directly oversee implementation in the provinces, which does not run through the local governance systems, while the provincial presence of most line ministries is quite weak. As Lister notes, on paper Afghanistan has one of the most centralised governments in the world.

124 See, for example, Kate Clark, "The Real Afghan War," *New Statesman*, http://www.newstatesman.com/200611270015, 27 Nov 2006.

6. Leveraging Change: Options for Strengthening State Legitimacy

6.1   Introduction

The previous two chapters have examined policymaking in different arenas—within and across ministries, where donor engagement and influence has been extensive, and in subnational governance and lawmaking, where donor influence has been much more limited, although still significant in each of the cases considered.

While the case studies informing this paper do not go beyond the policy processes to consider the full interpretation and implementation of policy throughout related government agencies and partners, nonetheless, from the cases themselves and from other research, it is possible to draw some tentative conclusions about how these policymaking processes have influenced the state-society relationship and state legitimacy. The first section of this chapter focuses on this topic.

The second section sets forth some recommendations, based on the findings of this report, for strengthening policymaking in support of state-building. These recommendations are focused on seeking positive opportunities for change. However, they must also be considered in light of a changing context in which the state of state-building in Afghanistan is itself in doubt—an issue that is considered in the final section of this chapter, concluding this report.

6.2   Policymaking and state legitimacy: A review of influencing factors

Chapter 3 considered definitions of state, state-building and state legitimacy, and the role that formal policy and policymaking might play in building the Afghan state. The legitimacy of the state depends on its capacity to meet expectations, both of the international community and, most importantly, of its citizens. The stability of the Afghan state further depends on a political settlement in which

those who have the potential to spoil the peace, especially those with military and political weight, find it in their interests to work within the state and to maintain peace.

Formal policymaking can, in principle, contribute to state-building in a variety of ways, including:[125]

- Developing and focusing the state's capacity to meet its core functions, including provision of security, representation and welfare to its people

- As a capacity-building exercise that contributes to modernising the civil service

- As a means of negotiating relations between state actors, and between the state and the international community, especially donors

- Through representation of the state and its activities

This section reviews the evidence from the five case studies to draw some conclusions about what kind of role policymaking, and the resulting policy, has actually played in building the Afghan state.

Policymaking within the ministries, as explored in Chapter 4, focuses primarily on building the state's capacity to provide welfare for people through delivering services and developing rural areas, the economy and the agricultural sector. Policymaking related to subnational governance and lawmaking, explored in Chapter 5, focuses more on the state functions of security and representation. These specific examples of policymaking must be considered in the broader current context of Afghanistan. Table 4 summarises the influence these processes appear to have had on state-building in terms of 1) meeting state functions and public perceptions of legitimacy, and 2) donor-state relations. It should be noted that in most

---

125   Refer back to Chapter 3 for a more detailed discussion of state-building and policymaking.

Table 4: The influence of policy processes on state legitimacy - domestic and international

Policy process	(Speculated) Influence on meeting social expectations of the state	Influence on donor-state relations
ANDS	*Appears to have had limited or negative impact:* National public consultations raised public expectations, which have been largely unmet and thus risk creating dissatisfaction with the state. Resulting policy gained funding pledges, but is so broad that it does not add much value as a guide to action and is filled with inconsistencies. Some ministries have disregarded their sector strategies when moving forward with their own planning.	*Influential (especially on donors):* The ANDS was successful in gaining pledges; however, it is difficult to hold the state to account for achieving commitments in the ANDS because they are so wide-ranging and ambitious.
NESP	*Appears to have had some positive impact, with serious "blind spots":* The NESP-1 does appear to have guided MoE annual planning and activity, but was replaced by the NESP-2 after three years rather than four years—in large part in a bid for more funding. Focus is on quantity rather than quality of education—yet there has been quantitatively impressive activity in this sector (a sevenfold increase in school enrolment since 2001).[1]	*Influential:* The NESP encouraged some donors to give the state more autonomy. It also provided the opportunity for MoE leadership to "prove itself" to donors.
MAIL master plan (2005)	*Limited impact:* There was weak ministry capacity to act/implement the plan; this plan was then discarded for a new master plan in 2009.	*Limited, weakly negative:* Donors remained unconvinced of the capacity of MAIL; more broadly, it meant that other ministries and off-budget programmes received preference.
Public administrative reform: promotion of merit-based subnational appointments	*Limited, but weakly positive impact:* Impact appears limited because rules are often ignored or circumvented, and because of limited buy-in to the legitimacy of "blind" merit-based rules by those making the appointments.	*Limited, weakly negative:* Donors are unable to exert much influence on practice.
Vetting procedures for subnational appointments	*Limited impact, but with the potential to improve:* Impact has been limited because of delays and political resistance. As of late 2008, the Special Advisory Board for Senior Appointments, established in 2006, had become active and reviewed 75 appointments. If functional, the board could have a real impact on state legitimacy by blocking appointments of those with criminal backgrounds—something for which there is a clear public appetite. However, its existence remains tentative and its functionality depends on high-level political will, which is still very limited.	*Uncertain:* The case does not provide enough information to draw conclusions.
Stabilisation and outreach efforts (IDLG)	*Mixed impact (may be both negative and positive):* Activity to promote loyalty to the central state among local powerbrokers may have a short-term positive impact on increasing security, but may also further encourage impunity and undermine other rule-based efforts at public administrative reform and the professionalisation of the public service. Note that this assessment is highly speculative, as the impact of such efforts will depend much on the local context, personalities involved, and existing resistance against the state.	*Limited, mixed impact:* The work of the IDLG has become important in international counterinsurgency efforts as well, which require provision of local governance as part of the "build" strategy. The multiple international expectations placed on the IDLG make it important to donors, while they may also weaken the potential for transparency and accountability.
Lawmaking: Shiite Personal Status Law	*Limited impact difficult to assess:* Public opinion on the issue is unclear. It is also not clear how this law could be enforced. Most people use informal dispute resolution methods and avoid formal courts, which are viewed as inaccessible, expensive and corrupt.	*Limited, slightly negative:* The passing of this law strained relations to some degree, as donors had to respond to concerns from their own constituents and speak out against the law.

