Statebuilding in fragile situations – How can donors ‘do no harm’ and maximise their positive impact?

Country case study – Afghanistan (January 2009)

Joint study by the London School of Economics and PricewaterhouseCoopers LLP
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1 Introduction

1.1 Objectives
The objectives of the field visits (phase 2 of the study) as defined by our terms of reference are to:

- Collect relevant material (reports, evaluations, data etc.) and case examples to fill existing knowledge gaps and/or provide additional evidence, analysis and contextualisation;

- Consult national actors (state and civil society), development partners and donors to hear their views on the negative or positive role of development cooperation on state building and to consult on possible elements of OECD DAC guidance on state building;

- To organise a consultation workshop that brings together donor and partner country representatives to analyse problems and challenges and discuss specific recommendations; and

- To prepare a country case study with country-level recommendations on how to ‘do no harm’ and better support endogenous state building processes.

1.2 Approach / process
The visit of the international expert to Kabul, Afghanistan, took place from Saturday 25 October to Sunday 2 November.

In total, 19 people were interviewed. Annex 1 contains the list of people consulted.

The workshop took place on October 30. It was attended by 19 people (see Annex 2).

1.3 Particular challenges of state-building in the country
The challenges of state-building in Afghanistan today start with the structure of the state, as dictated by the Bonn Process and ‘inherited’ by the international donors of today. The factors influencing the structure of the government are the subject of the present section. As a result of the choices made by international and local actors in the early years of the intervention, a second set of dilemmas and considerations exist, which represent the decisions and dilemmas facing donors at the present time (see Figure 1). The second set of dilemmas, the donors’ reactions to them, and the consequences that these reactions have had for state-building will be dealt with in the main findings section of this paper.

The Bonn Process: shaping a state

For state-building to be successful, it must normally be built on a political settlement which has developed through a process endogenous to the state. Insofar as there are militarily capable actors excluded from that settlement, there is a risk of instability. In this section, we focus on the nature of the far-from-endogenous political settlement that emerged after the war’s conclusion in late 2001. The ongoing state-building challenges within Afghanistan can only be understood in the light of this imperfect process. In Afghanistan, the role of the donors in dictating or helping shape the form of the current Government of Afghanistan is therefore the starting point.

On September 11, 2001, al Qa’eda operatives hijacked and flew commercial airlines into the twin towers of the World Trade Centre and the Pentagon. A fourth plane crashed into the countryside of
Pennsylvania. This act directly precipitated the invasion of Afghanistan. On 7 October the United States launched an air campaign, against which the hopelessly out-gunned Taliban simply “melted away”. While it was the United States air power which crushed the Taliban, it was the Northern Alliance – a group of mostly ethnic Tajiks who had been pushed back militarily by the Taliban since 1995 – whom the United States supported on the ground and it was the troops of Marshall Fahim, a Northern Alliance general, who took Kabul on the 13 November 2001.

The Bonn Agreement, designed to determine the process for constructing a new government, was signed on 5 December 2001. It was anything but an endogenous process; rather, it was significantly shaped by the needs of the Bush Administration’s War on Terror rather than stemming organically from the political equilibrium in Afghanistan. Five key factors dictated the political settlement on which the ongoing international intervention has been based, and have shaped the current statebuilding dilemmas and challenges that are faced to this day.

First, having driven the Taliban regime out of Kabul, the United States had no intention of allowing their involvement in the subsequent government, nor would it have been politically viable. In fact, only four Afghan groups were invited to the Bonn Process: the Northern Alliance, the Rome Group, representing the former King Zahir Shah, and two smaller coalitions, the Peshawar and Cyprus Group. The absence of key warring factions led commenters to describe it as a “winners’ conference”. It also excluded a range of smaller parties and political movements that had emerged underground or in the diaspora during the Taliban regime (Ruttig, 2006, 16-17). Most importantly of all, it limited Pashtun involvement in the transitional phase, and thereby alienated a key constituency (until, at least, the Constitutional Loya Jirga in 2004).

Second, it formalized a centralised mode of governance that was to depend extraordinarily heavily on a presidential mode of government and therefore on a single individual – who would be sympathetic to the Bush Administration’s demands and could act as reliable interlocutor. This individual was to be Hamid Karzai, whose power base was limited to his own tribe (located mostly in Kandahar). The President was given important powers of appointment, while the Parliament was kept weak. Parliamentary and Presidential elections were staggered due to “the unwillingness of President Karzai and his main foreign backers to have his power checked by an elected legislative” (Ruttig 2006, 41) and the electoral law undermined parties. This was compounded by the inability of the Northern Alliance to unite during the Constitutional Loya Jirga, which resulted in their failure to hold out for a Prime Ministerial position which could counter-balance the power.

Third, the process was affected by tactical needs on the ground. The reliance of the United States’ led Operation Enduring Freedom on the warlords of the Northern Alliance rendered their involvement in the new government inevitable. Their continued support was considered essential. Even as Hamid Karzai was appointed President of the AIA through the express intervention of the US Ambassador, Zalmay Khalilzad during the Transitional Loya Jirga, three key cabinet positions went to the Panjshiri-dominated Northern Alliance. As quid pro quo, these three accepted the leadership of Karzai and a limited International Security Assistance Force (ISAF). These were among a series of other warlords and tribal leaders co-opted into the government.

Fourth, the international community ignored the limitations of the Bonn Process and treated the results like a peace process, throwing their entire weight behind the Karzai Administration. Accordingly, they committed to a “light footprint” in terms of both of troops and a relatively light aid commitment (in comparison to that of East Timor and Bosnia). Distracted from the beginning by a war in Iraq, the Bush Administration refused to commit more troops to Afghanistan than they felt necessary to mop up the remainders of the Taliban and al Qa’eda (most of whom had fled to Pakistan, Rashid 2007). Instead, the US continued to pay and arm Afghan proxies to fight their battles, mostly strongmen and tribal leaders whose long-term loyalty to the state could not be relied upon. At the same time, minimal international troops were committed to ISAF, to avoid further obstacles on their war against the Taliban and Al-Qaeda. Simultaneously, the Afghan security apparatus was neglected and mismanaged in the early year of the

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intervention, until the extent of the threat of the insurgency was realised in 2006.

Fifth, the Bonn Process was not a peace settlement but a road-map towards peace. It did not attempt to address key failures in representation, but rather specified a process to deal with these challenges (Thier, 2004, 47). It provided for the immediate transfer of Afghan sovereignty and sovereign powers to the Afghan Interim Authority, or AIA. It called for the convocation of an Emergency Loya Jirga (ELJ) within six months, which would have the power to decide on the Afghanistan Transitional Authority; a Constitutional Loya Jirga (CLJ) within 19 months of the ATA’s establishment; and, within two years of the ELJ, both Parliamentary and Presidential elections. Local elections were called for in the constitution, but they have not yet happened and are scheduled for 2010. It therefore relied on the legitimacy of the jirga institution and democratic elections to paper over the cracks left by the process. Time would tell whether this would be sufficient.

The tactical exigencies of Operation Enduring Freedom and the position on the ground therefore shaped the immediate outcomes of the Bonn Agreement. Most significantly, until at least the Constitutional Loya Jirga, it alienated the Pashtun tribal leaders, whose traditional dominant position in government was usurped by the warlords of the Northern Alliance, and drove regional leaders like the Uzbek leader Abdul Rashid Dostum and Ishmael Khan into their regional strongholds of Sheberghan and Herat. At the same time, militia commanders of dubious allegiance had been co-opted by Operation Enduring Freedom to assist in their war on al Qa’eda and the remnants of the Taliban in the South. The process was heavily driven by exogenous factors, and the fault lines of the current state-building dilemmas can be read, with the benefit of hindsight, in the limitations of the process and the incomplete nature of the eventual political settlement. The Bonn Process therefore failed to offer a final solution to the “[t]he key dilemma…how to ensure both that the powerful players participate and are committed to the process, and yet also ensure that the process fosters political dialogue and empowers the people” (Samuels, 2006, 19).

While acknowledging the weaknesses of the processes, international donors were presented with the overriding concerns of the War on Terror and a fait accompli. They accordingly threw their weight behind the Bonn Agreement, the process it outlined, and the government that was elected with the result that “the Coalition, the United Nations, and donor governments became party to some of the very struggles they were trying to defuse.” (Newberg 2007, 90).

\[2\] Sedra and Middlebrook 2005.
Tier 1: The Bonn Process and the International Donor role in structuring state institutions

- **US**: Counter terrorism and counter-narcotics
- **Non-US donors**: support US “War on Terror”

  - **Motivations for Intervention**
  - **Structural Dilemmas**
  - **Donor Decisions**
  - **Immediate State-building consequences**
  - **Consequences for Government of Afghanistan**

- **Short-term stability v. Long-term state-building**
- **Support troops v. aid good practices**
- **Limited political settlement**
- **Strongly centralised government**
- **Capture of government institutions by warlords**
- **Use PRTs and development money to support troops at Provincial level**
- **“Spoilers” causing lack of security**
- **Lack of state accountability to grassroots**
- **Corruption and patrimonialism within state institutions**
- **Balkanisation of periphery; regional inequalities**
- **Loss of legitimacy of state and international donors**
  - Weak state capacity to implement projects

Tier 2: Donor dilemmas in implementing projects with the Government of Afghanistan

- **Short-term stability v. long-term state-building**
- **Formalise informal institutions v. support formal state structures**
- **Rentier state dilemma**
- **Capacity-building v. donor “do it yourself”**

  - **Project dilemmas**
    - (given lack of govt. capacity and legitimacy)
  - **Donor Decisions**
  - **Statebuilding consequences**

- **Lack of will to challenge cooption and “rock the boat”,**
- **Continued support of institutions of GoA without implementing demands for accountability**
- **Varied alignment behind Afghan ownership**
- **Technical projects within comfort zone**
- **TA - Driven policies**

- **Continued corruption within state institutions**
- **Lack of accountability of government to grassroots**
- **Weak ability of many ministries to deliver services**
- **Legitimacy accrues to donors or NGOs rather than Government**
- **Poor coordination of delivery and wastage of effort by donors**

- **Lack of accountability of centre to periphery, lack of legitimacy, disappointed expectations, and a declining security balance**
2 Findings

2.1 Strategic issues of state-building

Drawing on interviews with six of Afghanistan’s donors (the United States, the United Kingdom, Canada and Sweden; the World Bank and the European Community), and on the workshop results, this section addresses the macro-economic considerations currently facing donors as they strive to wrestle with the consequences of the Bonn Process, and the challenges that are now facing Afghanistan.

