

Discussion Paper

Corrupting the State or State-Crafted Corruption?

Exploring the Nexus between Corruption and Subnational Governance



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Acronyms

CDC	Community Development Council
GIAAC	General Independent Administration of Anti-Corruption
GoA	Government of Afghanistan
HOO	High Office of Oversight
IDLG	Independent Directorate of Local Governance
IWA	Integrity Watch Afghanistan
NSP	National Solidarity Programme
OECD	Organisation for Economic Co-operation and Development
UNCAC	United Nations Convention against Corruption

Glossary

<i>Amlak</i>	property department within the Ministry of Agriculture, Irrigation and Livestock
<i>arbab</i>	a local community leader in a rural area, who liaises in a quasi-official capacity between the community and the government
<i>arbakis</i>	village or clan militia
<i>cadeau</i>	gift (French; term for a bribe)
<i>commandan</i>	Someone who has influence due to the ability to mobilise of nonstate militia, often stemming from the Soviet-Afghan War; derived from “commander”
<i>commissionkar</i>	brokers who act with the consent of a state official
<i>cray-i-ra</i>	travel fare (term for a bribe)
<i>dast-i-ma ra garm kon</i>	warming the hand (term for a bribe)
<i>hadia</i>	(gift) term for a bribe
<i>hale ma kharob hast</i>	our situation is bad (term for a bribe)
<i>haram</i>	forbidden (in Islam)
<i>jeib khaaridan</i>	to scratch one’s pocket (term for a bribe)
<i>jihadi</i>	stems from mujahiddin and refers to resistance in the Soviet-Afghan War

<i>jihadi commandan</i>	a resistance leader during the Soviet-Afghan War
<i>jirga</i>	a community decision-making group
<i>majaz</i>	permitted (in Islam)
<i>maslehat</i>	to “discuss” or “seek advice;” in the context cited in this paper, to seek stability through inclusiveness and political compromise
<i>masraf-i-ra</i>	travel expenses (term for a bribe)
<i>mirab</i>	water-master
<i>mushkel tarashi</i>	bureaucratic difficulties or obstructionism
<i>paisa-i-chai</i>	money for tea (term for a bribe)
<i>qawm</i>	a complex Afghan political and social term which is often too simply translated as “tribe” or “clan.” Based upon the context in which it is used, it can mean an identity group ranging in scope from family to ethnicity
<i>reshwat</i>	bribery
Sharia	Islamic law
<i>shirini</i>	sweets for a celebration (term for a bribe)
<i>shukrana</i>	thanking (term for a bribe)
<i>shura</i>	a community decision-making group
<i>telefon kharob shud</i>	my phone is not working (term for a bribe)
<i>tohfa</i>	gift (term for a bribe)
<i>ulema shuras</i>	religious institutions established by the Ministry of Haj and Religious Affairs
<i>wasita</i>	“connection”; a relationship to someone in a position of power or influence

1. Introduction

We were offered land miles away from Kabul City in compensation for our house that was expropriated along with seven hundred others. The reason is that all land close to the city has been illegally distributed to strongmen by the Kabul municipality.

– Resident of Pul-i-Sokhta, Kabul, February 2010

In the aftermath of the 2009 presidential election, widely perceived to have been fraudulent on a large scale, corruption has been one of the most pressing concerns of Afghan citizens as well as one of the major issues on the political agenda of and for Afghanistan. A recent nationwide survey by Integrity Watch Afghanistan (IWA) showed that Afghan citizens consider corruption, in its many forms and manifestations, as the third most important problem in the country. Only insecurity and unemployment ranked higher.¹ Political dialogue and public debates frequently focus on corruption, while calls for tangible action by the Government of Afghanistan (GoA) are becoming increasingly vehement. In January 2010, parliament rejected the majority of President Hamid Karzai's cabinet nominees, based among other things on allegations of corruption and incompetence. The international community has adopted strong and unequivocal public positions on the urgent need for the GoA to crack down on corruption, in particular with regard to the political and administrative leadership. Last but not least, the Afghan media, specifically television and radio stations, continuously portray flagrant cases as well as allegations of corruption and thus nurture public debate and demand for action.

Despite the present excitement around the phenomenon of corruption, the problem is not new to Afghanistan. However, as in other post-conflict and conflict settings, it has emerged only slowly on the post-Taliban political agenda. While largely neglected as a serious problem or even risk by most national and international actors until late 2006, corruption today is increasingly undermining the legitimacy of the GoA and the international community alike. It has become one of the major threats to stability, peace-building and state-building.² Afghan citizens have testified that interactions between the citizen and the state resemble a “bazaar economy,” and they call corruption the new “currency” of Afghanistan.³

The GoA has developed and approved a comprehensive anti-corruption strategy, established yet another institution—the High Office of Oversight (HOO)—to coordinate and oversee its anti-corruption efforts, and created a Major Crimes Task Force to pursue high-level cases of corruption. The international community has considerably expanded its technical and financial support for anti-corruption initiatives, and a limited number of civil society organisations have stepped up engagement in anti-corruption work.⁴

1 The survey is due to be published in July 2010; see www.iwaweb.org for the details and more information. Other major nationwide surveys since 2007 have confirmed this trend, for example, the Asia Foundation's annual “Survey of the Afghan People” (available at www.asiafoundation.org). A January 2010 survey by the United Nations Office on Drugs and Crime exploring drug cultivation issues and perceptions on corruption showed similar results; see www.unodc.org/documents/data-and-analysis/Afghanistan/Afghanistan-corruption-survey2010-Eng.pdf. However, this survey identified corruption as Afghans' most important concern.

2 K. Hussmann, “Joint Donor Responses vis-à-vis Corruption in Afghanistan: Myth or Reality,” in *Working towards common donor responses to corruption* (Paris: Organisation for Economic Co-operation and Development [OECD], 2009).

3 M. Gardezi, “Afghans' Experiences of Corruption: A Study Across Seven Provinces” (Kabul: Integrity Watch Afghanistan [IWA], 2007).

4 IWA is currently the most relevant civil society organisation focusing on research, monitoring and advocacy related to anti-corruption and pro-integrity work in Afghanistan, both in Kabul and through networks with subnational and community-based organisations in various districts. ActionAid focused

Although it is too early to assess the effectiveness of these efforts, the shortcomings in their knowledge base, approach and focus are obvious.