1 See Ayobi, "Where We Are Now"; and Giustozzi, "Nation-Building is Not for All."

cases these conclusions are speculative and based on the nature of the outcomes of the process, the broader context, and secondary research about what has happened in the sector on the ground. None of these cases trace aid delivery from the policy to programme levels. In a number of cases, however, it is fairly evident that policy did not act as a "guide to action" and was quickly replaced with something new.

In the cases reviewed in this study, it is evident that formal policymaking processes at the national level did not have a very strong impact on the state's capacity to deliver welfare or representation to the people. In areas of welfare, the intermediary institutions were often weak, and the national-level policies were often so overarching that they were weak guides to action. Further, they were often discarded when a minister left or a new funding opportunity arose. Such policy processes seem rather more important in conditioning the relationship between government actors and donors, and particularly in gaining the donor trust and goodwill to pledge funds to particular ministries, and in some cases to allow more government autonomy in the allocation and use of funds. Because of this, the policymaking process is relevant to relationships within government as well, because leaders within government institutions are in competition with each other for the trust and funds of donors. Being able to manage a policy process effectively, and being able to produce a policy that fits donor requirements and is consistent with donor priorities, thus becomes a source of power and patronage within ministries.

In this sense, national policymaking processes can ironically weaken the state-society relationship, as they essentially divert the attention of top government officials from citizen demands to donor demands. Where national policy has been all encompassing, as with the ANDS, it is also very weak as a tool for government accountability to either the population or to donors; this is because it promises everything and is clearly unrealistic. Further, it is very difficult to accurately trace the influence of a national policy on practice. Promotional materials from the ANDS, for example, claim gains across all sectors in Afghanistan, including progress within

health and education, which mainly occurred before the ANDS was drafted.

In terms of capacity-building and inducing a more vibrant, responsive culture within the civil service, it is harder to draw strong conclusions about the long-term effects of policymaking processes. In the last nine years, a whole generation of Afghan technical advisors has been exposed to logical frameworks, PowerPoint, strategic planning and other exercises in bureaucratic management. At present, such skills and activities sit atop a system in which formal policies are most important as bargaining tools with donors, and can otherwise be readily dismissed with a mix of cynicism and irreverence. However, the longer-term effect on the civil service is harder to judge. Certainly, the inconsistent behaviour of donors themselves may have weakened the potential value and force of new approaches within the civil service. Another weakness here is the centralised nature of capacity-building efforts, which have been focused mainly within head offices in Kabul, paralleling the centralised nature of the government itself.

The donor failure to focus on subnational governance in the first years following 2001 was a missed opportunity in many ways. Without effective links between national government and other levels of government, it is futile to expect national policies to have value beyond negotiating the government-donor relationship, except perhaps when the central government uses third party implementers. Provincial-level representatives of line ministries do not report to local authorities, and there is limited cooperation or formal linkages between ministries delivering services and local governance.[126] Even provincial police chiefs report directly to the Ministry of Interior, rather than to provincial governors.[127] Given these weaknesses, the strongest method of service delivery—used to deliver basic health packages (managed through the Ministry of Public Health), community-based schooling and major programmes such as the National Solidarity Programme (managed through MRRD)—appears

---

126   Nixon, *Subnational State-Building in Afghanistan*.

127   Wilder, *Cops or Robbers?*

to have been the use of implementing partners, often international NGOs and sometimes private companies, contracted by the government.

An early focus on delivering wide-reaching development services through an institutionally weak government has generally not strengthened the government's capacity to deliver, as development funds have instead often become sources of patronage. The perception of government corruption and the government's failure to provide security (indeed it is often seen as a source of insecurity) has fuelled widespread distrust of and discontent with the government. International actors have also been viewed with increasing public scepticism and distrust, being seen as complicit in some forms of corruption, particularly regarding aid contracting.[128]

If formal government policies have been quite limited as guides to action, they have had slightly greater success as forms of representation. They provide representations of government intent and evidence of government capacity to donors. Experienced donor representatives within Kabul may well recognise the limitations and weaknesses in such representations, but they may have more credibility to home offices, and donors themselves depend on such representations to explain and rationalise their investment in Afghanistan to their own constituents. For example, in May 2010, Karzai and a number of his cabinet went to Washington DC to meet with their US counterparts. MAIL minister Asif Rahimi penned an opinion article in a US newspaper about his ministry's agricultural policy, which aimed to fuel economic growth and reduce poverty in Afghanistan.[129] Formal policy that has been publicly endorsed by donors also shows their commitment to Afghanistan's future. The success of such representation, however, is diluted by a broadly shared sense that formal policies are increasingly disconnected from reality in Afghanistan.

128 Gardizi et al., "Corrupting the State or State-Crafted Corruption?" 10.

129 Tom Vilsack and Asif Rahimi, "A Secret Weapon in Afghanistan: Agriculture," *USA Today*, 13 May 2010, http://www.usatoday.com/news/opinion/forum/2010-05-13-vilsack14_st_N.htm.

> National policymaking processes can ironically weaken the state-society relationship, as they essentially divert the attention of top government officials from citizen demands to donor demands. Where national policy has been all encompassing, as with the ANDS, it is also very weak as a tool for government accountability to either the population or to donors; this is because it promises everything and is clearly unrealistic.