**Political processes underpinning state-building**

Since 2001, the Bonn Process has been followed through to its end, and a democratic government has been achieved. Although some of these institutions (as noted below) remain weak and certain key institutions which connect the government to the population – such as the Village and District Councils – are still to be formed. Thus, having followed an Emergency Loya Jirga and a Constitutional Loya Jirga, the Bonn Process culminated in elections for both the President, in 2005, and for the Parliament, in 2006. In the course of our research, it emerged that the elections in particular and the successful formulation of democratic institutions of state were viewed as a significant success. In this section we interrogate this success in greater detail, and consider the current political equilibrium.

The need to develop Afghan proxies was an element of the immediate aftermath of the ouster of the Taliban. The support of the Northern Alliance was considered to be of primary tactical importance to Operation Enduring Freedom, and so the international community conceded to their demands. Combined with the light international troop presence, these considerations prompted the international community and the United States in particular to accept the inclusion into the government in key positions of power of warlords. With no money in the Government’s coffers for the first few months after the invasion, the warlords on the CIA’s payroll were invited to join the government, placing state stability over the demands of state-building (Rashid 2007, 125). At least four appointed Ministers were militia leaders. Moreover, of the initial thirty-two provinces, 22 provincial governors were militia commanders (Giustozzi 2004). At the same time, significant groups were excluded – the Taliban and Hizb-I Islami (Gulbuddin). Other warlords were bribed directly, in order to ensure short-term stability in their regions.

Our research suggests that this political calculation, however, undermined seriously the legitimacy of the Government of Afghanistan in two ways. First, disenfranchised but still powerful, the Taliban and Hizb-I Islami became spoilers, driven to undermine the status quo and capable of doing so through the instrument of an “insurgency”. The decline in the security situation is therefore attributed to the failure to engage these groups, and to the feelings of disenfranchisement that arose, particularly in the Pashtun South. Second, the co-option of the warlords undermined the legitimacy of the government in the eyes of opposing factions but also the normal people. The problems of Afghanistan during the nineties are frequently attributed to the warlords, and their involvement in the government was identified as a source of corruption and an ongoing cause of the weakness of some Ministries. By appeasing the warlords and co-opting them into the government, the legitimacy of the government was undermined in the eyes of the wider population.

Nor have the dilemmas receded. In fact, the Karzai Administration is faced with twin dilemmas that are mirror images of each other: on the one hand, how to challenge the warlords who have been coopted without risking destabilising the country further; and on the other, how to bring into the political exchange those who have been excluded without risking the same process of cooption as occurred with other warlords.

The first dilemma may be expressed as how to challenge the warlords and militia commanders within the
government itself, risking trigger short-term destabilisation in the hope of creating sustainable, legitimate institutions of state, remains present to this day. Our research suggested that the warlords remain largely unchallenged, except in single incidents, and Karzai continues to stitch together a political coalition using the state institutions as methods of enticement. While the elections were successful in generating legitimacy for the government in the short-term, that success has been undermined by the ongoing appointment to government institutions by warlords and strongmen.

To address the second dilemma – that of widening the political settlement – our interviews called for both political and institutional responses. Politically, one respondent advocated explicitly for reaching out to the “softer elements” of the Taliban and Hizb-I Islami (Gulbuddin), in order to expand the political settlement. Regardless of its advisability, this avenue seems to be closed by the Taliban, who may see themselves as ‘winning’. Recent news reports indicate that the Taliban have rejected an offer by President Karzai to reach out to discuss peace-talks, for so long as there were foreign troops in Afghanistan.3 It is unclear what role the existing government of Afghanistan would have in rewriting the political settlement, and to what extent it would be dictated by the international donors, and particularly the United States. Respondents suggested that launching a further round of appeasing belligerent spoilers through an opaque process may not improve the situation.

Institutionally, a new round of elections is due in 2009, but doubts have been expressed as to whether the democratic processes in place are sufficient to legitimise a new government and whether the Independent Election Commission has the capacity to carry the elections out, particularly given the security concerns (see Kippen 2008). If it is only possible to hold elections in the north, this risks entering into a vicious cycle, as the government becomes less representative of the south, continues to lose legitimacy there, making the security reduce even further and it more difficult to hold elections. As one donor representative stated, however, the main tool for state-building in these circumstances is elections, and the international community has no obvious alternative means at its disposal. Possible institutional recalibrations might include a focus on more local institutions of governance, prioritising local elections, trying to solve disputes and conflicts at the local level rather than at the larger levels, and in the interim resorting to existing formal or informal community-level institutions.

Social expectations

The international donors raised expectations of the government in a range of ways: expectations were raised to unreasonable levels after 2001, fed by a series of needs assessments and fact-finding teams conducted by individual international donors, as well as consultations for strategy papers such as the Afghanistan National Development Strategy (ANDS). In a recent study of perceptions of the Afghan state, “there was near unanimity in the focus group meetings and in the interviews … that human security for the population had not improved or was deteriorating.” (Donini 2006, 3).

“For the Afghan people . . . the window is slowly closing; there is an enormous amount of public frustration that five years down the road, after all the promises of the international community, their lives have not really changed that much.” (ibid).

Our research repeatedly emphasised that at present the Afghan people’s priority is the provision of security and justice, and then the provision of social services. While there have been successes in the delivery of services – notably the delivery of a basic package of health care and some programmes like the National Solidarity Programme – the international intervention raised expectations of delivery beyond that which was feasible to meet, feeding into a growing cynicism amongst the Afghan people. Several donors expressed a stark awareness of the need to manage expectations more carefully. Thus one donor noted that while they understood the priority for electrification in a provincial capital in which their PRT was based, they recognised that the challenges involved in the delivery of that service were probably insurmountable, and consequently they had been forced to reject the project. The recognition of the importance of meeting expectations argues for a restrained and cautious approach to programming, to ensure that projects undertaken could be successfully completed.

Donors are also recognising the urgent need for delivering “mega-projects”, which are high-visibility and recognised as coming from the state. These projects, it is hoped, will respond to the disappointed expectations, and build the legitimacy of the state. The need for long-term, sustained projects targeting beneficiaries and engaging beneficiaries in their formulation has also been recognised, to ensure their

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3 http://www.google.com/hostednews/ap/article/ALeqM5i0c7_mR666jhM6iGSpq_AMqmYbSgD94GQP6O0 Noor Khan, Taliban spurn Afghan president’s offer for talks, Associated Press, accessed 17 Nov 2008.
suitability. Again, “doing no harm” would indicate the need for caution, so that only feasible projects are attempted, at once likely to succeed and high-impact. With the declining security balance, the challenge will be to identify such projects.

One possible factor to failing to meet expectations is simply that the volume of aid has been insufficient to meet the needs of the Afghan people and to meet the promises that were made. In comparison to other interventions in East Timor and Bosnia, the amount of money dedicated to Afghanistan was low, per head capita (East Timor USD 233, Bosnia USD 679, Afghanistan USD 57). Pledges made by the international donors have not been met – while the Japanese and the Canadians have each disbursed over 90%, the US have only delivered half, the World Bank just over half, the EC and Germany less that two-thirds (Waldman 2008, 7). The Ministry of Finance also notes in its Donor Financial Review (June 2008, at p.3) that: “The donor disbursement track record was mixed: out of US$44.5 billion [between 2002 and 2007], around US$29.5 billion has been disbursed to date while the total undisbursed amount stands at US$14.9 billion.” However, as Waldman (ibid, 7) points out, this may be attributed to the weak absorption capacity of the new Afghan government, which is constrained by the lack of capacity and corruption. More money may not help.

Another factor identified by the research in the failure to meet expectations was the lack of understanding amongst the international community of the Afghan context and Afghan expectations of the state after the invasion. In the course of the workshop, there was a broad consensus that the international community had no real understanding on how social needs were met prior to 2001 through the complex war economies that were in place, and so lacked an understanding of how programming might affect pre-existing means of social provision. While some organisations have been able to build a body of core staff who have been in country for several years, others have found it harder. Operational challenges have exacerbated the difficulties: staff turnover remains high. As the conflict grows worse, organisations are clamping down further on the freedom of movement, with deleterious impact on the ability to understand and work in the communities. The security deterioration has thrown international actors increasingly on deterrence methods for maintaining security or protection, rather than “community acceptance” methods. As the number of serious targeted attacks on NGOs by Armed Opposition Groups (AOGs) climbs (ANSO 2008, 3), these trends may be expected to continue, deepening the dilemma. Reports attribute this in part to the constriction on humanitarian space (Donini 2006; Azarbaijani-Moghaddam et al, 2008). Each of these hampers the ability to understand the community and work effectively.

State-society relations

Weak links between the state and society in Afghanistan were identified as a fundamental factor in the current operational and legitimacy challenges facing the government. While the discussion focused on the relationship between the donors and the government – as seen through the lens of the Paris Declaration on Aid Effectiveness – the importance of accountability mechanisms between the government and its people were focused on. The research noted that the centre has few formal processes linking it to the periphery, and at the subnational level the government lacks the capacity to engage meaningfully with rural communities (World Bank 2008b). All too often rural areas have not been reached by aid projects. Three main factors were isolated.

First, as noted above, formally the government is centralised. Driven by the need from the United States to identify a single strong interlocutor, the Constitution approved by the Constitutional Loya Jirga cemented a strong President and Executive. The disbursement of money was placed largely in the control of the central line ministries (World Bank 2008b). The Constitution provides extensive powers of the executive branch through the system of provincial and district governors – the appointment of which now lies with the Independent Directorate of Local Governance, under the President’s Office. The Parliament is weak – a fact attributed to the need to the donor’s need for a strong single interlocutor within the Government of Afghanistan. In particular, the Parliament was weakened by rules undermining political parties. A law passed in September 2003 which left ambiguous the conditions under which party registration might be disallowed or parties banned for opposition to “the principles of the holy religion of Islam”). Moreover, the role of political parties was been severely circumscribed by the decision to adopt the Single Non-Transferable Vote in 2004, which only permitted people to vote on the basis of individual candidates (Reynolds 2006; Wilder and Reynolds 2005; Ruttig 2006, 18). This was designed to limit the influence of political groupings drawing on support from their influence over networks of armed commanders, or rely on ethnic and tribal appeals. It acted to exclude important existing institutions of political mobilisation within Afghanistan – the Afghan political parties, tribal structures and the role of the
Institutions of vertical accountability between the central state and the Afghan people are also weak. District elections have not yet happened. At the Provincial and District level, the governor remains an important figure, more than his limited formal powers suggest. Formally, Provincial and district governors are appointed by the President. Their responsibilities are limited to security issues and coordination, but these governors actually practice a range of powers. Their informal powers include the ability to exert heavy influence on other appointments, controlling or shaping expenditures by line ministries (who have the primary responsibility for delivering services) and interfering in local governments such as municipalities. As informal powers, they are exercised without frameworks of formal accountability, whether electoral or through oversight by elected bodies. Elections to the Provincial Council have been implemented, but the role of the PC’s is limited to advice. The Constitution also calls for elected bodies at the district, municipal and village level that have yet to be established. Elections to the District Level have not taken place yet, but are to be scheduled for the 2010. Even when these are in place, however, given the highly centralised budgeting structure of the state it is difficult to see how these bodies might bring true accountability to voters.