Post-conflict countries such as Afghanistan are particularly prone to different and changing patterns of corruption in an environment with multiple, often competing sets of rules, norms and expectations of public office. Recent empirical and academic research has shown that corruption lies at the core of fragility, particularly in post-conflict countries.⁵ Certain forms of corruption can delegitimise the state in such a fundamental way as to lay the foundation for a return to conflict. It is impossible to address all forms of corruption simultaneously, and thus it is important for policymakers to know which forms of corruption are most harmful for the state-building process and why.

This discussion paper focuses on corruption at the subnational level in Afghanistan in order to contribute to informed discussions among national and international policymakers on potential policy responses. It explores four themes:

1. Corruption in Afghanistan, viewed from a local perspective and analysed at the subnational level
2. The nexus between the circle of corruption and power, subnational governance and state-building
3. Existing strategies to counter corruption
4. Policy implications

Adopting a state-building lens,⁶ the paper looks at how corruption affects state-society relations and the legitimacy of the state in formal as well as informal but legitimate institutions. The analysis of corrupt practices at district and provincial levels is of paramount importance in the light of quickly increasing resources channelled to, and growing power assigned to, subnational institutions. Also, given that 80 percent of the Afghan population lives in rural areas,⁷ understanding and tackling corruption at the subnational level is crucial to build trust between the citizens and the state and to create legitimacy for the state.

Context-specific patterns of corruption are identified and analysed at levels ranging from local *shuras* or *jirgas*⁸ and Community Development Councils (CDCs) to the district

on budget transparency at the subnational level in 2006-07. The Agency Coordination Body for Afghan Relief (ACBAR), Oxfam and others have worked on aid effectiveness and integrity since 2007. The recently established Afghan Analyst Network works to combat corruption through research and advocacy. Finally, AREU has done research on corruption through its governance and democratisation programs.

5 See K. Hussmann, M. Tisné et al., "Integrity in State-Building: Anti-corruption with a State-Building Lens," for the Anti-Corruption Task Team of the OECD, 2010, www.oecd.org/dac/governance/corruption; and S. Dix and N. Jayawickrama, "Anti-corruption Interventions in Post-conflict and Recovery Situations" (New York: United Nations Development Programme, forthcoming).

6 The OECD has defined state-building as a "process of strengthening the capacity, institutions and legitimacy of the state driven by state-society relations," see OECD, "Concepts and Dilemmas of State Building in Fragile Situations: From Fragility to Resilience" (Paris: OECD, 2008). This definition places political processes and state-society relations at the heart of state building. It includes all levels of government, from local to national, as well as civil society; see OECD, "State Building in Fragile Situations: How Can Donors 'Do No Harm' and Maximise their Positive Impact" (Paris: OECD, 2009).

7 The Afghan government recently estimated the population to be 20 percent urban (Central Statistics Organisation, "National Risk and Vulnerability Assessment 2007/08," www.nrva.cso.gov.af). The World Bank estimated that 24 percent of the Afghan population was urban in 2007, compared to 29 percent for South Asia and 32 percent for low-income countries (World Bank, "Afghanistan at a Glance," September 2008).

8 A *shura* or *jirga* is a community decision-making group that addresses issues such as local conflict or makes important collective decisions.

administration level and further to the provincial and central levels. Links between the formal state sector and anti-state structures (such as illicit drug networks and *jihadi* networks) are also depicted.

The following questions guided the research for this paper:

- What is the current situation of corruption in Afghanistan?
- How is corruption framed from an Afghan perspective? Which practices are tolerated and which are not?
- Which forms of corruption are visible at the local and district levels? Among which actors? What is their impact on how Afghans view the state, and how do they affect state functioning?
- What approaches are used to tackle corruption? How are national efforts linked with and complemented by subnational efforts?
- What gaps exist in current anti-corruption efforts, and what are potential avenues for change?

This paper is based on qualitative research drawing on a wide array of both primary data and secondary sources of information. Primary data collection on corruption, subnational governance, community-driven development, conflict/actor mapping and state-building was carried out by the authors between 2005 and 2010 in 11 provinces (Badakhshan, Baghlan, Bamiyan, Balkh, Herat, Kabul, Kunduz, Logar, Nangarhar, Takhar and Paktia). Approximately 400 individual interviews and 25 focus group discussions were conducted in 58 villages, 10 provincial capitals and Kabul City. Care was given to strike a balance in the social and professional backgrounds and income levels of the interviewees, who included government staff, farmers, teachers, traders, academics, Islamic authorities, members of parliament, and staff of civil society and international organisations. Gender balance could not be continuously ensured (for example, there are fewer female staff than male staff in the public administration and civil society organisations); around 60 percent of the interviewees were male. Finally, the paper has been informed by the method of participatory observation, as all three authors have been involved in different capacities with the related issues and reflected upon them.

2. Corruption in Afghanistan

Corruption exists, is understood and can be identified in every society. It damages social norms and principles. Societies always distinguish between acceptable and unacceptable behaviours or practices. Every society, therefore, tends to have a shared understanding of what constitutes corruption in each context.⁹ As societies and their underlying norms and principles change, patterns and perceptions of corruption also change. Corruption is a dynamic and adaptive phenomenon in any culture.

Therefore, the framing of corruption has to be context-specific. This is particularly important in fragile post-war settings, which are particularly prone to different and changing patterns of corruption in an environment with multiple, often competing, sets of rules, norms and expectations of public office.¹⁰

While the international community is guided by its own set of rules and standards, which are increasingly harmonised specifically under the umbrella of the United Nations Convention against Corruption (UNCAC), the predominant local norms, rules and expectations may stand in contrast with them.¹¹

At the international level, there is to-date no single, universally accepted definition of corruption. The most commonly used definitions refer to the abuse or misuse of public or entrusted power for private or personal gain. A recent evaluation of anti-corruption assistance around the globe suggested the following modified definition in order to include the systemic dimension of corruption: “the abuse of entrusted authority for illicit gain.” The term “entrusted authority” covers individual as well as systemic corruption under neopatrimonial systems and state capture. The term “illicit” points to the fact that not all acts of corruption are necessarily illegal, but all are clearly understood as not fair. Illicit gains can benefit an individual, family, clan or other group.¹² The UNCAC does not offer a definition of corruption but typifies a series of corrupt practices as criminal acts, precisely because a universally acceptable definition was not reachable.