As a representation of intent to Afghan citizens, formal policy appears to have a mixed reception because it is readily contrasted with people's direct experiences of the state which, although varied, generally tend to fall short of the promises held within such policies. As trust is eroded, the power of such representation to positively sway people becomes reduced.

6.3 Options for improving policymaking in aid of state-building

The past nine years offer many valuable lessons about state-building and policymaking in Afghanistan. Many people, Afghan and international, have worked hard toward building an Afghan state in pursuit of a more peaceful, prosperous and just Afghanistan. Although it is true that interests are fragmented and issues are often politicised, these genuine efforts cannot be overlooked or forgotten. Nonetheless, the deteriorating security environment, the weakness of government, and people's disillusionment with the ability of both the Afghan state and the international community to deliver on their expectations mean that, in 2010, the room for manoeuvre is much more limited than in 2001-02.

The need for a functional Afghan state remains, while donor involvement in Afghanistan is unlikely to decline in the near future, so it is worth considering how to continue given these trends and realities. One key principle is to consider a longer-term vision. As Thier has noted, each year those

engaged in Afghanistan have told each other that "this is the critical year," and this sense of urgency has led to rushed and often counterproductive efforts.[130] Although political pressure toward short-term thinking remains, it behoves all those working to build the Afghan state to recall that short-term thinking may be more costly in the long term.

With this in mind, this section provides a series of broad recommendations related to policymaking and the donor-government relationship for donors, government and researchers seeking to enhance evidence-based policymaking in Afghanistan.

Recommendations for donors

1. **Consider the politics of "technical" interventions:** All donor interventions should be considered in terms of their political and state-building implications: Whose priorities does policy reflect? Who benefits and who loses from the allocation of resources? Such consideration, as a matter of course, would reduce the political blindness of "technical" donor interventions.

2. **Donors should pursue a policy of "enlightened self-interest":** Through efforts such as the Paris Declaration and the propagation of OECD "Do No Harm" principles, donors have in general made great strides in aid coordination. However, such efforts are complicated and undermined by the large number of aid actors, and the fact that donors must also respond to home constituents and are sometimes directed by policies set back at home. Donor decision-makers, wherever they are located, should recognise that unilaterally pursuing national policy agendas through off-budget sourcing undermines state-building and, given the current fragility of the Afghan state, may undermine their longer-term interests by forcing long-term engagement in and funding of a continuously fragile state.

3. **Operate based on the notion of a "triple compact":** The relationship between donors and Afghan people—and the trust of Afghan people toward Western countries—is a crucial part of the state-building equation and needs to be factored into donor policy and action. While Ghani et al[131] forwarded the idea of a dual compact—in which the state is accountable to both its people and the broader community of nations—in state-building situations, where international intervention is part of the equation, effective action should be predicated on the idea of a trilateral compact—in which the international community also bears some responsibility toward the population directly. If a state is fragile or unformed, it cannot be the only interlocutor between the people and those external forces supporting state-building. Also, if people do not trust the intentions and principles of the international actors supporting state-building, the legitimacy of the state itself will be undermined.

4. **Engage with the state, while seeking out public opinion and ground-truthing:** Based on the above recommendation, while donors must seek foremost to strengthen and work through the state, they must also seek out other sources of public opinion and seek to ensure that their actions are not contrary to the values and practices of the people.

5. **Create more space for drawing on Islamic principles in building the Afghan state:** As Afghanistan is, in accordance with the prevailing Afghan identity and consensus, officially constituted as an Islamic republic, donors need to recognise the role of Islam and ensure that Afghans have the space to determine and negotiate for themselves the nature of a post-Taliban Islamic republic, so that debate can be less polarised. One practical way of helping Afghans to do this is to enlist the advice and support of other Muslim states—those with a reasonable distance from regional politics—particularly in the areas of lawmaking and Islamic education in schools. Marginalising Islam from state-building is likely to weaken the legitimacy of the state and of international intervention.

---

130   J. Alexander Thier, ed., *The Future of Afghanistan* (Washington DC: United States Institute of Peace, 2009).

131   Ghani et al., *Closing the Sovereignty Gap*.

6. **Seek to reduce the burden that donor requirements place on Afghan administration:** This study has considered some of the ways that extensive policymaking processes can create extra burden on limited civil servant capacity while the government is dealing with many urgent matters. Capacity in policymaking has often meant that Afghans have to meet donors on their terms, creating policies in English and according to formats, standards and concepts that donors favour. Heavily top-down "consultative" processes, the MDGs and the constant need for the state to lobby donors for funds further reduce state responsiveness to its citizens. It may be better to encourage processes that focus on strengthening implementation and information management throughout existing government structures, and to have a stronger focus on responding to community needs.

7. **Spend responsibly:** For funding, less may be more in the short term, since funding without proper accountability and the ability to use resources wisely has clearly undermined state-building, and has had limited positive development outcomes. Funding pledges now are best put in long-term trust funds with careful controls, such as the Afghanistan Reconstruction Trust Fund managed by the World Bank.

8. **Strengthen the memory and learning of donor institutions within Afghanistan:** Donors' own institutional structures can be revised to increase their effectiveness in policy engagement. Policies in aid of this goal could include reducing or rationalising the use of consultants in favour of longer-term assignments and staff who stay longer or return; increasing handover time during staff transition; improving documentation of institutional policy and action; and emphasising the importance of orientation for new staff.

9. **Identify "good" and "bad" aid conditionalities:** There are some forms of aid conditionality that donors can and should impose on would-be states when they pursue policies that are clearly at odds with the wishes and well-being

of their populations. Human rights abuses, rule of law, and accountability and financial good practice regarding the use of aid funds are all areas that warrant donor intervention. However, policies regarding the degree to which an economy should be free or protected, the types of services to be provided by the state and those to be provided by the market, the type of curriculum to be taught in schools, and so forth—these are domestic issues and donors should only consider intervening if there is strong evidence that the state is acting counter to broad public interest and perception.