Second, there is little political will in Afghanistan to put formal accountability processes in place, given their extreme dependency on international aid. Both militarily and financially, the government is heavily reliant on the international community and on international forces. In discussing vertical accountability, and creating the conditions for legitimate government, this presents donors with a classic “rentier state” dilemma (Suhrke 2006. pp 4 et seq; Torabi and Delesgues 2008, 8; also described as a “state-building paradox”, Nixon 2007, 1). Having inherited the institutions resulting from the Bonn Process and constrained by their commitments to provide ownership and alignment under the Paris Declaration, the international donors have thrown their weight behind the state. However, this has acted to cement the centralised form of government, and removed the need for increased vertical mechanisms accountability to the Afghan people, in what was described in the workshop as a kind of “Dutch disease”. Discussion in the workshop suggests that the donors are not easily able to challenge the government in this because they themselves have failed to put their own house in order. Thus for so long as some follow their own prioritisations, face challenges in coordinating between themselves, or fail to submit to the ownership of the government in the aid modalities, they will be open to criticisms from the Afghan government (made particularly forcefully in the course of our research by the Ministry of Finance). There may be numerous reasons why alignment with the government may prove difficult – ones identified in the research included legal restrictions on giving funds to certain entities, geopolitical agendas, internal expertise and perceptions of development which do not merge with that of the government, and even the need to meet internal targets quickly. But these are decisions based on the imperatives set by internal stakeholders, and thus will be difficult to change. The cascade of dilemmas starts with the need to balance targets and aims within the donors themselves.

Third, the consultation processes defining the priorities of the Government of Afghanistan have been shallow. Thus the formulation of the Afghanistan National Development Strategy (ANDS) was a largely technical process, largely written by expatriate consultants based in the Ministries. Consultations, insofar as they have happened at a grassroots level, have been weak and have only advisory powers (Torabi and Delesgues 2008). This mirrors problems faced by the wider aid effort, which has not always resulted in institutions which are accessible to Afghans. The legal institutions of justice are a case in point. While a modern code may be internally consistent and appropriate to a Western, it will be neither accessible procedurally nor comprehensible substantively to most rural Afghans. As our research showed, this prompts them to resort to informal mechanisms.

The consequences of pressing for a centralised (and captured) government during the Bonn Process remain relevant to this day. To reverse this, however, will take a great deal of political will, and will require the international donors to challenge the executive, and the President in particular, to surrender key powers. Our research suggests that donors are well aware of the need to build government accountability to local communities in a way that is transparent and meaningful to the communities. The problem is that they are in a cleft stick, between on the one hand acknowledging ownership of the Government of Afghanistan they have committed to supporting and following their leadership, and on the other undercutting its authority by questioning its legitimacy. Several respondents noted that a focus on improving subnational governance, government accountability and the delivery of services at the local level will be vital to unpick this dilemma. But these will face a “growing disconnect between civil society
and the national and international institutions of governance” (Donini 2006, 11) and a general disengagement which may do irreparable long-term damage to efforts to build governance.

District-level elections are to be held in 2010, but given the top-down central government structure, it is difficult to say what impact District-level elected bodies can have in holding line ministries to account. A second set of elections is planned for 2009, and is to be run by Afghanistan’s Independent Electoral Commission. These will form a crunch point in the state-building process. Our research suggests initial concerns that the security would render it next to impossible to hold an election in some southern provinces, with the consequence that any resulting government would represent only the north – exacerbating further the legitimacy challenges facing the state.

**State legitimacy**

The strategy for generating legitimacy for the Government of Afghanistan and the international donors is founded, first, on the legitimacy of the Bonn Process and, second, on the government’s ability to deliver services. International donors have impacted on both of these elements of legitimacy.

The Bonn Process based its legitimacy on the use of jirgas – both the Emergency Loya Jirga and the Constitutional Loya Jirga – and on the creation of democratically elected institutions. In the workshop, the creation of these institutions was highlighted as a significant positive step forward. In successfully holding Presidential elections in 2004, and for the National Assembly and Provincial Councils in 2005, were acknowledged to be major achievements in a context of severe underdevelopment, questionable security, and limited institutional capacity. An important element of the Bonn Agreement’s outline for political transition in Afghanistan involved the progressive legitimization of the new Afghan government. There are suggestions from a survey conducted that while respondents think positively about the abstract idea of a government, their attitude towards the government on specific issues is less positive (Zuercher and Koehler 2008).

The second source of legitimacy raised was the delivery of services. It should be noted that, with the exception of security and the rule of law, the delivery of services does not appear to be a necessary factor in legitimising a government. As one respondent noted, the Taliban had not delivered services, but were legitimate due to their ability to ensure security. Following this account, legitimacy would not be undermined by a failure to deliver these functions unless expectations were raised and not met. Delivery of services is nevertheless fundamental to the Government of Afghanistan and international donors’ strategy of legitimacy. First and foremost, the need to deliver security is a necessary condition for legitimacy (Asia Foundation 2007, 11). Here, the Government of Afghanistan has a mixed record. In the north, the security is better than the south – while a recent survey in Kunduz Province suggests that 76 % thought that security had “very much increased” (Zuercher and Koehler 2008, p. 6), in other areas it was reported that security had either remained the same or decreased (Donini 2006).

While there have been positive steps forward, our research suggests that the lack of vertical accountability and opaque processes for appointing key actors (particularly governors and heads of police) which stem from Kabul have undermined the government’s legitimacy. The cooption of warlords and strongmen into the government also undermined the legitimacy of the government in three ways: they themselves lacked legitimacy in the eyes of the Afghan people, and at the same time they weakened the ability of the government to deliver services, and they themselves have acted to undermine the legitimacy actively. Thus many of the Provincial level executive appointees – Heads of Police and Governors – who were made on the basis of securing short-term stability were unresponsive to the Afghan people (Torabi and Delesgues 2008). Perceptions of corruption within the Afghan government were “omnipresent” (Donini 2006, 8) and were rapidly eroding trust of the Afghan people. Ordinary Afghans are becoming disillusioned and disengaging.

Several risks were highlighted with regard to the activities of the donors, linked to the lack of coordination with the government. First, mounting insurgency and criminality threats have been identified as key concerns of the Afghan people. The Afghan National Police are commonly seen as a security threat rather than a bulwark of security (Wilder 2006). The time lag before the international community dealt with the security institutions, partly to avoid short-term destabilisation, partly due to poor management through the country-lead “pillar” system (Sedra and Middlebrook 2005) and partly to avoid interference with the war on terror, has had two effects: first, it has made it less likely that the government could deliver security itself; and second, it acted as multiplier, increasing the difficulties in delivering other services.

Second, depending on the aid modalities presented to deliver services, there is a risk that the
beneficiaries conferred their legitimacy on the NGO or deliverer of services, rather than on the government of Afghanistan. There is a mixed picture with regard to the aid delivery modalities adopted by the international community. Constrained by the lack of government capacity and their inability to work at a subnational level, successful programmes (such as the NSP and BPHS) have often been built through the use of non-governmental facilitating partners, rather than through government institution. Evidence suggests that international actors rather than the government are overwhelmingly credited with delivering services, rather than the government (Koehler and Zuercher 2008, p. 11). Where donors – and the PRTs particularly were challenged with this criticism – have failed to work with the Afghan government, the damage to state-society relations is especially deep and the perception that aid is being driven by foreign aims is undermining its effectiveness (Donini 2006; Azarbaijani-Moghaddam et al, 2008).

Third, while the delivery of services would be seen as a legitimising force, the recipients of the services would first of all evaluate its quality (There were numerous accounts given of international actors, under pressure to delivery results, launching projects of poor quality and paying contractors over the odds. Failures to deliver value-for-money would raise questions of corruption, undermining the authority of the international actors. Fourth, it was noted that the beneficiaries of the project were sufficiently politically aware to take the aim of the project into account. Short-term projects delivering services purely to stabilise a community – a policy which the PRTs in particular adopt – would be viewed with suspicion by the beneficiaries, and would be seen to be a means to an end at best, and might actually trigger conflict at worst. Fifth, a lack of coordination between donors has resulted in uneven provincial funding which have lead in turn to accusations of regional bias, undermining the government and the international community’s legitimacy.

Our research suggests, therefore, that there are a number of ways by which legitimacy can be generated, and a number of ways for it to be lost. The picture is complex, and a simple account will not capture all the elements which go to make up a strategy for increasing legitimacy. It is worthwhile noting that the Taliban are also plugging into legitimising forces within Afghan society, with narratives including in particular Islam, Afghan values, and their ability to generate security. These contrast strongly with the values harnessed by the international community, each reflecting the claimant’s comparative advantage.

**Concerns relating to state-building among core Afghan stakeholder groups**

We have dealt, in the previous sections, with the concerns of the donors regarding state-building. We turn now to our findings addressing key Afghan stakeholders.

**Ministry of Finance:** the aim of the Ministry of Finance is to coordinate the donors and to ensure their increased channelling of money through the government. The Ministry of Finance officials are pushing to bring donors’ spending onto the budget, and ideally within the core budget. They have instituted an Aid Coordination Unit within their Budget Department to this end. This, they argue, will ensure ownership by the government of the aid effort. They note that, following the Paris Declaration on Aid Effectiveness, ownership by the government is the core principle making aid more effective. Channelling funds through the government, they argue, will aid the coordination of development issues, minimize the duplication of effort and contribute to important incidental benefits such as improvements in capacity within the Government of Afghanistan.