2.1 The Afghan perspective on corruption

Contemporary Afghan society has its own understanding of what constitutes corruption, which is often directly based on experience. It includes bribery, extortion, nepotism, co-optation of powerholders, and outright theft from state coffers, but also other socially unacceptable practices such as exorbitant salaries for internationally paid staff (this issue is further discussed later in this section). Some of these practices may not be classified as corruption by national and international policymakers. For instance,

9 M. Anderson, “Anti-corruption Mechanisms Causing Conflict?” (paper presented at The Nexus: Corruption, Conflict & Peacebuilding Colloquium, Fletcher School, Tufts University, 2007).

10 M. Philp, “Peacebuilding and Corruption,” *International Peacekeeping* 15, no. 3 (2008): 310-27.

11 K. Hussmann, M. Tisné et al, “Integrity in State-Building: Anti-corruption with a State-Building Lens” (Paris: for the OECD Anti-Corruption Task Team, 2010), www.oecd.org/dac/governance/corruption. Acknowledging the importance of local norms and rules in terms of acceptable and unacceptable behaviour and corruption in any given socio-political context does not mean reverting to cultural relativism. It is, rather, a realistic starting point from which to gradually move toward universal standards like those laid down in UNCAC, to which Afghanistan is a state party.

12 All quotes in this paragraph from Norwegian Agency for Development Cooperation, “Anti-corruption Approaches: A Literature Review” (Oslo: 2008). One weakness of this definition is that the term *abuse* may imply personal choice. However, much large-scale and systemic corruption is not person-dependent. It is rather an integral part of how the political and administrative systems are structured and how the political actors must act in order to ensure the continuation of the system and their own group’s control of political and economic resources.

Box 1: Corruption experiences and perceptions of Afghan citizens

Integrity Watch Afghanistan's 2010 survey shows that the public sector is overwhelmingly seen as corrupt, more so than the aid community, the private sector, political parties or the media. Almost one out of two respondents who sought government services (46 percent) reported experiencing corruption. Households reportedly paid bribes for a large variety of state services including the court system (10 percent of households interviewed); police (10 percent); customs and taxes (6 percent); identity cards and passports (7 percent); land, electricity and transport (5 percent each); and higher education (4 percent). While this survey did not specifically assess the level of grand corruption, it appears that citizens are aware of it. Of respondents who expressed an opinion, 78 percent said that the state, public policies and the market are controlled by the powerful. An overwhelming majority believed that organised groups controlled the distribution, selling and management of land.

The amount of money spent on bribery and other forms of corruption is huge: an estimated US\$400 to 600 million in 2006, which grew in 2009 to an estimated \$700 million to 1 billion. Although the average size of a bribe may have increased, a significant part of the increase is related to the expansion of bribery to almost all walks of Afghan life. It affects not only citizens' incomes but also state funding. In many cases, bribes are paid to avoid paying taxes to the state, to obtain a monopoly position in a specific sector, or to use utilities delivered by the state for free. It is believed that these lost revenues may be greater than the recurrent budget of the Afghan government, but concrete estimates have as yet to be calculated.

Source: Integrity Watch Afghanistan's 2010 survey (due to be published in July 2010, see www.iwaweb.org)

experiencing significant delays or facing bureaucratic difficulties or obstructionism (*mushkel tarashi*) may seem a normal fact of life to an Afghan citizen. Yet respondents reported that it immediately suggests that a bribe is requested. The more common the type of corruption, the clearer is this understanding.

The main law on corruption in Afghanistan¹³ is the decree of 2008, which was signed a month after the International Conference in Support of Afghanistan (known as the Paris Conference) and amended in March 2010. The decree superseded the previous anti-corruption law, which had created the General Independent Administration of Anti-Corruption (GIAAC) in 2004, and established the High Office of Oversight (HOO) instead. The law, like the UNCAC, does not define corruption but enumerates a long list of practices (Article 3) that are considered acts of corruption. These include bribery, receiving gifts, embezzlement, theft of documents, falsification, use of official work hours for private purposes, and preventing the rendering of justice. The Afghan penal code, which is more than three decades old, limits the legal understanding of corruption to its classic forms, mainly bribery. The decree of March 2010 reinforced the HOO by giving it an investigative power.

Corruption occurs in many forms. This study groups them into four broad categories in order to draw attention to their impact on state-society relations and the legitimacy of the state. Although all of these forms are part of the complex web of corruption analysed in Section 3, they require different policy responses, both at the national and subnational levels.

1. *Petty or administrative corruption* happens between Afghan citizens and state officials, mainly in the form of bribery. Bribes and favours are smaller in size and higher in frequency than in the case of grand corruption and may be demanded

¹³ Law on the Supervision and Implementation of Anti-corruption Strategies (Official Gazette no. 957 [29th July 2009 = 8 Asad 1387]).

or offered mostly at service delivery points. This form of corruption most directly affects the citizens, particularly the poor, as well as the capacity of the state to deliver services.

2. *Grand corruption* mainly occurs where the free market and the state meet. Bribes and favours involve large kickbacks at crucial decision-making points of the public sector, e.g. in the procurement of goods and services, concessions for the exploitation of natural resources, etc. While this form of corruption does not directly affect most citizens (although it diverts massive amounts of money for development and distorts policy decisions for the benefit of a few), it immensely affects small business owners.
3. *Corruption within institutions* can be related to political appointments, embezzlement, and theft. This form has attracted the most attention from both the GoA and the international community. It often affects citizens directly and affects the GoA's credibility and legitimacy.
4. *Unjust or locally unacceptable practices* of the international community are seen by many Afghans as a form of corruption. This issue affects not only the legitimacy and credibility of the international community, but also the effectiveness of aid.¹⁴

“Petty” or administrative corruption between the citizen and the state

The most prevalent and fastest growing form of corruption in Afghanistan is *reshwat* (bribery).¹⁵ In previous regimes, personal, ethnic, factional, party and family connections played an important role in accessing public services; but since 2001, there has been an increasing trend toward the “monetisation” of corrupt practices. *Wasita* (“connection”; a relationship to someone in a position of power or influence) is no longer enough. Often, it is an enabling condition, as the relationship of trust allows people to feel safe about requesting or offering a bribe.