Recommendations for policymakers

As there are many individuals, institutions and interests with a stake in policymaking, and it may not be realistic to expect that the government as a whole or the donor community as a whole should change certain kinds of behaviour in which they have a vested interest, these recommendations are directed toward reformers within institutions seeking ways and tools to improve the effectiveness of policymaking. These recommendations are made in light of the recognition that much of high-level policymaking in Afghanistan today is about negotiating a relationship between the government and donors—a reality that will continue as long as the Afghan state is so heavily dependent on aid.

Regarding national-level policymaking processes, the following recommendations can be made:

1. **Set realistic expectations:** Both donors and the government should consider the limits of what process can achieve in terms of ownership and capacity-building, particularly in the absence of strong leadership or political will. Where there is leadership, and where there is genuine will on the part of external actors to act as facilitators and capacity-builders, policy processes can have significant value.

2. **Base policymaking, as much as possible, on principles of simplicity and transparency:** These principles recognise that complex processes of policymaking have a cost, and can actually provide incentives for people to drop out or to engage in parallel policymaking

that fragments efforts or overshadows formal efforts. Policy processes should be designed with enough time for broad-based participation.

3. **Harmonise high-level policy across ministries:** At the higher levels of policymaking (ministerial and interministerial policies), the recently created Policy Analysis and Development Directorate—located within the Ministry of Finance—and the interministerial cluster groups formed around the same time both have important potential roles in harmonising policies across ministries and with top-level government plans and commitments.

4. **Carefully balance between ministry policy and related programmes:** This can focus effort more effectively, avoid overlap and reduce the risk of setting forth too many, potentially competing, agendas:

   • At high levels—such as ministerial master plans, for example—policy should aim to provide a brief statement of general intent and strategy on the part of government, so that government owns the policy and donors align with it (leaving donors free to question it and refuse support if it breaches international or national law or policy to which the government has committed itself). While these policies should avoid detail, they should set clear priorities about where national efforts and monies should be directed, rather than prioritising everything, as this is not something that can be done at a programme level. In this sense, high-level policy statements are as much (if not more) political as technical.

   • Setting national benchmarks should be undertaken only when there is enough information to set realistic benchmarks with confidence and it is worth generalising at the national level. For example, the government can make time-bound benchmarks related to particular commitments to action. The establishment of the Presidential Vetting Board is an example of one such benchmark, set out in the Afghanistan Compact.

   • Programme policy can flow from this higher-level policy and more realistically set objectives with action plans and monitoring strategies. Establishing realistic benchmarks can be part of the programme design, and progress on these benchmarks can be evaluated as part of the programmes. It is at this programme design level that the "how" can be addressed.

   • As much as possible, goal setting should be devolved even within programmes so that regional variations and priorities can be addressed and programmatic adjustments made. There is considerable experience in this area already existing in numerous programmes managed by the government.

Regarding who is involved:

5. **Address the "dual public service":** The practice of bolstering the civil service through highly paid national and international technical advisors has been crucial to the effectiveness of the still-weak Afghan public administration. However, there are worries that regular civil servants may to some extent be ghettoised within ministries, while the salaries of technical advisors are not assured in the long term. There are already attempts, both by donors and by government, to reform and rationalise the use of technical advisors, and to improve skills transfer.[132] Such efforts, along with broader efforts at civil service reform, are crucial to meaningful government ownership and to developing the means for institutionalising policies and practices into a more stable civil service in the longer term.

6. **Devolve policy and programming as far as possible:** This means involving local civil servants or implementing partners in policy and programme design so that it can best adjust to the situation on the ground. Devolved goal setting has to go hand in hand with local-level institutional capacity-building and improved

---

132   For example, the Civilian Technical Assistance Programme, begun in 2010, represents a comprehensive effort to rationalise the use of both international and national technical assistants and develop this into a more systemic cross-ministerial effort at building civil service capacity.

information systems. As efforts to strengthen local governance institutions progress, the capacity to meaningfully devolve programme planning and some policy matters to the local level will improve.

7. **Involve Afghan civil society actors in a more systematic way:** The engagement of Afghan civil society actors in policymaking has the potential to broaden the representativeness of processes. To date, civil society actors have been engaged in all recent national policymaking exercises, but often in a somewhat ad hoc and superficial manner. Compared to other actors, civil society representatives are often informed of events and processes much later and in less detail, so they are in a relatively weak position. This may partly be due to the somewhat fragmented and emergent nature of Afghan civil society itself, although civil society is clearly undergoing changes and has been able to engage on key issues including transitional justice and women's rights.

Recommendations for research institutions

These recommendations are aimed at institutions that have a primary research function or include research as a component of a broader mandate (many NGOs fall within this latter category), and which aim to leverage further change with their work. Some national and international NGOs that conduct research or have strong links with Afghan communities may also play an important advocacy role in representing community views at the national level, given that formal government links and donor links remain quite limited. There are also an increasing number of research institutes and a growing research capacity in Afghanistan. This growing capacity can play a potentially important role in strengthening public policy processes. Despite the challenging overall circumstances of politicised and fragmented interests, there are certainly policy actors who seek and value trusted sources of information and analysis, and opportunities to contribute to more open, evidence-based policy processes. There are four broad strategies that civil society actors can pursue in support of evidence-based, citizen responsive policy processes:

1. **Influence and broaden general understanding on policy-related issues:** Especially when policy processes are rushed and driven by people who may have limited contextual awareness, simple assumptions that verge upon being clichés may be the foundation for policymaking. This has certainly been the case for much agricultural policy, for example. As such, there is a continued need for research that documents existing practices, systems and perceptions. In particular, the perceptions of the public toward the various institutions, actions and ambitions of the state are often not well reflected in policy. Sound empirical research thus fills an important gap when linkages between national and subnational levels within formal government institutions remain weak. While surveys are useful tools for many applications, their validity in tracking sensitive issues is often questionable. In depth descriptive studies are also important to explain dynamics and reasoning, and to ensure validity of findings. NGOs and civil society organisations with strong community links may have the best access to accurate public opinion in otherwise inaccessible parts of the country, and thus have an important role to play in documenting public opinion and using it to advocate for national-level policy that reflects the perspectives and priorities of citizens.