**Implementing Ministries:** our research indicates a variety of motivations and concerns amongst the Ministries engaged in implementing projects, depending in part on the capacity of the Minister. Thus while some coordinate closely, there were reports of competition at the Cabinet level, often reflecting underlying political differences between reformist technocrats, Pashtun aristocrats and members of former mujahideen parties. In fact, one interviewee noted that “ministries resemble political parties”. Ministries should not therefore simply be understood simply as delivering services, but as delivering services which will cement the minister’s influence and (in some cases) patronial networks.4

One consequence of this is that frequently, Ministries act as “stove pipes”, without strong horizontal linkages or coordination with other Ministries in the same field. Different ministries engage in turf wars, a factor eased by the hazy and overlapping mandates (World Bank 2008a, para 2.14) and at times supported by the donors themselves, who one respondent noted were content support more efficient government organisations to take on tasks falling outside their mandate in order the more effectively to

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4 The notion of *wasītā* – or the exchange of favours – has a long history in Afghan politics and government, World Bank 2008b, para 2.4.
meet their target. Given the lack of coordination and harmonisation between donor delivery of aid, our research suggests there is a risk that donor funding of certain ministries due to their ability to deliver results on the ground may exacerbate cabinet-level politics and divisions. The President’s Office has found it difficult to coordinate the Ministers or overcome these challenges – indeed, the development of institutions like the Independent Directorate of Local Governance (IDLG) and the Investment Support Agency (ISA) under the President’s Office has contributed to the competition with agencies and the risk of duplicated efforts.

**Civil Society:** Formal institutions of civil society in Afghanistan may be split into different groups, with differing degrees of formality. For the present purposes, we shall divide them into NGOs, parties, Community Development Councils and traditional councils:

- **NGOs:** there are a number of international and Afghan non-governmental organisations (INGOs, ANGOs). While NGOs have increasingly been regulated by central government, some are barely more than construction companies. Our research noted that – beyond the concerns of government corruption and donor mismanagement of the aid intervention – a major concern for the NGOs is the increasing constraint on humanitarian space (Azarbaijani-Moghaddam et al, 2008) first by the adoption by the military of development and reconstruction activities, and second by the explicit nature of the work as stemming from the government. “From the Taliban’s perspective, it became clear that the aid community had taken sides, and therefore attacks on aid workers were fair game.” (Donini 2007, 163). This has meant that old methods of security are no longer appropriate.

- **Parties:** during the jihad against the Soviets, the Afghan resistance in Peshawar and Tehran were grouped into a limited number of key parties (by the end of the war, seven in Peshawar and one in Tehran). These acted to funnel funds into ‘client’ mujahideen groups within the country, who would look to them for resources and patronage. Consequently, key parties remain important structuring features of the Afghan political landscape – a fact that is not recognised by the current SNTV system which excludes any role for political parties, and was decided by Karzai in a Cabinet meeting in the face of demands from 34 parties “across the spectrum” for an amendment to electoral law (Ruttig 2005, 42). The mujahideen and shi’a parties, relying on ethnicity as a bonding force, have overcome these handicaps while other parties based on issues have foundered (ibid, 43).

- **Community Development Councils:** The Ministry of Rural Rehabilitation and Development, through the National Solidarity Programme, has created village-level Community Development Councils in each of the communities in which the Programme has been rolled out. These are elected shuras, initially created to implement a project with funding obtained through a block grant, and now empowered by a bylaw to produce community development plans, to generate funds and to coordinate with local government and administrative institutions to implement these plans.

- **Traditional councils:** there are a series of informal institutions and councils in Afghanistan, most notably the jirga which may be described as a council of elders and which perform primarily dispute-resolution functions. These councils are linked to cultural institutions particularly in the tribal Pashtun areas, and are variable across the country.

**Donor Trade-offs: geopolitics and the objectives of state-building and development**

For the United States, the decision to invade Afghanistan was linked directly to the attack on their soil. The War on Terror demanded that the United States pursue agendas trumping the need to respect development good practice. In particular, the imperatives of counter-terrorism and counter-narcotics overrode considerations of sustainable state-building and development. In implementing these, the United States pursued policies that were directly contradictory to the goals of statebuilding. Thus, in the name of rooting out the Taliban and other insurgents, they bribed warlords and tribal leaders to support them in their efforts to eradicate the Taliban and al Qa’eda from Afghan soil (Rashid 2007). These efforts were often captured by the tribal leaders, who used the misinformation to settle local power imbalances. Paying for information and for support is a strategy which may bring short-term stability, but loyalty of this nature lasts as long as the payments last, or as long as a better offer is made. Likewise, the counter-narcotics approach which has hitherto focused primarily on eradication of crops risks driving farmers into the camp of the insurgents, while at the same time not addressing the more powerful and significant criminals – the traders.

For other donors too, their approach in Afghanistan was informed in part by their desire to show support
to the United States War on Terror. In our interviews with donor country representatives, the geo-political goals of the donor countries were linked to the need to provide troops to show solidarity with the United States’ War on Terror. Accordingly, each of the donors we interviewed had at least one Provincial Reconstruction Teams, each of which was located in specific provinces – the British in Helmand, the Canadians in Kandahar, the United States in provinces chiefly in the South and East, and the Swedish in four provinces in the North (Balkh, Sar-I Pul, Samangan and Jowzjan).

Once committed, our research suggested that donors have come under internal political pressure to provide development money to support troops often fighting and dying in an extremely dangerous environment. This resulted in provincial inequities – described as a “Balkanisation” of Afghanistan – since different PRTs commanded and required very different levels of funding. A common perception stated in our interviews was that areas of poor security got more money (see also Donini 2006, 9). The – often understandable – limitations entailed by the decision to commit troops and pressed upon them by internal stakeholders were not explicitly stated or addressed.

Moreover, the decisions of one PRT or sets of PRTs limits the options of others – in order to prevent inequities between Provinces, each must make commitments to engage in reconstruction, or risk setting up perverse incentives. Indeed, the governor of one Province in the North wrote a letter stating that the PRT would be a destabilising force if it failed to deliver sufficient funds – a letter which was seen by the government of the PRT as a thinly veiled threat. As a result, those in peaceful areas feel that there is no incentive for their ongoing peacefulness. Moreover, while different PRTs have taken different approaches, for some their approach has been shaped by the need to secure an area in the short-term, following the steps of “take, hold, build” rooted in the principles of counter-insurgency which express the desire to convince people, quickly, that the military’s presence was worthwhile. The speed at which these must be executed, combined at times with a lack of a nuanced understanding of the communities, means the projects run the risk of being rushed, resulting in poor quality, captured by contractors or local communities and wasteful of money (Azarbaijani-Moghaddam et al, 2008). Furthermore, the engagement of the military in reconstruction efforts has narrowed the space for humanitarian actors (ibid; Donini 2006).

Finally, the approach of the United States required a balance between short-term stability over long-term state-building. Frequently, the needs of the former were emphasised over the latter. As noted above, following the Bonn Process this entailed permitting the co-option of warlords, strongmen and tribal leaders into the government, and an ongoing failure to dislodge them for fear of “rocking the boat”. It also resulted in the failure to prioritise the security institutions. Several multiplying forces acted on this decision, of which the most important is the distraction presented by the occupation of Iraq in 2003 (Rashid 2007). This meant that at the vital moment when funds to Afghanistan could have had an impact, in the years directly following the invasion, an opportunity was missed. It was only when the insurgency gathered momentum that the security institutions were addressed seriously.

2.2 Managing trade-offs in aid delivery mechanisms

Dilemma 1: Aid delivery mechanisms

The Ministry of Finance differentiates between four kinds of aid: core recurrent budget, which are those funds dedicated to the recurrent costs (split between wages and other recurrent costs); core development funds, comprising those funds channeled through the government to be used for development; and the external development budget, which denotes funds used for development purposes, and reported to the government by donors, but not actually channeled through government bank accounts; and finally those funds which are completely off-budget, neither channeled through the government nor reported.

From 2003 to 2007 the allocation to the Core Budget grew from USD 613 million to USD$1986 million. Simultaneously the allocations to the External Budget have decreased, from US$4.2 billion in 2003 to US$2.3 billion in 2007. Of the on-budget funds only 27% is channeled through the core budget.5

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5 According to the figures given by the Ministry of Finance Aid Coordination Unit, Donor Financial Review (June 2008) at p. 5. See also Nixon 2007, 6, who notes that only 25 % went through the core budget in SY 1383. Nixon quotes figures suggesting 60 % of the budget went through the core budget in SY 1385 but notes that the figures are skewed by incomplete spending in the core budget and problems with the
### Budget expenditure through the core (ordinary and development) and external budgets, by solar year (1382 – 1386; 2003 – 2007)

<table>
<thead>
<tr>
<th>Year:</th>
<th>1382</th>
<th>1383</th>
<th>1384</th>
<th>1385</th>
<th>1386</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aid allocation to Core Budget (USD million)</td>
<td>613</td>
<td>949</td>
<td>1118</td>
<td>1570</td>
<td>1986</td>
<td>6235</td>
</tr>
<tr>
<td>Aid allocation to External Budget (USD million)</td>
<td>4222</td>
<td>4582</td>
<td>3005</td>
<td>2714</td>
<td>2367</td>
<td>16891</td>
</tr>
<tr>
<td>Total (USD million)</td>
<td>4835</td>
<td>5531</td>
<td>4123</td>
<td>4284</td>
<td>4353</td>
<td>23126</td>
</tr>
</tbody>
</table>

The donors claim to have disbursed over USD 29 billion, between 2003 and 2007 leading to a shortfall in Ministry of Finance figures in the table above of USD $6 billion – these funds went unreported to the Ministry, and have been attributed to a failure on the part of donors to report security expenditure, particularly through CIMIC (civilian military cooperation funding – World Bank 2008b, 57). Including this USD 6 billion in the calculations means that between 1382 and 1386: 21% of the funds received by the international donors were delivered to the core budget; 58% to the external budget; and 21% completely off-budget.

The Afghanistan National Development Strategy as a tool to guide aid

In this section, we consider the mechanisms presented by the government to coordinate and assert ownership over the aid process: the budget and the ANDS. Increasingly, institutions of the Government of Afghanistan such as the Ministry of Finance have strongly pushed for and claimed ownership of the aid effort. They have successfully formulated the Afghanistan National Development Strategy (ANDS), which together with the Afghan Compact, sets out the priorities for the Government of Afghanistan and forms the PRSP. The ANDS is designed to provide a means of coordinating aid provided by the donors. Where the aid money spent in the external development budget, it therefore offers a powerful resource to provide Afghan ownership of the aid money. Unfortunately, the ANDS resembles something of a “laundry list” and was consistently criticized in our research as an unrealistic document, which prioritized everything and consequently did not permit focus on any single item. Indeed, one representative of the Ministry of Finance, noting the breadth of its scope and the resulting freedom that it gives donors to define their own priorities, observed that “if I were a donor, I would be happy with the ANDS”.

The drafting of the ANDS involved technical expertise located in a sector-specific Consultative Group structure designed to coordinate external partners under the leadership of a ministry, together with grassroots consultations. Our research suggested that the sector-specific consultative groups and technical groups dominated the process. Amongst these, there were examples where these Technical Groups functioned extremely well, with strong cooperation between international and Afghan experts. Other examples suggested less effective processes where sector strategies were written by international experts sitting within the Ministry but failing to liaise with Ministry staff. However, the grassroots consultation for ANDS priorities was reported as being limited to meetings and workshops with no formal power (see also Nixon 2007).