The practice has given rise to a rich vocabulary: *dast-i-ma ra garm kon* (warming the hand), *shirini* (sweets for celebrations), *shukrana* (thanking), *paisa-i-chai* (money for tea), *masraf-i-ra* (travel expenses), *cray-i-ra* (travel fare), *telefon kharob shud* (my phone is not working), *jeib khaaridan* (to scratch one's pocket), *hale ma kharob hast* (our situation is bad), and *hadia*, *tohfa* and even the French word *cadeau* (all meaning “gift”).¹⁶ The words are telling.

Other forms of corruption have pernicious effects on the access to and quality of basic services. Sexual extortion, for instance, which is not identified as a corrupt practice in Afghan law or the UNCAC, puts great strains on girls and their families when they seek higher education.¹⁷ Students, teachers, university authorities and even security institutions that had to intervene in some cases are aware of these problems.

14 The term *international community* refers to all governmental and nongovernmental international actors who deliver humanitarian, development or military aid. All of these actors can be affected by or involved in practices that are prone to corruption or the perception of corruption. Although (perceived) corruption involving the international community is of great relevance for the topic of this study, a close review of the issue is beyond the scope of this paper.

15 In 2009, 68 percent of all corrupt transactions reported by Afghan households surveyed were related to bribery (IWA's 2010 survey).

16 Focus group discussions, 2010.

17 Respondents to a recent survey told researchers that female students at Kabul University are often asked or required to offer sexual favours in exchange for basic services that male students receive without such demands (IWA's 2010 survey).

Further, the bribery of civil servants in the health, infrastructure, housing, energy and other sectors contributes to the poor quality of these services as well as to unequal access to them. For instance, one quarter of the respondents estimated that they have been deprived of security provided by police and justice provided by the courts as a result of corruption in these institutions. Perceptions of deprivation are even higher when it comes to the provision of electricity (41 percent), but slightly lower in the case of higher education (21 percent), identity cards (15 percent) and land and property registration (17 percent).¹⁸

“Grand” corruption between private actors and the state

Grand corruption usually involves twisting the rules for private sector interests and for significant personal or group enrichment. Examples in Afghanistan abound, but they are often difficult to verify because the cases are politically sensitive and deals take place between a small number of individuals with no incentives to report each other. However, issues related to corruption in land titles and housing developments are known to the public.¹⁹ Importing licenses for high-value products, including construction materials and fuel, are often given to individuals who are linked to high state officials. Again, this is known to the Afghan people. The concession for the Aynak copper mine at the end of 2007 revealed the need to strengthen the legal, regulatory and institutional frameworks for the mining sector before contracting out.²⁰ Concessions were in fact further pursued by the government. But the bidding for the Hajigak iron mine, for instance, was stopped on the request of the Ministry of Finance until more robust mechanisms were put in place. This happened about the same time as an article in the Washington Post alleged that the former ministers of mines and industries had taken a bribe of US\$30 million;²¹ this was immediately denied by the ministers named in the story. There are other lesser known cases. A pilot of a private company told one of the authors in mid-2009 that private airlines were asked by state authorities to increase their prices for Kabul-to-Dubai flights by up to 80 percent in order to save a state-owned company that had severe financial problems and was no longer able to compete on this route.

Corruption within state institutions

Corrupt practices taking place within public institutions can also have many different manifestations, such as the selling and buying of positions, facilitation payments for intrastate procedures, theft and embezzlement of public resources.

In Afghanistan, patronage-based appointments are the main form of corruption when it comes to the recruitment of high officials.²² In the early stage of the state-building process, until 2004, the logic of patronage applied to a whole institution. Ministries and independent agencies were unicolor when it came to the political affiliation of their staff, from central to provincial level. Recently, however, multiple patronage networks linked with different political groups have been able to permeate each institution. The influence of governors and local commanders, for instance, often determines the appointments of heads of provincial line departments. Even though significant progress

18 IWA's 2010 survey.

19 Afghans often call new residential towns after their presumed owner, who is often also a high state official or his or her brother.

20 IWA, “Aynak Copper Mine: Opportunities and Threats for Development from a Sustainable Business Perspective” (Kabul: IWA, 2007).

21 Joshua Partlow, “Afghan Minister Accused of Taking Bribe,” *Washington Post*, 18 November 2009.

22 Drawn from various interviews, 2005-2010.

has been made, notably by the Civil Service Commission, subnational appointments of high officials are often heavily influenced by various networks (see Section 3).

The selling and buying of positions is especially prevalent for lucrative functions such as customs, municipal tax collection, police chiefs in revenue-generating districts, and head of the property department (*Amlak*) of the Ministry of Agriculture, Irrigation and Livestock in the provinces. Here again some progress has been made, notably in customs; but more reforms are necessary. For example, the head of customs in a southern province, who also leads a militia, has not yet met the target of generating and transferring US\$40 million to the central state, a sum fixed by the Ministry of Finance for the last year.²³

Another form of intra-institutional corruption is the extortion of bribes by state officials from other state officials. It was reported by many respondents that this practice occurs when a share of the state budget needs to be transferred from one ministry to another (for example, allotments have to be transferred by the Ministry of Finance to a line ministry), or between different levels of government (for example, from the central level to a province or district).²⁴

Unjust or locally unacceptable practices of the international community

The Afghan population and the international community have at times held widely opposing views on a variety of practices of the aid community. According to the data collected by the authors, Afghans have considered waste of aid money, high salaries for consultants and expatriate Afghans working under special salary regimes with the GoA, the use of expensive white cars, risk bonuses, per diems and expensive guesthouses as corruption. There is an element of truth in this. The international community is often faced with pressures to spend pledged money, which may lead to hasty spending and procurement systems being fooled or circumvented.²⁵ Respondents participating in this study indicated that some Afghan private security companies artificially created the perception of insecurity in order to secure work contracts.²⁶

Subcontracting is another practice of the international community that is perceived as fraught with corruption.²⁷ A significant number of Afghan politicians and public officials partially or fully own subcontracting companies, and subcontracts often deliver significant profit margins—an issue not unknown to the public.