2. **Build advocacy coalitions with like-minded actors across different policy-related institutions, including government, donor agencies and civil society:** In the current political climate, where political will and intention is varied, relationships of mutual trust remain important. Institutions promoting evidence-based policymaking must therefore safeguard their own reputations for impartiality and rigour, and recognise that their capacity to influence policymakers will depend in part on the trust policymakers have in their findings and analysis. Many policymakers selectively draw on evidence to advance their existing positions, but it may be possible to broaden their thinking through relationships of trust and mutual dialogue. Some policymakers are more proactive in seeking evidence that

may test their assumptions, and these rare individuals, especially if they are in senior positions, may spark larger opportunities for reflection. It is through relationships of trust with policymakers, more than through direct engagement within formal processes, that researchers are likely to have influence, although the latter may be a channel to the former.

3. **Seek windows of opportunity:** As this study has shown, narrowly opportunistic attempts to push policy agendas can undermine the potential of policy to create unified action. However, seeking windows of opportunity to influence policy toward evidence bases and greater responsiveness means seeking entry points to leveraging a greater culture of openness and learning. There are certain incisive moments when policymakers are more likely to seek out new information, or may be seeking new ideas to tackle difficult problems. Although the politicised environment and sense of urgency can shut down dialogue, because many policymakers in Afghanistan are concerned that current approaches are not working, they are quite open to new ideas and advice.

4. **Hold up a mirror to the policymaking and state-building processes:** Because these processes have often been characterised by secrecy and weak accountability, one important role of actors who are not directly engaged in policymaking is to monitor, document and publicise findings about the processes and their results. This is one way of creating broader public accountability, and it can also help policymakers themselves to reflect and learn. Given the weak institutionalisation of policy processes, and thus the limited capacity for institutional learning among policy actors, including international institutions within Afghanistan, this is an important function.

As the number of research institutions and research-engaged civil society organisations in or focused on Afghanistan increase and these institutions develop, it is also worth considering the ways in which they can collaborate to improve their collective leverage and influence. Civil society institutions engaged in research-related matters are individually relatively small and have limited reach. However, as a collective, if they have a shared sense of identity and commitment to fostering a broader climate of openness, learning and information sharing, their influence is likely to be much greater and more positive. As much as possible, placing research in the public domain and creating opportunities for collective discussion, reflection and debate should be part of the ethos of these organisations.

6.4 Conclusion: State of the future? A narrative under duress

Looking forward from the signing of the Bonn Agreement, the ideal state-building narrative in Afghanistan would have seen the unfolding of a gradual evolution from almost no state, to a transitional authority, to a formally established, popularly elected regime with structures that would gradually but steadily evolve functionality over the years. It would have anticipated some political wrangling, capacity issues and technical setbacks, but the general sense of goodwill and shared commitment toward a positive future for Afghanistan would have transcended these difficulties.

Now, in 2010, those still invested in state-building in Afghanistan may well question the essential logic behind a project into which great amounts of money and effort have been poured with seemingly minimal or perverse results. As Nixon has noted, some people conclude that more resources are needed because Afghans remain poor, state institutions remain weak and per capita aid expenditures have been less than in other post-conflict states. Others have reached the conclusion that less is needed, since aid money has fuelled corruption and nepotism and weakened the legitimacy of the structures of the state.[133] Meanwhile, sustained high levels of military and aid intervention in Afghanistan have a clear time

---

133   Hamish Nixon, *Aiding the State? International Assistance and the Statebuilding Paradox in Afghanistan* (Kabul: Afghanistan Research and Evaluation Unit, 2007).

limit, with some countries having already made commitments to withdraw their troops, while the insurgency within the country continues to gain strength and reach.

In terms of creating formal policy in aid of state-building, this study firstly suggests a moderation of expectations. It suggests that such policies, in their more comprehensive and grandiose aspects, should be taken neither too literally nor too seriously. National policy is clearly a small component of what it takes to make a state work. Perhaps the more enduring approach may begin away from the capital city, with institution-building and action at the local level. In Afghanistan, the most enduring institutions have been the family and the village.[134] In the present context, there is a broadening sense that formal national policies are diversions from the broader *realpolitik* of power negotiations. If formal policies have been passed because it was politically expedient to do so, that does not mean that they will endure or have influence, as often they may not have the political support behind them to drive implementation, nor is there sufficient institutional capacity.

Formal policies at the national level are undoubtedly necessary to some degree, but donors must recognise that, as means of holding the government to account for funds received, they have so far been very weak. Perhaps the best national policies are those that set out a general vision and principles and, where appropriate, a clearly delineated task. The Ministry of Public Health's basic package of health services, although not examined in this study, is a worthy example of using a simple policy goal to drive effective action. In almost every major sector in Afghanistan, there is by now at least one formal policy, and often there are many. The year 2010 saw another major drive toward revisiting and redesigning policies and programmes in the lead-up to the Kabul Conference. Donors and civil servants alike may wish to slow down on planning and focus more on action and institution-building.