Subsequent refinements agreed on by the government and by the donors in the Paris Conference do afford more detail and specify sectoral priorities (agriculture and electrification in particular). These reflect the de facto discussions that took place in the context of the Joint Coordination and Monitoring Board, which provides high level strategic guidance to the ANDS implementation and is chaired by the government. It remains to be seen whether this will help coordinate aid more clearly. A Medium term Fiscal Plan has also been formulated. These show genuine attempts by the Government of Afghanistan to seize ownership over the aid agenda.

Afghanistan Reconstruction Trust Fund

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6 Although note that the U.S. CIMIC funds, CERP (the U.S. Commander’s Emergency Report Programme) is in fact reported as part of the External Development Budget, limited to a single line valued at USD 125 million.
The Afghanistan Reconstruction Trust Fund (ARTF) was initially designed as a means of providing support to the Government of Afghanistan which would be channeled through its own bank-accounts, thus providing legitimacy. It is administered by the World Bank, managed by a Management Committee (consisting of representatives of the World Bank, the Asian Development Bank, the Islamic Development Bank, and the United Nations Development Programme, with the Ministry of Finance there as an observer) and has regular steering committee meetings, whose members include the main donors as well as the MC (see for an overview, pp. 25-25, Scanteam 2008).

The aim of the Ministry of Finance is to ensure, insofar as possible, that aid money is channeled through their bank accounts, or at least is reported to them through the external development budget. To assist this process, the Government of Afghanistan, in collaboration with key donors, put in place the Afghanistan Reconstruction Trust Fund. This allows donors to put their money into a pooled bank account subject to certain minimum fiduciary oversight. The ARTF allows for donors to earmark or "preference" funds for specific purposes. These funds are allocated to core recurrent or the core development budget. Two other trust funds exist, the Law and Order Trust Fund and the Counter Narcotics Trust Fund.

<table>
<thead>
<tr>
<th>Year</th>
<th>1381</th>
<th>1382</th>
<th>1383</th>
<th>1384</th>
<th>1385</th>
<th>1386</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Afghanistan Reconstruction Trust Fund (USD)</td>
<td>185</td>
<td>286</td>
<td>381</td>
<td>404</td>
<td>454</td>
<td>635</td>
<td>2,345</td>
</tr>
<tr>
<td>Law and Order Trust Fund for Afghanistan (USD)</td>
<td>7</td>
<td>66</td>
<td>65</td>
<td>81</td>
<td>107</td>
<td>136</td>
<td>462</td>
</tr>
<tr>
<td>Counter-Narcotics Trust Fund (USD)</td>
<td>16</td>
<td>24</td>
<td>18</td>
<td>58</td>
<td></td>
<td></td>
<td>58</td>
</tr>
</tbody>
</table>

Source: Ministry of Finance, Budget Department, ACU June 7, 2008

Both the ARTF and the LOTFA have therefore benefited from increased donor commitments.

Four Models of Project/Programme Design and Implementation

Our research indicated that a range of different service delivery models have been adopted within Afghanistan. Four models currently adopted within Afghanistan may be identified (see also World Bank 2008b, 13-22):

1. **Management and Implementation by Government of Afghanistan**: The Ministry of Education has adopted a model whereby teachers remain on the public payroll, and the delivery of education therefore is implemented by the Government of Afghanistan. The design of the programmes is formulated with assistance from technical advisers. Likewise, the salaries of the Afghan National Police are paid out of the core recurrent budget to the Ministry of Interior.

2. **Management by Government of Afghanistan, implementation by NGOs**: Both the Ministry of Rural Rehabilitation and Development and the Ministry of Public Health have adopted in their key programmes – such as the National Solidarity Programme and the Basic Package of Health Services – a model whereby the Ministry contracts out to either NGO or private sector facilitating partners. The Facilitating Partners (FPs – in the terminology of the NSP) offer tenders on the basis of which they will be given the task of delivering the services. Management of the tendering process, the FPs and project monitoring remains in the hands of the Ministry. Funds, where possible, are streamed through the core recurrent and development budget.

3. **Management by donors, implementation by contractors, consultation with Ministry**: while evidence evaluating the prevalence of this model is difficult to obtain, evidence gathered from our interviews and workshop suggest that it occurs more readily in some sectors than others. The research received reports of infrastructure projects in particular given to contractors with minimal oversight or involvement by the relevant ministry. One significant example of occurrence in ad hoc the delivery of services with a view to short-term “hearts and minds” implementation, where Provincial Reconstruction Teams implement projects at a sub-national level.

4. **Where the international donor has taken over the functions almost in their entirety**: the Ministry of
was described as a “hollow ministry”, waiting to take over the control of the army which is now being trained, chiefly by the United States, who retains country lead. We received no reports of this model being applied outside the development of the Afghan National Army.

From a state-building lens, the benefits and dangers of each category become apparent. While Afghan ownership is hailed by the Paris Declaration on Aid Effectiveness as the aim, our evidence suggests that while Afghan implementation is important, a completely hands-off approach may not be appropriate for certain key ministries particularly susceptible to factional capture. Primary education, which rapidly took on the same highly centralized shape as it was before the conflict started (World Bank 2008a, para 2.9) was hailed as one of the successes in Afghanistan. The Ministry of Education claims that “more than 5.4 million children are enrolled in schools today, nearly 35% of them girls, compared to a little more than a million 5 years ago and almost no girls.” In contrast, our research identified the Ministry of Interior and the Afghan National Police as a concern (Wilder 2007). Governed by the Ministry of Interior from the core recurrent budget (both salaries and OM), the neglect of the ANP by the international community has resulted in it being seen as a threat rather than a solution to continuing security problems.

Reports gathered in the course of research suggest that under the second model (where services are delivered by contracting NGOs and private firms rather than the government) there was a perception that some of the projects were comparatively successful. The dangers associated with this model are concerned with the likelihood of the implementing agency rather than the government being credited with its delivery, with an associated opportunity cost for the government. This danger was acknowledge by the government, who insisted however that the NGOs were “vital” to its success but that the ministries should ensure that projects were branded as ‘belonging’ to the Government of Afghanistan. The extent to which this brand-management has been successful is a matter of debate. A recent study carried out in Kunduz Province noted that of six basic services (drinking water, agriculture, roads, jobs, electricity and schooling) only in schooling did more than 7% of respondents indicate that the government had contributed to service delivery – (34% stated that the government had made a contribution, as opposed to 40.1 % who acknowledge a contribution by international actors – Zuercher and Koehler 2008, p. 11). In all the other service delivery sectors, those who identified a contribution by the government were minimal in both the relative and absolute terms. While more research would be necessary, taking the results from Kunduz Province, there is a suggestion that the branding challenge has not been fully overcome.

Respondents in the workshop, interviewees and the literature (Azarbaijani-Moghaddam et al, 2008, 49; Waldman 2008, 18; Donini 2007, 165) identified serious problems with some supply-driven aid falling under category 3. These are linked to donors-driven projects implemented by NGOs or private contractors. Whether funded through the external development budget or not reported at all, these have been identified in our research as seriously undermining the legitimacy of both the international community and the government. While should be made clear that some projects are high value and well executed, the mismanagement and lack of cost-effectiveness have resulted in a perception of corruption. These accusations of corruption were wholly unsubstantiated in our research. However, the undue expense of the projects may be attributed to the top-heavy contracting structures, unfamiliarity with market prices on the part of the contracting body and the need for swift implementation. The former Minister of Finance, Ashraf Ghani, estimated that every dollar of USAID funding through contractors was equivalent to five dollars of multilateral funding made available through the ARTF (Ghani et al. 2006).

Beyond Ownership: tradeoffs and dilemmas

While most donors recognized their commitments made in the Paris Declaration regarding the ownership of policy by partner governments, and the need to align their own priorities with those of the government, they identified a series of concerns. The difficulties faced by the government and particularly the Ministry of Finance to bring donors onto the budget sheet and to align and harmonise their objectives are a product of these concerns, which our research suggests may be grouped into four categories.

First, elements of the government are considered to be of low capacity, and unable to implement the projects. This leads donors to avoid ministries. It also gives rise to a phenomenon where donors prefer to pour their funds through the stronger institutions of government, rather than to the weaker institutions

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7 Ministry of Education, National Education Strategic Plan, 1385-1389.
where they are less likely to get the desired results. This acts to expand the mandate of the stronger institutions. While this evolutionary process may result in stronger institutions getting more done, it also results in duplication and coordination problems, since the stronger institutions overlap with the mandate of weaker institutions.

Second, there are increasing accusations of corruption amongst some government institutions. Faced by internal legal rules, some donors are unable – such as the BMZ and the USAID – to take the fiduciary risk of putting money through the government, money for which they must give account to their tax-payers. Even in the absence of legal rules regarding fiduciary risk, the lack of trust between donors and some Afghan institutions means that donors may be unwilling to back certain government agencies. One donor reported unease in backing a project which failed to meet the best governance practices held by that donor.

Third, donors are faced with dilemmas balancing their own agendas, and balancing diverse stakeholders and targets. Our research revealed that much of the aid delivered has been dictated by the donors, rather than as a response to Afghan needs. This paper has already touched on contrary agendas and regional prioritizations resulting in Balkanisation. With regard to the latter, prioritization has in general followed the location of the donors’ PRT. Sector prioritization is likewise often driven by supply factors such as the internal expertise and inclination of the donor – not necessarily a bad thing, since donors may feel their core expertise drives where they can add value. Thus the World Bank concentrates on the technical improvement of the systems of government, including in particular the Ministry of Finance. The EC has prioritized justice and the police as a consequence of its inheritance of responsibility for the now defunct country leadership allocated at the Tokyo Conference in January 2002 (Italy was allotted justice, Germany the reform of the police). These differences in technical expertise require a strong coordinating hand from the Government of Afghanistan. Splits within the cabinet expressed through ministerial rivalries and turf wars serve to deepen the problem, and present real challenges to coordination.

The fourth concern identified in the research is fundamental and is linked to the nature of ownership in a fragile state based on a political settlement that fails to bring on board all the factions. This concern was addressed during a vibrant discussion in the workshop and several interviews. Increasingly, donors are asking whether it is sufficient for a donor to engage with the relevant government Ministry. If the Bonn Process is taken at face value, the answer to this must be “yes” – the Government is the sovereign within Afghanistan. However, several donors noted the need to query the legitimacy of the government of Afghanistan itself and the political settlement on which it is built: “donors must interrogate the political settlement”. This calls into question the ability and willingness of the institutions of government themselves to formulate policy on behalf of the people of Afghanistan. It questions the degree to which there are vertical accountability links between the government of Afghanistan and its people.