Clientelism and favouritism in the contracting of human resources have been identified by participants in this study as another factor contributing to the perception of corruption in the international aid system. High salaries paid by international organisations make the jobs attractive, but obtaining them often requires a connection with an expatriate or an Afghan with higher responsibilities.

23 Author interview with a Ministry of Finance official, February 2010.

24 This practice was described in interviews with a provincial council member in Badakhshan in April 2008 and with a district governor in Baghlan in July 2006.

25 Wilton Park in partnership with Tufts University, “Winning Hearts and Minds in Afghanistan: Assessing the Effectiveness of Development Aid in COIN Operations” (Report on the Wilton Park Conference 1022, 11-14 March 2010), 2, <https://wikis.uit.tufts.edu/confluence/download/attachments/34085577/WP1022.pdf?version=1> (accessed 19 May 2010).

26 These respondents included a businessman, interviewed in February 2010, and a high-profile politician, close to former *jihadis* who set up private companies, interviewed in April 2006.

27 Various interviews and informal discussions, 2005-2010.

2.2 Corruption at the subnational level

For the purpose of this study, the subnational level is defined to include all state structures, practices, policies and interactions with citizens that take place outside of the national-level arenas for deliberation, taxation, representation, security, justice and sector policy implementation. In Afghanistan, this includes the provincial, district and village levels.²⁸

Delivery of public services: A bazaar economy

Acknowledging that corruption in Afghanistan has permeated all walks of life and that virtually all interactions between the state and citizens or the private sector involve some form of corruption, Afghans refer to a “bazaar economy.”²⁹ This term goes beyond the lucrative selling and buying of positions to express the way the delivery of state services and the protection of property rights has turned into a market of private goods. If someone does not own a particular piece of land, for example, it can be purchased through a bribe of one or more public officials; even if someone cannot read or write, it is possible to buy admission to a state university.

In another example, teachers in several districts offered better grades in return for money. The bribe could vary between 200 and 1,000 Afs (US\$4-20) depending on the grade and the location. The same is true for universities in both Kabul and the provincial capitals. Students reported having paid up to US\$5,000 in bribes, which were euphemistically called “admission fees,” to extorting public officials in the Ministry for Higher Education to get a place in medical school or law school. As previously stated, not only money but also sexual favours have been demanded in return for a free public service. In the health sector, extortion can be equally severe and even lead to death. Hospital admission can require considerable bribes, for example US\$200 for the delivery of a baby, so that only patients who can and are willing to pay the bribe may receive treatment. This is even the case in hospitals in remote areas, where health services may be delivered by nonprofit organisations.³⁰

Publicly known prices for intermediary agents (*dalal* or *commissionkar*) who facilitate vehicle registration were around US\$400 for individuals and US\$500 for companies in 2009. Intermediaries in 2010 are charging between US\$200 and 300 for a three-year passport that is legally priced at US\$42 (2,100 Afs). The value of gifts given for help in obtaining an identity card varied between 200 and 1,000 Afs (US\$4-20) depending on official expectations and the province. Getting an electricity connection in Kabul cost between 8,000 Afs (US\$160) and 20,000 Afs (US\$400) in 2009.³¹

These forms of administrative or “petty” corruption are actually far from petty. They put a disproportionate burden on the poor, and they delegitimise the state and the international community alike. A farmer from Baghlan, interviewed in April 2009, expressed a common frustration: “If the government is not able to help us, please help us at least avoid exploitation by the government.”³²

28 At the district level, apart from the district administration and the different line departments, there are district development assemblies, district cooperatives, CDCs, and multiple forms of *shuras*, like the village-level health, seed-bank and women’s *shuras*. At the provincial level, beside the provincial administration and the ministerial line departments, there are provincial councils, provincial development councils and *ulema shuras* (religious institutions established by the Ministry of Haj and Religious Affairs).

29 The examples in this paragraph are from Gardezi, “Afghans’ Experiences of Corruption.”

30 Gardezi, “Afghans’ Experiences of Corruption.”

31 Gardezi, “Afghans’ Experiences of Corruption.”

32 Gardezi, “Afghans’ Experiences of Corruption.”

Geographical patterns of corruption

Forms of corruption may differ according to the geographic context. Border provinces and districts show different patterns of corruption than internal provinces, and Kabul and provincial capitals differ from remote districts. In important border provinces like Nangarhar, for example, the customs sector is perceived as one of the most corrupt institutions, while in Bamiyan or Logar the justice and security sectors as well as the municipality led the list in perceived corruption. In the perception of Afghan citizens, Kabul City is affected by higher levels of corruption than the provincial capitals, and cities in general are more affected by corruption than villages.³³ This must be seen in the context, however, that Kabul spends a greater share of the state budget and delivers more services than provincial capitals. The same goes for cities compared to villages.

District governments provide fewer public services than the provincial administration, and district officials have fewer opportunities to extract bribes. However, these opportunities are exploited creatively. For example, district governors have a crucial role in conflict resolution.³⁴ In districts with no important borders and with little or no drug economy, the district governor may force local communities to refer intra- and inter-village disputes to him in order to extract bribes, often ruling in favour the highest bidder.³⁵

It seems that the regional background of the population plays a role in shaping emerging governance structures and local attitudes toward corruption. Many people in the Ismaili and Hazara communities seem to be receptive to a strong and reliable state that promotes the rule of law and equality. Many in the Tajik Sunni communities, on the other hand, seem to have a more fundamentalist and conservative concept of the state (mostly based on Sharia or Islamic law), preferring a limited state presence within their community life. Finally, Pashtun-dominated Paktia seems to display a widespread resistance to the formal state.³⁶

These tendencies are not universal. Many other factors affect people's attitudes, such as urban or rural residence, literacy or illiteracy, gender, and distance from the provincial centre. For example, rural citizens typically display less tolerance toward corruption than their urban counterparts.³⁷ These differences affect not only the general level of tolerance for corruption but also which kinds of behaviours are tolerated and which are not.³⁸

Commissionkars: A largely urban phenomenon

An important difference between corruption in urban and rural areas is the existence of *commissionkars* in urban areas. These practitioners of a quasi-institutionalised form of bribe extraction can best be described as brokers who act with the consent of a state

33 Gardezi, "Afghans' Experiences of Corruption."

34 District governments in Afghanistan can be described as the smallest unit of state-controlled mini-kingdoms. The district governor normally exerts power over the district judge or the prosecutor and the police commander. The line departments of the different national ministries are not under the rule of the district governor.