Creating a state that mirrors society's expectations of it means making a state that resonates with people's expectations and values. One important source of unifying principles within Afghanistan is Islam, which is often a source of social protection and justice for all citizens. For example, drawing on Islamic principles, the National Ulema Council judged, with respect to the controversial Amnesty Law, that only victims of crimes had the power to grant forgiveness.[135] Afghanistan also has a mosaic of traditions that have contributed to a coherent economic and social structure through periods of great upheaval. In general, however, Afghanistan's plethora of national policies may guide action, there are often multiple policies to choose from, and plenty of room left over for interpretation. This can create space for one of the elements that has thus far proved weakest in formal policymaking in Afghanistan: the inclusion of the views and priorities of the people.

Internationally, ideas about state-building have not stood still in the last nine years, but practice tends to lag behind current thinking, while political realities challenge implementation. Recent OECD work on donor engagement with fragile states usefully emphasises the importance of donors responding foremost to context, and particularly to the dynamics of the political settlement that underlies the state.[136] Nonetheless, the machinery of development comes with its own logic and momentum. It is hard to corral donors, especially when they are so numerous, but at least it is possible to make a strong argument that trying to impose external agendas without embedding them in Afghan views, norms and debates does not work, and may in fact weaken state-building efforts.

International actors can never be neutral in these issues because even technical support or advocacy for a particular process, or for freedom of speech, are not neutral. However, there are many opportunities for international actors to create

---

134 Adam Pain and Paula Kantor, "Understanding and Addressing Context in Afghanistan" (Kabul: Afghanistan Research and Evaluation Unit, forthcoming).

135 Emily Winterbotham, *The State of Transitional Justice in Afghanistan: Actors, Approaches and Challenges* (Kabul: Afghanistan Research and Evaluation Unit, 2010).

136 James Putzel, Daniel Esser and Luc Moens, *Do No Harm: International Support for Statebuilding* (OECD, 2010).

more space for Afghan ideas and priorities. This can be seen in the areas of legal reform and education—in both the role of Islam has been largely overlooked by donors, while remaining of central importance to many Afghans. Likewise, research on Afghan perceptions of democracy suggests that Afghans embrace some aspects of the concept, but are concerned about some of the unpalatable Western "freedoms" that it connotes; many Afghans argue that the democracy they want is one that respects their culture and above all is within the framework of Islam.[137]

As soon as the space and political will are created to consider what currently exists—traditional practices, Islam and modern human rights obligations that

Afghanistan has signed onto as a state, and how these can work together—the collective endeavour of building an Afghan state will become much more interesting and vibrant, and perhaps viable. The state-building project is still essentially political, and since Afghanistan is clearly a country in flux in many senses, addressing its future is not by any means a mechanical process. Those advocating modern reform and those advocating building on existing traditions will continue to experience tension, and the degree to which human rights can and should be upheld against existing social norms and practices will continue to be a source of controversy. However, if there is more space for a political middle ground to emerge, there is arguably more chance for viable solutions with broad-based legitimacy.

---

137   Anna Larson, *Toward an Afghan Democracy? Exploring Perceptions of Democratisation in Afghanistan* (Kabul: Afghanistan Research and Evaluation Unit, 2009).

References

Afghanistan Independent Human Rights Commission. "A Call for Justice: A National Consultation on Past Human Rights Violation in Afghanistan." Kabul: Afghanistan Independent Human Rights Commission, 2005.

Afghanistan Parliamentary Assistance Project. "Legislative Session Summary." 5 June 2009.

Afghanistan Research and Evaluation Unit. *The A to Z Guide to Afghanistan Assistance 2010 (Eighth Edition)*. Kabul: Afghanistan Research and Evaluation Unit, 2010.

Ayobi, Shamshad. "Where We Are Now." http://english.moe.gov.af/index.php?option=com_content&view=article&id=68:where-we-are-now&catid=63:about-moe&Itemid=90 (accessed 7 July 2010).

Bertoli, Simone, and Elisa Ticci. "The Fragile Consensus on Fragility: European Report on Development." Florence: 2010.

Booth, David. "Missing Links in the Politics of Development: Learning from the PRSP Experiment." London: Overseas Development Institute, 2005.

Byrd, William. *Responding to Afghanistan's Development Challenge: An Assessment of Experience During 2002-2007 and Issues and Priorities for the Future*. Washington DC: World Bank, 2008.

Chayes, Sarah. *The Punishment of Virtue: Inside Afghanistan After the Taliban*. New York: Penguin Press, 2006.

Chesterman, Simon. *Tiptoeing through Afghanistan: The Future of UN State-Building*. New York: Carnegie Corporation, 2002.

Clark, Kate. "The Real Afghan War." *New Statesman*. 27 November 2006. http://www.newstatesman.com/200611270015.

Coburn, Noah. *Connecting with Kabul: The Importance of the Wolesi Jirga Election and Local Political Networks in Afghanistan*. Kabul: Afghanistan Research and Evaluation Unit, 2010.

Coburn, Noah, and Anna Larson. *Patronage, Posturing, Duty, Demographics: Why Afghans Voted in 2009*. Kabul: Afghanistan Research and Evaluation Unit, 2009.

Coburn, Noah, and Anna Larson. *Voting Together: Why Afghanistan's 2009 Elections were (and were not) a Disaster*. Kabul: Afghanistan Research and Evaluation Unit, 2009.

Evans, Anne, Nick Manning, Yasin Osmani, Anne Tully and Andrew Wilder. *A Guide to Government in Afghanistan*. Kabul: Afghanistan Research and Evaluation Unit, 2004.

Ewans, Martin. *Afghanistan: A Short History of Its People and Politics*. New York: Harper Perennial, 2002.

Gardizi, Manija, Karen Hussmann and Yama Torabi. *Corrupting the State or State-Crafted Corruption? Exploring the Nexus between Corruption and Subnational Governance*. Kabul: Afghanistan Research and Evaluation Unit, 2010.