The issues are further tied to the “statebuilding dilemma” (Suhrke 2006; Nixon 2007) whereby “the enormous dependency of the Afghan state on international resources and expertise to improve its performance may also be undermining its own long-term development and sustainability”. This political “Dutch Disease” undermines the need to develop a social contract between the people and the state. The breakdown in the relationship between state and society is becoming increasingly evident, as the “insurgency noose” tightens around Kabul. The focus from the international donors has hitherto largely remained on technical improvements to systems within the Government of Afghanistan, rather than on trying to reach out to deepen the relationship between the government and the Afghan people. The workshop highlighted the limitations of the Paris Declaration “ownership” requirement in the face of a political settlement that excludes key actors and a government so propped up by aid money that it need not be responsive to the Afghan people. The response of the Ministry of Finance (in particular) to these failures has been to point to the donors and ask them to get their own house in order – to harmonise their positions and align themselves with the government agenda. Faced by a lack of leadership from the government, the donors are themselves unable to overcome their own coordination problems or to escape from the political constraints placed upon them deriving from the troop commitments made by their governments.

The donors are presented, therefore, with a true dilemma. Ownership by the government is encouraged by the Paris Declaration. The Bonn Process and the democratization agenda determines the government. Thus ownership and democratization constrain the actions of the international donors. In the case of Afghanistan, the problems with the democratization process have led to a government which is weak, centralized, and lacks accountability to its people. The approach to this dilemma thus far has been to
commit to support the government derived from the Bonn Process, to avoid addressing the cooption of government institutions by warlords and strongmen, and to deliver many of the services through parallel systems – particularly the NGOs – and technical assistance which need not address the challenges in bridging the gap between Kabul and the rest of the country. The key challenges formed by lack of legitimacy, alienation of Afghans and weak processes of vertical accountability are not addressed.

To unpick this dilemma, donors must walk a very delicate line between aligning behind the government (even if this entails surrendering some good practices), supporting the government of Afghanistan in formulating its own principles, and – perhaps most importantly of all – pushing for a stronger government which eschews the short-term appointment of strongmen but builds vertical accountability links between the government and the communities (such that the four concerns highlighted above become less acute). Finally, in dealing with the challenges, it will be important to harmonise the approaches of all the donors. Without the support of the United States in particular (by far the largest aid donor and architect of much of the Bonn Process) the ship will take a great deal of turning.

**Dilemma 2: Technical Assistance**

**The benefits and limitations of technical assistance**

Technical co-operation accounts for almost a quarter of aid to Afghanistan (OECD 2007, 1-4). The need for technical assistance within the civil service of Afghanistan remains clear. To run a state, manage a budget and deliver services across a country, certain skills and ability are required. These skills must be delivered in the short term – waiting for them for the time it takes to train Afghan civil servants is not an option. Technical consultants are seen as ways to fill the gap.

There is widespread dissatisfaction with the result of technical assistance (World Bank 2008a, para 2.25). While these skills are unquestionably vital to the functioning of a modern state, they are not in themselves sufficient. They do not confront the deeper challenges of responding to the political settlement, and the political dilemmas present by the current embodiment of the Government of Afghanistan. As one commenter noted: “we have created a system where it is the technocrats who speak our language rise to the top... so that eventually it is like we are talking to ourselves”; or, in the words of another: “we are recreating Afghanistan in the image of Kosovo.” Technical assistance represents a "line of least resistance" to develop assistance, and does not address the key underlying questions. The representative of one key donor noted that their starting point had been: “Let’s assume we have a country that can deliver services”. By focusing on elements of technical capacity, Technical Assistance has enabled donors to ignore the deeper questions of legitimacy which might call into question the application of their expertise. Our research pointed to a growing unease amongst the donors to the provision of technical assistance to a government founded on insecure basis which lacked a foundation.

**Government of Afghanistan Ownership of Technical Assistance**

Our research suggests that the manner in which technical assistance is delivered is all too often driven by the priorities of the donors – although it should be noted that the performances and approaches of different donors varied greatly. Frequently donors will approach Ministries with an offer of technical assistance, which will inevitably be dictated by the donors’ own aid priorities. The team of technical experts thus accepted can act to control policy formulation and implementation – even in the Ministry of Finance, the former Minister, Ashraf Ghani, reports the lack of influence of the Ministry teams on key decisions made regarding the Afghan state, which ended up being made in Afghanistan (Ghani, Lockhart, Carnahan 2006). An OECD-DAC survey monitoring donor-adherence to the Paris Declaration Survey notes that while some donors (notably the World Bank and Scandinavian countries) align their TA with the government of Afghanistan’s priorities, others do not (OECD 2007, p. 5; see also Waldman 2008, p. 17).

Perverse demand-driven factors also conspire to increase the amount of technical assistance: one commenter noted that ministries who perceive a lack of capacity to execute their plans may turn to technical assistance too: “Most often Afghan ministers and deputy-ministers turn to TA as they can get it more easily than the Afghan-equivalent which meant a lengthy hiring process through the Civil Service Commission and collaborating agencies” (Torabi and Delesgues 2008). Moreover, TAs offer the capacity to prepare reports, write proposals and ‘to speak the same language’ which reinforces their importance (ibid).
Within many Ministries, the ability to draw up terms of reference and to hire qualified people organizations is very thin. The hiring process is led by the donor. The good management of the process is therefore largely dependent on the strength and leadership of the ministry receiving the Technical Assistance. In the case of the MRRD, the Ministry ensures that the terms of reference are aligned to the needs of the Ministry, and will not accept teams which do not meet its specific goals and requirements. Contrasting to this, a single Department of the Ministry of Finance hosted four different teams of technical assistance, funded by four different donors, with the attendant problems of duplication of effort, contradictory advice, and waste. Lack of coordination was therefore identified as a key problem. Even UNAMA, empowered by an aid-coordination role, takes no role in coordinating Technical Assistance. In 2005 the OECD reported that "only 37% of technical co-operation was provided through the formal co-ordinated programmes consistent with the government's strategy." Donors, who have funded technical assistance will often not strictly demand the performance of the team they have appointed (Ghani, Lockhart and Carnahan 2006, 4).

A consequence of the supply-driven TA is that while some institutions have made great strides forward, in others capacity remains very low. Many government institutions in Afghanistan still remain to a greater or lesser extent reliant on international advisers/consultants, and progress in transferring skills and knowledge to local staff has been slow.

**Donor Impact on Afghan government capacity**

The impact of Technical Assistance and donor programming on the Government of Afghanistan’s capacity has been mixed. Our research suggests that at present there is no systematic inclusion of a capacity building component to the terms of reference is often lacking. The extent to which capacity has been built through the technical assistance is therefore dependent on the insistence of the Ministry for such a clause, or on the approach of individual Technical Expert. A range of experiences were reported. In the small sample of technical experts interviewed, no single example was included of a capacity-building component included as standard in TA contracts. Some sat with their Afghan counterpart, and provided systematic on-the-job training; others worked in parallel and had no knowledge of a capacity-building role.

Despite the expenditure on technical assistance, the Ministry of Finance recognises that the “capacity of the Afghan institutions remains low” (Donor Financial Review 2008, p. 12). Capacity building and better management of Technical Assistance has been highlighted by the Ministry of Finance as major priorities and is enshrined in the ANDS (Volume 1, Chapter 7, 127). The Ministry of Finance therefore has as its stated goal the need “to harmonize the delivery of technical assistance in line with Government priorities and reduce duplication and transaction costs” (Donor Financial Review 2008, p. 12).

The problems are exacerbated by the weakness of the Afghan civil service. Efforts to improve the quality and motivation of civil servants have largely failed. The Priority Reform and Restructuring project was designed to review key institutions and departments of government, to highlight key functions and to ensure that these functions were managed by civil servants of a sufficient (if still modest) capacity. Ministerial staff within individual departments and agencies would therefore be assessed, and rehired if appropriate at a higher salary. The PRR process was widely reported as having few successes – with the exception of a scattering of organisations like the Ministry of Public Health, the “star performer” (World Bank 2008a, para 2.13) – since in being rolled out too hastily it was circumvented by the insufficiently closely monitored actions of civil servants who were all too often simply rehired – regardless of whether they met the specifications – at the higher wage. In the provinces, the PRR process was identified as being particularly weak.

Finally, local technical assistance can have therefore an impact on the job market. Funds for TA usually fall outside the core recurrent budget (Torabi and Delesgues 2008) and as such risks producing parallel civil service structures which leaches talent from the Ministries. In some departments, local technical assistance comprises a large proportion of the staff. Thus in the Budget Department of the Ministry of Finance, more positions are funded by Technical Assistance than are funded from the Core Recurrent Budget (although in the Ministry as a whole 16% of expatriate and local employees are funded through TA). Local technical assistance salaries can as much as five times more than the current salaries for Afghan civil servant, even those entering the government under the Lateral Entry Program, which offers salaries of up to around USD 300 per month (Torabi and Delesgues 2008). The consequence is that the best candidates take on unsustainably funded local technical assistance posts, rather than go to the Ministries.
2.3 Survival Functions of the state

Security

In Afghanistan, the security situation is declining seemingly by the week. Our research suggests that the reasons for this may be attributed to several of the dilemmas and challenges already addressed. First, the failure to engage key losing factions at the time of the Bonn Process provided them every incentive to destabilise the country and attempt to alter the political settlement. To a lesser extent, the Balkanisation of the country risks repeating this danger. As secure areas receive less funds, our research noted several comments to the effect that this created a set of perverse incentives for them to become less stable.

Second, in the years directly following 2001, key donors’ priorities proved to be detrimental to security and the creation of long-term institutions. The short-term demands of counter-narcotics and counter-terrorism targeted stability over longer-term sustainable security. Our research noted that these actively contributed to failing security: in the case of counter-terrorism, by funding strongmen and tribal leaders, and in the case of counter-narcotics by targeting the producers of the opium (farmers, often with few alternatives) rather than the traders who have greater power and influence. At the same time, one respondent noted that the United States had avoided the reconstruction of the army to avoid antagonising Pakistan by creating what might be perceived to be a threat on their doorstep. The police, whose reconstruction was left in the hands of the Germans under the country lead scheme, received little money. 8 Suffering from an abundance of donors but little coordination, much-needed reforms languished.