35 Gardezi, "Afghans' Experiences of Corruption."

36 Various interviews, 2005-2010.

37 IWA's 2010 survey.

38 IWA's study "Afghans' Experiences of Corruption" revealed that certain forms of petty corruption are tolerated by Afghans.

official and whose help is required to obtain a specific public service.³⁹ This requires an illicit fee from the citizen, which the *commissionkar* shares with the state official⁴⁰ in order to achieve, for example, the faster processing of a vehicle registration or passport or clearance of goods through customs.

A certain number of *commissionkars* were also identified in most provincial capitals. However, they are rare in most district capitals and in rural areas, although in border provinces like Nangahar, a *commissionkar* structure may exist at the district level, in particular in the customs and revenue sector.⁴¹

Of the many resources and opportunities for corruption that *commissionkars* possess, three are key in allowing them to exercise their role: (1) the relationship of trust between users and the *commissionkar*, which enables the process; (2) the relationship of trust between the *commissionkar* and state officials, which generates some security for it; and (3) the complexity of the procedures required to obtain a service and the absence of public information about them, which provide an opportunity. IWA's experience in mapping public service procedures shows that *commissionkars* exist when procedures are complex and opaque. Access to public information may therefore reduce incentives for corruption.⁴²

This form of informally institutionalised corruption may be appreciated by those who can afford the service it provides, as they receive an efficient facilitation of an otherwise slow and tedious red-tape process. On the other hand, those who cannot afford to pay feel ill-treated and wronged by the state as their access to services is impeded.

Corruption in community-level institutions

A common perception among participants in this study was that certain types of corruption and abuse of power, like bribery, nepotism and personal favours, are found in different kinds of community-level institutions, such as *jirgas* and *shuras*, CDCs and *arbabs*.⁴³ According to the data, they seem to be losing their former status and legitimacy as conflict-solving and decision-making institutions, with corruption creeping in as a further delegitimising factor.⁴⁴

Community-level conflicts, often based on disputes over the allocation of resources ranging from land titles and water access to influence over networks and key state actors, may be solved through bribes instead of collective decisions. For example, given that *shuras* and *jirgas* have only limited options for imposing sanctions, economically well-to-do community members often directly contact district governors, who help to

39 Through friends, relatives or the recommendation of officials, the citizen gets in touch with the *commissionkar* of a particular state institution.

40 IWA, "Afghans' Experience of Corruption."

41 Various interviews, 2005-2008.

42 The experience with vehicle registration shows that simplification of procedures alone will not marginalize the role of *commissionkars*. Indeed, the absence of a public information and awareness campaign allowed many of them to conduct their businesses as usual.

43 An *arbab* is a local community leader in a rural area, who liaises in a quasi-official capacity between the community and the government. This role has existed since the first Afghan state in the 18th century. Originally, the *arbab* was the only liaison to the state administration. Today *arbabs* tend to be powerful local actors such as big landowners. Other community-level actors, such as *mirabs* (water-masters), *ulamas*, *mullahs* and *imams* (religious scholars/leaders), are also affected by or participate in certain corrupt practices, but these are not further analysed in this paper.

44 This data was collected during the authors' research on community-driven development in 43 villages in three provinces in Afghanistan between 2005 and 2008.

solve conflicts in favour of the highest bidder.⁴⁵ Poorer members of the community, by contrast, are dependent on the goodwill of the *shuras* and *jirgas*, which may be powerless to oppose a well-resourced and politically connected governor or which may be co-opted or unduly influenced by the parties engaged in a mutually beneficial and corrupt deal to resolve the conflict.⁴⁶ Given that lawyers or their traditional equivalents are not available at the district and community level and rare in provincial capitals, there are no institutions to deal with the inequitable formal or informal conflict settlements. The only existing popular institution that citizens can turn to for resolution of grievances is the Afghan Independent Human Rights Commission, which has offices in provincial capitals but seems to lack political impact and capacity.

While community-level institutions are still used to solve local conflict, the nature of their members and powerholders has changed over time. For example, large parts of the power elite represented in *shuras* and *jirgas* have positions in CDCs.⁴⁷ A certain convergence of the two institutions is taking place as new practices merge with those that are more customary.⁴⁸ However, locally respected elders have often been replaced by *jihadi commandans* (who exert the “power of the gun”) or by a new power elite.

The *jihadi commandans* frequently try to impose abusive governance mechanisms on local communities and their institutions, such as the CDCs, in order to get access to resources. In Badakhshan, for instance, powerful *jihadi commandans* in several districts tried to influence CDC elections to get a share of state resources, such as block grants from the National Solidarity Programme (NSP). A district governor of Badakhshan was reported as forcing CDCs to buy overpriced construction material from a company whose owner was part of his criminal network.⁴⁹ Although the NSP has an elaborate set of rules and regulations to prevent abuse and corruption, illegal practices still find their way into the system.

Corruption also negatively influences the *arbabs*. In districts with few resources (especially those that are not close to an important border and that have little trade or drug-related activity), district governors may be under pressure to generate enough illicit income to grease the wheels to stay in power (including the recovery of their “investment” if the position was bought) and to accumulate personal wealth. As a means to generate this illicit income, some district governors have empowered an *arbab* to

45 *Shuras/jirgas* are not formal state institutions, and thus their only sanction mechanism is social exclusion. However, they are partly ruled by *jihadi* commanders and criminal power brokers, who (along with their networks) are immune to social exclusion. In most cases where commanders have the last word in *shuras/jirgas*, the “rule of the gun” is decisive for the enforcement of a resolution.