Ghani, Ashraf. "A Ten-Year Framework for Afghanistan: Executing the Obama Plan...and Beyond." Washington DC: The Atlantic Council of the United States, 2009.

Ghani, Ashraf, Clare Lockhart and Michael Carnahan. *Closing the Sovereignty Gap: An Approach to State-Building*. London: Overseas Development Institute, 2005.

Giustozzi, Antonio. "Nation-Building is Not for All: The Politics of Education in Afghanistan." Kabul: Afghan Analysts Network, 2010.

Goodhand, Jonathan, and Mark Sedra. *Bargains for Peace? Aid, Conditionalities and Reconstruction in Afghanistan*. The Hague: Netherlands Institute of International Relations, 2006.

Goodhand, Jonathan, and Mark Sedra. "Who Owns the Peace? Aid, Reconstruction, and Peacebuilding in Afghanistan." *Disasters* 34, no. S1 (2010): S78-S102.

Integrity Watch Afghanistan. "Afghan Perceptions and Experiences of Corruption: A National Survey 2010." Kabul: Integrity Watch Afghanistan, 2010. http://www.iwaweb.org/corruptionsurvey2010/Main_findings_files/IWA National Corruption Survey 2010.pdf.

Jacob, Francoise. "Monitoring the Principles for Good International Engagement in Fragile States and Situations Country Report 1: Islamic Republic of Afghanistan." Organisation for Economic Co-operation and Development, 2010.

Kahler, Miles. "Statebuilding After Afghanistan and Iraq." In *The Dilemmas of Statebuilding: Confronting the Contradictions of Postwar Peace Operations*. San Diego: Routledge, 2008.

Kantor, Paula, and Adam Pain. *Delivering on Poverty Reduction: Focusing ANDS Implementation on Pro-Poor Outcomes*. Kabul: Afghanistan Research and Evaluation Unit, 2009.

Larson, Anna. *A Mandate to Mainstream: Promoting Gender Equality in Afghanistan*. Kabul: Afghanistan Research and Evaluation Unit, 2008.

Larson, Anna. *Toward an Afghan Democracy? Exploring Perceptions of Democratisation in Afghanistan*. Kabul: Afghanistan Research and Evaluation Unit, 2009.

Larson, Anna. *The Wolesi Jirga in Flux, 2010: Elections and Instability I*. Kabul: Afghanistan Research and Evaluation Unit, 2010.

Lau, Martin. "Islamic Law and the Afghan Legal System." Geneva: International Commission of Jurists, 2003. http://unpan1.un.org/intradoc/groups/public/documents/APCITY/.

Lindquist, Evert A. "Discerning Policy Influence: Framework for a Strategic Evaluation of IDRC-Supported Research." Ottawa: International Development Research Centre, 2001.

Lister, Sarah. "Changing the Rules: State-Building and Local Government in Afghanistan." London: Crisis States Research Centre, 2007.

Lockhart, Clare. "Ashraf Ghani and Clare Lockhart speak about their book 'Fixing Failed States.'" New York: Google, 2008. http://www.youtube.com/watch?v=mplebSY9xM4.

Mani, Rama. *Ending Impunity and Building Justice in Afghanistan*. Kabul: Afghanistan Research and Evaluation Unit, 2003.

Moore, Mick. "Revenues, State Formation, and the Quality of Governance in Developing Countries."

International Political Science Review 25, no. 3 (2004): 297-319.

Neumann, Ronald E. *The Other War: Winning and Losing in Afghanistan*. Dulles, VA, USA: Potomac Books, 2009.

Nixon, Hamish. *Aiding the State? International Assistance and the Statebuilding Paradox in Afghanistan*. Kabul: Afghanistan Research and Evaluation Unit, 2007.

Nixon, Hamish. *Subnational State-Building in Afghanistan*. Kabul: Afghanistan Research and Evaluation Unit, 2008.

North, Douglass C., John Joseph Wallis and Barry R Weingast. *Violence and Social Orders: A Conceptual Framework for Interpreting Recorded Human History*. Cambridge: Cambridge University Press, 2009.

Organisation for Economic Co-operation and Development, Development Assistance Committee. *Principles on Good International Engagement in Fragile States and Situations*. Paris: 2007. http://www.oecd.org/dataoecd/61/45/38368714.pdf.

Oates, Lauryn. *A Closer Look: The Policy and Law-Making Process Behind the Shiite Personal Status Law*. Kabul: Afghanistan Research and Evaluation Unit, 2009.

Pain, Adam, and Paula Kantor. *Understanding and Addressing Context in Afghanistan*. Kabul: Afghanistan Research and Evaluation Unit, forthcoming.

Pain, Adam, and Sayed Mohammad Shah. "Policymaking in Agriculture and Rural Development in Afghanistan." Kabul: Afghanistan Research and Evaluation Unit, 2009.

"Paris Declaration on Aid Effectiveness." Paris: 2005 High Level Forum, 28 February – 2 March 2005, 3.

Putzel, James, Daniel Esser and Luc Moens. *Do No Harm: International Support for Statebuilding*. Organisation for Economic Co-operation and Development, 2010.

Rubin, Barnett. "The Transformation of the Afghan State." In *The Future of Afghanistan*, edited by J. Alexander Thier, 13-22. Washington DC: United States Institute of Peace, 2009.

Ruttig, Thomas. "Islamists, Leftists, and a Void in the Centre: Afghanistan's Political Parties and Where They Came From 1902-2006." Kabul: Konrad Adenauer Stiftung, 2006.

Sajjad, Tazreena. *Peace at All Costs? Reintegration and Reconciliation in Afghanistan*. Kabul: Afghanistan Research and Evaluation Unit, 2010.