Third, the Government of Afghanistan and the donors failed to react to the continued capture of the Ministry of Interior by warlords, under whose mandate the ANP falls. It therefore expresses the desire for short-term stability rather than long-term state-building, and an unwillingness to rock the boat. The Afghanistan National Police is widely described as having been captured by local strongmen, is redolent of political appointments, and rather than being a source of security, it has been described as a source of predation (Wilder 2007). In 2003 Amnesty International reported a “widespread pattern of human rights violations committed by members of the police, including torture and arbitrary arrest. Extortion is commonly practised by police officers” (Amnesty, 2003, 1-2). It is also all but useless in a counterinsurgency role. 9

Fourth, while on the one hand failing to build Afghan institutions, the donors also failed to provide their own security forces in their stead. The initial total troop commitment to Afghanistan was a paltry 4,500, later structured under the auspices of NATO – the International Security Assistance Force (ISAF). Several calls for expansion of NATO were voiced and ignored – including by Gen Sir John McColl, in command of fifteen hundred British troops, and Lakhdar Brahimi, the Special Representative of the Secretary General (SRSG), in a briefing to the Security Council, 6 February 2002. This was driven by the United States’ desire to provide Operation Enduring Freedom a free run in the South in pursuing its counter-terrorism agenda. The PRTs were a response to these “footprint dilemmas” (Paris and Sisk, 2007, 5). While the Pentagon had blocked the expansion of ISAF until 2004, their field commanders believed that development would be necessary to secure their military gains over the Taliban (Rubin 2006, 7).

Taxation

Positive steps have been made to increase the revenue accruing to the Government of Afghanistan. Revenue is split roughly into three thirds: a third from the Large Taxpayers’ Office (LTO), a third from customs and a third from fees collected by line Ministries (flyover charges, mineral extraction charges, land taxes) at the provincial mustofiats. The LTO is successfully collecting revenue from the large companies in telecommunication companies, airlines, banks. It has been rolled out to five provincial

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8 This was formulated at the 2002 Tokyo Conference, where individual donors were allotted the donor lead in various security and justice sectors: the United States the army; the United Kingdom counter narcotics; the Germans the police; the Italians, the justice sector; etc. The system resulted in poor coordination, conflicting approaches to development, and asymmetric progress. It was abandoned, tacitly, in the 2006.

9 (there are 82,000 Ministry of Interior forces authorised, of which none are capable of operating independently and only 3 % are “capable of planning, executing and sustaining counterinsurgency operations at the battalion level and 4 % at the company level – US Department of Defense, “Report on Progress towards Security and Stability in Afghanistan”, Report to Congress 2008, p. 22)
office, in Kandahar, Kunduz, Herat, Jalalabad and Mazar-e-Sharif. A Medium Taxpayer’s Office has also been set up, but is in the process of being improved. Efforts to improve auditing are ongoing.

Challenges remain. Some large companies are reported as being given high-level protection from having to pay taxes. Moreover, the tax revenue of Afghanistan is projected to be 8.2% of GDP, falling extremely low in comparison to other countries. It remains a rentier state, reliant largely on the funds and support from international donors for its ongoing survival. As noted above, it also exhibits some of the characteristics of a rentier state, with weak vertical accountability links between the state and the society. Moreover, our research suggests that neither the government nor the international donors are making huge efforts to free itself of the need for international funds. One respondent noted that while the International Monetary Fund had set what it considered to be minimum targets for tax collection, the Ministry of Finance regarded these as maximum targets. The motivation for reaching these targets was solely aimed at continuing to meet the IMF’s requirements. While there have been calls from the international donors – and notably the World Bank – to heed the limits of fiscal sustainability in planning the creation of institutions, the targeted payroll of institutions like the ANP and ANA vastly exceed the ability of the Afghan state to pay for them, even given improvements in their own fiscal capacity. The demands of counter-terrorism and counter-insurgency once again trumped other considerations.

One key dilemma facing international donors is their own reaction to taxation, raising again the challenge by the Government of Afghanistan to “get your own house in order”: to what extent will the donors permit taxation of their own operations? In this, three approaches were identified. The United Nations, in accordance with their customary exemption, are not taxed at any level. With the bilateral donors, each agreement was negotiated separately, with a view to ensuring consistency across tax regimes. The principle of these agreements has been to “tax locally”, on the principle that transactions should be taxed somewhere in the world. The third approach has been adopted by the World Bank, which offered the Ministry of Finance a choice in SY 1385: on the same pot of money available, the government of Afghanistan could agree to tax contractors or not. The Ministry of Finance chose to tax, thus ensuring that while the funds available to development would be less to that extent, the remainder would be channelled through their own budget. Progress has therefore been made, with strong attempts to harmonise, but again internal constraints on donor behaviour prevents a fully harmonised system.

Basic rule of law

First, the constitution and formal legal framework offers the possibility of contradiction. Thus while the constitution commits to recognising universal human rights, and guarantees equal rights, the place of Islam is also given constitutional strength. Islam is declared to be the foundation of the republic, and no law shall contravene the tenets of the “holy religion of Islam” (Art. 3 – permitting both Shi’a and Sunni interpretations). This fails to clarify the consequences of potential clashes. The result has been a disconnect between the constitution and its interpretation by the Supreme Court – for example in cases surrounding freedom of expression and Islamic principles forbidding blasphemy.

Secondly, the capacity of the formal justice system to administer the rule of law is drastically curtailed and distorted by low capacity and widespread corruption. The court system is notoriously weak. The UNDP estimates that only 20% of civil or criminal disputes are brought to the state justice system (UNDP, 2007). Of all the government institutions, the courts were identified as the most corrupt in a recent survey (Delesgues and Torabi 2007; see also UNDP, 2007 pp 91-100). Faced with competing informal and formal mechanisms, Afghans are therefore understandably pursuing redress in the more accessible informal courts, which they perceive to decide cases on a more just and comprehensible basis.

Third, the donors, in addressing the question of how to put in place a system of justice are confronted in its starkest form with a dilemma on whether to engage with informal systems or whether to pursue inappropriate formal systems. Informal institutions of justice play an important role among most elements of Afghan society. The country has a rich range of customary mechanisms for resolving disputes. These differ from region to region: thus in some areas, the former state-appointed maliks remain key actors for dispute resolution; in other areas and particularly amongst the Pashtuns, the tribal jirga system resolves disputes, and are irrelevant in others. Jirgas or shuras remain an important means of solving problems in many areas, whereas in others, these structures, are influenced strongly by local strongmen. The choice of whether to interact with these institutions is problematic. Donors acknowledge that the current court system is systematically avoided (see also Zuercher and Koehler 2008, 11-12), but the informal mechanisms are seen as applying different rules inconsistently across the country. The traditional common practices defined by the customary codes of pashtunwali present serious issues in respect to
gender equality and collective punishment, amongst others. In the absence of a decision being made about how to integrate or compete successfully with these structures, however, our research noted that the Taliban have filled the vacuum. They provide a justice system which is understood, comprehensible to rural Afghans, is less expensive, and provides judgements which are viewed as fair. This has ongoing consequences for the legitimacy of the state, and the ability of the state to provide the rule of law.

2.4 Expected Functions of the state

Progress has been made in meeting the expected functions of the state. The delivery of basic health services has extended to 82% of the population, contributing to a 22% fall in the infant mortality rate from 2002 to 2006 (World Bank 2008b). The legal economy has expanded by 16%. Expectations that other services would be delivered were raised, but our research indicated increasing disillusionment in the ability of the Government of Afghanistan to deliver, particularly in the light of decreasing security in the Southern Provinces.

Overview of donor commitments across sectors

The table shows the amount of money by budget component spent\(^\text{10}\) in certain key sectors in 2006 (figures taken from World Bank 2008b). Two factors may be drawn from this: first, the breakdown within different sectors according to the budget component; and second the distribution across sectors.

Within each individual sector, the mode of service delivery is very different (see 2.2 above). Thus the Ministries of Education and Interior have the largest payroll expenses because the police and teachers remain on the government payroll. The Ministry of Education has adopted a public service delivery model for education. In contrast, rural development led by the MRRD uses National Priority Programmes like the NSP which institute much higher spending through the core development budget but minimal payroll and operation and maintenance costs (OM). This reflects the MRRD’s choice of model, where international and national NGOs act as “facilitating partners” (FPs) and implement the project. Similarly with public health, where with the exception of three provinces, the Basic Package of Health Services is delivered through NGO and private partners. In these three provinces, the government has executed the delivery of services themselves. In contrast, the high volume of external development expenditure reflected in the “public works” and “energy and water” indicates the engagement of donors in delivering infrastructure through contractors and NGOs.

The second point to note is the relative expenditures in different sectors. Spending on agriculture is very low, despite the importance of agriculture to the Afghan economy. Neither the Government of Afghanistan nor international actors are perceived as having contributed to the delivery of agriculture services (respectively, 15.9% and 6.1%; Zuercher and Koehler 2008, p. 11). Electrification and agriculture were

\(^{10}\text{Note, that the amounts shown are disbursed, rather than budgeted, as calculated in World Bank 2008. Note also that a further USD 835.7 million, or 37% of the total budget falls into none of these sectors, and is not included in this graph.}
highlighted in the Paris Conference as the two key sectoral priorities for the government (along with generating growth), which indicate a focus in prioritisation of aid delivery from the longer list of the ANDS – although the same declaration also re-affirms commitment to the wider ANDS. It remains to be seen if there will be any alteration in priorities in response to the Paris Conference.

Challenges to decentralisation

Given the importance of delivery of services sub-nationally, and the foregoing discussion of the importance of vertical accountability mechanisms, this review of findings is completed by addressing in overview some key features of the subnational governance situation in Afghanistan.

Several problems have been highlighted. First, subnational governance in Afghanistan has been addressed in a fragmented fashion, due to the lack of an overarching policy (Asia Foundation 2007, World Bank 2007, Nixon 2008a). The structure is confused, having grown organically as government actors and donors have reacted to immediate needs (Nixon 2008a, 14). Thus new structures were created but without thought to an overall strategy: the Provincial Development Councils were created to lend some form of institutional coherence to a variety of planning processes that had sprung up under different initiatives (Nixon 2008a, 15) but lack constitutional support and have an unclear relationship to the elected Provincial Councils, whose mandate and responsibilities remain unclear; the Law on Local Administration specifies activities which the governor ought to be involved in, rather than duties and responsibilities (Draft Policy on Subnational Governance, 01 November 2008, pp. 58-59).

Second, line ministry spending has hitherto lacked mechanisms of accountability at the local level due to the highly centralised process which allows neither for sub-national planning nor budgeting – although a Provincial Budgeting Initiative currently being piloted by the Ministry of Finance has made initial efforts to overcome this problem. Provincial and District level offices are administrative units not autonomous from their home Ministry: all government (as opposed to municipality or Local Service Delivery Entities – LSDEs – such as the NSP CDCs) revenues and expenditures are contained within the central budget. Simultaneously, provincial line ministries retain de facto power in the disbursal of funds (World Bank 2007, 2008b). An additional consequence of this approach is that the system “appears to have led to substantial variations… in the levels of per capita fiscal resources provided to different provinces” (World Bank 2008b, 23). This inequality across different Provinces is reinforced by the (justified) perception that CIMIC spending is unequal, depending on the agenda of the Provincial Reconstruction Team based in the Province. Given the political divisions within the country, the perception that some areas are receiving more money from central government has consequences for the legitimacy of the government.