46 Interviews across the country showed that people without means must in some cases accept the decision of the *shura/jirga* even if, for example, its ruling in a land conflict goes against a poor citizen to whom the land clearly belongs. On the other hand, if a rich landowner is not satisfied with *shura* decision, he can afford to go to the district governor and “buy” a ruling in his favour.

47 One researcher stated recently: “Ten of the 25 CDCs who claimed a role in dispute resolution clearly stated that they performed this role in combination with elders or religious figures in some way... In about half of the total communities surveyed, it seems likely that a hybrid form of customary and elected authority is applied to dispute resolution.” H. Nixon, “The Changing Face of Local Governance? Community Development Councils in Afghanistan” (Kabul: Afghanistan Research and Evaluation Unit, 2008), 37. Another stated: “30-40 percent of elected CDC members are from marginalised groups, previously not part of the local power structure.” P. Kakar, “Fine-Tuning the NSP: Discussions of Problems and Solutions with Facilitating Partners” (Kabul: Afghanistan Research and Evaluation Unit, 2005), 21.

48 H. Nixon, “The Changing Face of Local Governance? Community Development Councils in Afghanistan”; P. Kakar, “Fine-Tuning the NSP.”

49 These corrupt practices were described by three Wakhi farmers and two teachers in the city of Khandood, interviewed in May 2005, and by participants in a May 2005 CDC meeting in the village of Futur in Wakhan.

refer community-level disputes to them for settlements.⁵⁰ The system is simple and again mutually beneficial: the *arbab* gets a small commission for transferring disputes such as lucrative land conflicts to the district governor, who then extracts bribes from the conflicting parties.

2.3 Acceptable and unacceptable corrupt practices

A detailed analysis of specific types of corruption reveals that Afghans may have ambivalent attitudes toward corruption. While bribery is generally disapproved of because of its negative impact on society, it is tolerated if it allows better livelihoods for the poor or if it is used as a last resort to get things done.

Bribery or petty corruption is often justified in Afghanistan on the basis that lowly paid civil servants need the income, although the worst effects are suffered by the poor, who have even less money. Poverty justifies but also defines what is acceptable and what not.⁵¹ Asking for a bribe out of material necessity is often not seen as a crime, while taxing the poor is immediately condemned on religious grounds. Islam promotes solidarity with the poor, and any act that worsens their condition is profoundly rejected. The poor are also more severely affected by grand corruption, in which development and poverty alleviation funds are diverted to private pockets. But since the effect is not as direct or immediate, this type of corruption is often not on the radar screen of the poor and their advocates.

Islamic views of bribery significantly affect public understanding of the phenomenon in Afghanistan. As a student of the Sharia Law Faculty of the Kabul University put it, bribery is forbidden (*haram*), and it only becomes permitted (*majaz*) if the citizen has no other alternative to obtain the service.⁵² Testimonies of citizens who have paid bribes confirm this logic. Often bribing is needed not to get things done faster but just to get them done.⁵³ This is reflected in public speeches by state officials who condemn colleagues who demand bribes while being understanding toward the bribe givers. However, the Afghan penal code condemns both bribe givers and takers.

Similar contradictions, albeit for different reasons, can be found in views of other types of corruption and among a wide range of actors; for example, with regard to the private sector, the development of which has been one of the building blocks of the Afghan state-building process and which has been seen as a “strategic sector” for state taxation and sustainable development. While corruption is often considered a major obstacle to doing business,⁵⁴ corruption in the business sector may at the same time be justified by the urgency and importance of private sector development.⁵⁵ Policymakers in this field

50 Many respondents in Darwaz (Badkashan, 2005), Andarab and Dahana-i-Ghori (Baghlan, 2005) and Muhammad Agha and Khushi (Logar, 2007) described this practice in interviews.

51 Y. Torabi and L. Delesgues, “Afghan Perceptions of Corruption: A Survey Across Thirteen Provinces” (Kabul: IWA, 2007); Manija Gardezi, “Afghans’ Experiences of Corruption.”

52 Focus group discussion, 2010.

53 Gardezi, “Afghans’ Experiences of Corruption.”

54 World Bank, “Afghanistan: Trade at a Glance Table” (Kabul: World Bank, 2009); World Bank, “Fighting Corruption in Afghanistan: Summaries of Vulnerabilities to Corruption Assessment” (Kabul: World Bank, 2009); World Bank and International Finance Corporation, “Doing Business 2010 Afghanistan” (Washington, DC: World Bank and International Finance Corporation, 2009); Multilateral Investment Guarantee Agency, “Investment Horizons: Afghanistan, an Analysis of Foreign Direct Investment Costs and Conditions in Four Industries” (Washington, DC: Multilateral Investment Guarantee Agency, 2005).

55 For instance, state-owned lands have been provided selectively and without due procurement process to influential business owners in the capital and in Herat, Kandahar, Nangarhar and Balkh provinces. The

may have ambivalent attitudes toward corruption and may have to make difficult choices with complex consequences. Tolerating corruption in the short term may backfire in the medium or long term.

The international community, which also has multiple and often contradictory objectives, is perceived as being ambivalent toward corruption. While it has made increasingly outspoken demands for action against corruption by the GoA, it is alleged to continue to silently or publicly back officials known to be involved in large-scale corrupt practices if they provide security or other developmental benefits.⁵⁶

burgeoning of housing developments and tall buildings belonging to a few big business owners on previously state-owned lands is an obvious example. The Afghan constitution (Article 14) only allows the distribution of lands to “citizens in need” as defined by the law. Even the head of state is not authorised to sell or donate public properties except as provided by law (Article 66).