Shah, Sayed Mohammed. "Afghanistan National Development Strategy (ANDS) Formulation Process: Influencing Factors and Challenges." Kabul: Afghanistan Research and Evaluation Unit, 2009.

Shah, Sayed Mohammed. "Is Capacity Being Built? A Study of Policymaking Process in the Primary and Secondary Education Subsector." Kabul: Afghanistan Research and Evaluation Unit, 2010.

Stockton, Nicholas. *Strategic Coordination in Afghanistan*. Kabul: Afghanistan Research and Evaluation Unit, 2002.

Suhrke, Astri. "When More is Less: Aiding Statebuilding in Afghanistan." Madrid: Fundación para las

Relaciones Internacionales y el Diálogo Exterior, 2006.

Suhrke, Astri, and Kaja Borchgrevink. "Negotiating Justice Sector Reform in Afghanistan." *Crime, Law and Social Change* 51, no. 2 (2008): 211-230. http://www.springerlink.com/index/10.1007/s10611-008-9154-0.

Sutton, Rebecca. "The Policy Process: An Overview." London: Overseas Development Institute, 1999.

Thier, J. Alexander, ed. *The Future of Afghanistan*. Washington DC: United States Institute of Peace, 2009.

Tilly, Charles. "War Making and State Making as Organized Crime." In *Bringing the State Back In*, edited by Peter Evans, Dietrich Rueschemeyer and Theda Skocpol, 169-187. Cambridge: Cambridge University Press, 1985.

Van Bijlert, Martine. *Between Discipline and Discretion: Policies Surrounding Senior Subnational Appointments*. Kabul: Afghanistan Research and Evaluation Unit, 2009.

Vilsack, Tom, and Asif Rahimi. "A Secret Weapon in Afghanistan: Agriculture." *USA Today*, 13 May 2010. http://www.usatoday.com/news/opinion/forum/2010-05-13-vilsack14_st_N.htm.

Waldman, Matt. "Falling Short: Aid Effectiveness in Afghanistan." Kabul: Agency Coordinating Body for Afghan Relief, 2008.

Wardak, M., I. Zaman and K. Nawabi. "The Role and Functions of Religious Civil Society in Afghanistan: Case Studies from Kunduz and Sayedabad." Kabul: Cooperation for Peace and Unity, 2007.

Weber, Max. "The Politics of Vocation." In *A Speech to the Free Students Society*. Munich: Munich University, 1919.

Wilder, Andrew. *A House Divided? Analysing the 2005 Afghan Elections*. Kabul: Afghanistan Research and Evaluation Unit, 2005.

Wilder, Andrew. *Cops or Robbers? The Struggle to Reform the Afghan National Police*. Kabul: Afghanistan Research and Evaluation Unit, 2007.

Winterbotham, Emily. *The State of Transitional Justice in Afghanistan: Actors, Approaches and Challenges*. Kabul: Afghanistan Research and Evaluation Unit, 2010.

Woodward, Susan L. "Fragile States." In *Peace and Social Justice Meeting, November 29*. Rio de Janeiro, Brazil: Ford Foundation, 2004.

World Bank. "Poverty Reduction Strategy Papers: Operational Issues." Washington DC: World Bank, 1999.

Recent Publications from AREU

All publications are available for download at www.areu.org.af, and most in hardcopy for free from the AREU office in Kabul.

Oct 2010	#Afghanistan Research Newsletter 27
Oct 2010	Community-Based Dispute Resolution Processes in Balkh Province, by Rebecca Gang
Oct 2010	#Peace at all Costs? Reintegration and Reconciliation in Afghanistan, by Tazreena Sajjad
Oct 2010	Does Women's Participation in the National Solidarity Programme Make a Difference in their Lives? A Case Study in Parwan Province, by Chona R. Echavez
Sept 2010	Capacity-Building Through Policymaking: Developing Afghanistan's National Education Strategic Plan, by Dana Holland
Sept 2010	The Impact of Microfinance Programmes on Women's Lives: A Case Study in Parwan Province, by Sogol Zand
Sept 2010	Afghanistan Livelihood Trajectories: Evidence from Faryab, by Batul Nezami with Paula Kantor
Sept 2010	Local Politics in Afghanistan: Elections and Instability II, by Noah Coburn
Sept 2010	#The Wolesi Jirga in Flux, 2010: Elections and Instability I, by Anna Larson
Sept 2010	#Afghan Election, 2010: Alternative Narratives, by Noah Coburn
July 2010	Is Capacity Being Built? A Study of Policymaking Process in the Primary and Secondary Education Subsector, by Sayed Muhammad Shah
July 2010	#Afghanistan Research Newsletter 26
June 2010	#The Wolesi Jirga in 2010: Pre-election Politics and the Appearance of Opposition, by M. Hassan Wafaey with Anna Larson
June 2010	#Corrupting the State or State-Crafted Corruption? Exploring the Nexus between Corruption and Subnational Governance, by Manija Gardizi, Karen Hussman and Yama Torabi
May 2010	Afghanistan Livelihood Trajectories: Evidence from Sar-i-Pul, by Tom Shaw
May 2010	#Connecting with Kabul: The Importance of the Wolesi Jirga Election and Local Political Networks in Afghanistan, by Noah Coburn
May 2010	#Where Have all the Flowers Gone? Assessing the Sustainability of Current Reductions in Opium Production in Afghanistan, by David Mansfield
May 2010	#Speaking from the Evidence: Governance, Justice and Development (Policy Notes Prepared for the Kabul Conference)

#Indicates that the publication or a summary is or will be available in Dari and/or Pashto.

Afghanistan Research and Evaluation Unit

Flower Street (corner of Street 2)
Shahr-i-Naw, Kabul, Afghanistan

phone: +93 (0)79 608 548   email: areu@areu.org.af   website: www.areu.org.af