Third, the provincial governors’ formal powers do not reflect their true de facto power, which is linked to his coordinating roles which turn provincial administrations into a “government of relationships” (World Bank 2007, 31-32). These informal powers have been supported by the provision of an independent budget, either through “hospitality money” (Nixon 2008a, 16) and influence over projects such as the Afghanistan Stabilisation Programme (ibid, 17) or sometimes even by PRT funding. The exercise of these powers cuts across the horizontal line ministries and is not matched by accountability mechanisms. The governor, a political appointee, is therefore accountable to Kabul, but not to Provincial or local institutions, or to the citizens of a Province.

In short, the formal structures have not been sufficiently well formulated or coordinated to keep up with the proliferation of subnational institutions, and the de facto power relations that exist between the different entities and individuals. Without a single coherent policy, service delivery will continue to be unaccountable and open to corruption. In the meantime, a number of donors have been engaged in projects designed to shore up the subnational governance structures (see e.g. Asia Foundation 2007, p. 15), including support for PAR initiatives, capacity building at the local level and support for the formulation of policy. These projects have had limited success, and will likely continue to be so until the problem is addressed. Recognising this, on the 31 August 2007 President Karzai created the Independent Directorate of Local Governance (the IDLG) which falls within the Presidential Office. The function of the IDLG is to formulate and administer subnational governance policy, and thus to provide much needed strategic guidance. A draft sub-national policy which offers responses to these core questions has been prepared, but has not yet been approved. It offers a comprehensive review of the

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11 Declaration of the International Conference in Support of Afghanistan Issued Under the Authority of the Three Co-chairs, The President of the French Republic, the President of the Islamic Republic of Afghanistan and the Secretary-General of the United Nations (Paris, June 12, 2008) .
powers, responsibilities and attendant accountability mechanisms at a subnational level.

Recognising the failures in asserting government control at a subnational level, the IDLG is in the process of launching an Afghanistan State Outreach Programme (ASOP). The aim of this project is to “strengthen security and peace, improve the effectiveness and responsiveness of service delivery and build local governance through the revival of traditional practices of collective decision-making and community solidarity and the promotion of “. This project aims to empower communities “through establishing temporary community councils” which will “create a conducive environment for government and other actors to address the immediate and long-term needs” (Afghanistan Social Outreach Programme, Programme Document, October 2008 at p. 1).

Respondents took different approaches to this set of recommendations: on the one hand, they accepted that the government itself was failing to interact with communities and that some form of vertical accountability mechanisms were necessary. This could afford such a mechanism. Moreover, the ASOP was an entirely Afghan-owned programme, and thus deserved donor support. On the other hand, several concerns were voiced: first, this seems to be repeating the mistakes of the past, by creating another set of institutions at the local level, potentially duplicating the work of existing institutions like the CDCs. Second, the functions of the programme was unclear, and the function of the “temporary community councils” even less clear. Third, several respondents noted their concerns that this was a form of slush fund, with the IDLG being used for expressly political purposes (in a manner reminiscent of the Afghanistan Stabilisation Programme of 2004). The ASOP project therefore acts to divide the donor community, and provides a demonstration of the key dilemma noted.

An example of ad hoc subnational governance institutions: the Community Development Councils

The National Solidarity Programme is an ongoing project which created Community Development Councils in two thirds of the communities in rural Afghanistan. NSP was created under the Ministry for Rural Rehabilitation and Development, an implementing line ministry.

“From a conservative starting point of USD 20 million, the budget for NSP has grown to 200 million because we built trust and confidence between the Government of Afghanistan and the donors”. By late 2007, the project had “established over 16,500 elected CDCs in 279 Districts” in all Provinces. Each community was empowered to administer a block grant for their own priorities. After administering the block grant, however, the CDCs are still in place. The Bylaw (Order 3138) empowers the community shura to “to design and prepare a development plan of the community… to establish and administer a community development fund and to maintain linkages and coordinate with government agencies, NGOs, aid and development programs to improve community development and strengthen financial affairs.” A key question faced in addressing subnational governance in Afghanistan, therefore, is what should happen to these institutions – which at first glance offer an opportunity for creating vertical accountability mechanisms.

Despite being one of the more successful projects, NSP is not without its critics. CDCs are not monitored by the electoral commission and lack any constitutional backing. The project has been unevenly implemented, with varied implementation of “elections, CDC composition and configuration, development of Community Development Plans, and the scope of activities taken on by CDCs outside project selection and implementation” (Nixon 2008b, 1). The programme has been criticised for creating too small units, which are difficult to coordinate (permitted under the Community Development Council Bylaw, Order No 3138, 13/8/1385).

The Draft Subnational Governance Policy promulgated by the IDLG envisages using the CDC to carry out “some of the above-mentioned future roles and responsibilities of village councils” (pp. 165-66) until the Village Councils are elected in 2011. Exactly which roles are to be included in this is not further elaborated.
3 Conclusions and recommendations

3.1 Conclusions

- The intervention of the international community in Afghanistan is based on a political settlement, formalised through the Bonn Process, which presented a victors’ process. As such, it excluded key warring factors – the Taliban in particular. This exclusion, and the marginalisation of the Pashtun more generally, is a major cause of the current decline in security.

- Several decisions were made on the basis of agendas that were not appropriate to building a state in Afghanistan – coopting into the government rather than challenging armed militia commanders, prioritising counter-terrorist and counter-narcotics agendas over building security institutions, prioritising supporting troops rather than development activities. Through pursuing these alternative agendas and short-term fixes, the Afghan state remains unable to support itself, and its legitimacy has been undermined.

- The international community has struggled to engage with the deficiencies in the political settlement. Recognising the decline in security, but constrained by its decisions to support the government emerging from the Bonn Process, it has pursued a technocratic approach, in the hope that the democratic elections and ability to deliver services would provide the necessary legitimacy. This hope has proved unfounded.

- Due to a lack of understanding of the context and fed by uncoordinated needs assessments, social expectations were raised after the invasion which have not so far been met.

- There is a lack of vertical accountability between the state and the people of Afghanistan. Supported by the international donors, the state of Afghanistan has not been forced to build links or legitimacy to the society, and the government of Afghanistan has failed to reach out to the ‘periphery’.

- While there has been some progress in improving revenue, Afghanistan remains a rentier state.

- The government of Afghanistan has made progress in seizing ownership of the aid agenda. While the initial ANDS failed to offer sufficient prioritisation, the Paris Conference in June 2008, the Medium Term Fiscal Plan and the use of the budget as a means of alignment have provided additional nuance. Nevertheless, the prioritisation has failed to generate broad-based grassroots discussion or approval.

- The international donors are poorly harmonised and have failed to align with the priorities of the Government of Afghanistan. A series of political and legal imperatives owed to their stakeholders within the their home constituency have prevented many from making good their commitments to the Paris Declaration on Aid Effectiveness.

- Increasing concerns relating to the legitimacy of the underlying political settlement has brought into question the validity of determining Afghan ownership solely through the medium of the government.

- While there are positive aspects of technical assistance, it remains too often uncoordinated, supply-
driven and lacks a systematic inclusion of a capacity-building component.

- Technical assistance has focused on key capacity concerns, but has distracted donors from addressing key underlying political challenges which the international community finds difficult to understand and address.

### 3.2 Country specific and general Recommendations

*Doing nothing is not an option:* The international community cannot afford to retain the technocratic approach that it has adopted until now, and ignore the underlying political settlement.

- It is important for the donors to pressurise the government to be more serious about instituting vertical accountability links to Afghan communities.

- The current confusion over sub-national governance should be clarified, and accountability to Afghan communities reinforced.

- Donors should support modifications to the electoral law which will allow candidates to run under parties, and should support the creation of a more powerful Parliament to offset the powers of the President.

- Donors should be ready to exert a concerted pressure on the Government of Afghanistan to address the corruption and capture of key institutions, and should be prepared to deal with the consequences of the instability and violence that this may cause.

- Donors should support the Government of Afghanistan in addressing the uneven political settlement, while simultaneously opposing capture of government institutions.

*Revenue generation:* donors should pressurise the government to engage more seriously with revenue generation, so that they may escape from their existing status as a rentier state. The donors, to show willing, may want to consider revisiting the tax regimes under which they themselves act.

*Get our own house in order:* before the donors can exert pressure on the Government of Afghanistan, it is vital that they overcome key problems and challenges:

- Where donor’s face constraints placed on them by internal stakeholders or rules in aligning themselves with the Government of Afghanistan priorities, these should be explicitly stated and if possible a compromise negotiated.

- Where these constraints do not exist, donors should align themselves with the priorities of the Government.

- Where such constraints do exist, donors should avoid implementing projects with minimum consultation with the Government of Afghanistan.

- Where possible, donors should empower the Government of Afghanistan should deliver services itself. Where a lack of capacity in sub-national government administrative units makes it problematic for the government to deliver these services, donors should improve the capacity of the Government of Afghanistan to ‘brand’ aid projects better.

- Donors should attempt – insofar as possible – to harmonise their aid agendas, and should avoid duplication of technical assistance and other projects.

- The United Nations Assistance Mission to Afghanistan offers an institution whose role is already coordination. Its functions should be shored up, and donors should be willing to be flexible in their own targets.

- Donors should attempt to harmonise their spending in Provinces through civil military cooperation. Where this is politically impossible, expenditure should be transparently and completely reported.
• The temptation to engage in short-term but inefficient development projects designed to win “hearts and minds” should be avoided.

Manage and meet expectations: It is important that the donors both meet and managed expectations amongst the Afghan population:

• Donors should avoid where possible needs assessments and embarking on unrealistic projects which raise unrealistic expectations which they will not be able to keep.

• The donors should, if possible, identify large-scale and high-visibility projects which can feasibly be executed in the current security environment.

Understand the Afghan context better:

• Efforts should be made to retain staff members, mitigate the high turnover, and familiarise staff members with the context outside Kabul.

• Donors should support more public research in Afghanistan, which can help shore up informed support to the government.

Provide security

• Donors should continue to work with the security apparatus in Afghanistan, and should resist the inappropriate capture of security institutions.

Provide rule of law

• Donors should consider options for offering rule of law through adopting more accessible and comprehensible dispute resolution mechanisms.