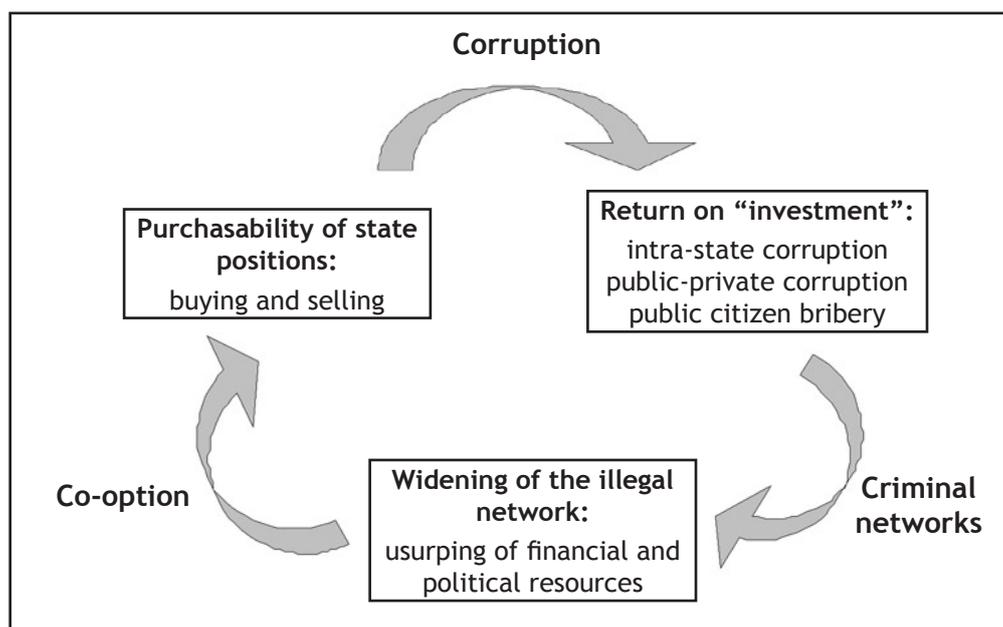
⁵⁶ As regularly reported on Afghan television, Western diplomats have often appeared in the north and the east in public with provincial governors who own private companies and have significant interest in reconstruction contracts or imports. Although allegations of corruption against many of these governors abound, raising the issue is still perceived by respondents to the study as a great taboo.

3. Corruption and Subnational Governance Structures

3.1 The self-perpetuating circle of corruption and power

The central state authorities have depended for centuries on the support of subnational state and nonstate powerholders to cement their own power and control over the territory and to govern at the central level.⁵⁷ Today, there is a hybrid system of interdependent formal and informal powerholders. Despite the high degree of power granted by the constitution to the central state, the national government in reality has limited control over regional and local powerholders. The collection and allocation of resources in provinces and districts is often managed by networks of regional and local powerholders whose main interests lie in maintaining political control and generating financial resources for themselves and their networks. This is partially achieved through a variety of corrupt practices, including large-scale grand corruption, more frequent but lower-scale petty corruption, patronage-based appointments and the buying and selling of positions. Central state authorities often participate in and benefit from this circle of power and corruption (see Figure 1), which not only maintains itself through a mutually beneficial conspiracy of silence but is also perceived as stabilising fragile governance structures. On the other hand, it severely undermines current state-building efforts at all levels, delegitimises the government and international community alike and contributes to fuelling support for antigovernment initiatives.⁵⁸

Figure 1: The circle of corruption and power



57 C. Schetter, *Ethnizität und Ethnische Konflikte in Afghanistan* (Berlin: Reimer Verlag, 2003).

58 This analysis is drawn from interviews conducted between 2005 and 2010.

There is a risk of jumping to the conclusion, in particular when approaching it from a normative or good-governance perspective, that this circle of corruption and power is necessarily a vicious circle. As the previous paragraph and the following sections show, there is no clear evidence that all types of corruption inevitably have a negative impact on governance and state-building at all times. For this reason the neutral term “circle of corruption and power” is used and further explained later in this paper.

As indicated in Section 2, the capturing of state positions as a means to access political and financial resources has become a prominent feature of the Afghan state.⁵⁹ Central-level authorities depend on the support of local and regional rulers to accede to and maintain high-ranking state positions. Provincial and district authorities often depend on the support of both regional and local rulers and—depending on their position—central-level authorities. At the same time, the central government attempts to bring some of the informal regional and local powerholders into formal state structures, both at the central and subnational levels, to neutralise their perceived destabilising powers. In addition, criminal networks strike deals with provincial governors, for example to place their members in state positions. These negotiations may be based on kinship, a common *jihadi* background, *qawm*⁶⁰ affiliation or common economic interests. Ex-*jihadi* commanders sometimes claim to have a legitimate right to a state position on the basis of their high positions during the Soviet-Afghan war or their military power in a particular district or province.

The result of these practices is a complex web of co-optation (which aims at stabilisation) and purchasability of state positions (where an actor spends resources to gain access to another set of resources, via bribery or private-public forms of corruption). With regard to the co-optation agenda, President Karzai used to employ a politically meaningful but somewhat vague term, *maslehat*, to justify his approach to making appointments. *Maslehat* means to “discuss” or “seek advice” and, in this context, to seek stability through inclusiveness and political compromise, even if this carries short-term costs. This position was approved of by the greater public, in particular during the political transition. But as time passed, public expectations of an elected government changed, distrust of the old way of doing business emerged and cynicism grew.⁶¹

The selling and buying of public positions at the subnational level, on the other hand, can be seen as an investment that is recuperated by misusing the position to generate illicit resources. The value of the position of a district police chief, for instance, has been rated according to the amount of resources within reach (from the drug trade, customs, mines, gems, international aid and military contracts).⁶² The return on the investment of buying such a position would be generated through the systematic use of different forms of corruption, such as the selling of lower-level positions or the embezzlement of state funds, for example by retaining a portion of customs payments (intra-state corruption),

59 M. van Bijlert, “Between Discipline and Discretion: Policies Surrounding Senior Subnational Appointments” (Kabul: Afghanistan Research and Evaluation Unit, 2009).

60 *Qawm* is a complex Afghan political and social term which is often too simply translated as “tribe” or “clan.” Based upon the context in which it is used, it can mean an identity group ranging in scope from family to ethnicity.

61 This came out clearly in the interviews conducted for this study and is also obvious in everyday conversations with Afghans about corruption. Public denunciations of political decisions or appointments made on the basis of *maslehat* are now made in every corner of the capital by everyone from shopkeepers to taxi drivers.

62 An official of the Ministry of Interior told one of the authors in 2010 that the position of the district police chief of Bagram, which allows access to the military base of the coalition forces, is being renegotiated between two strong networks, one of them supporting the incumbent. Informal conversations with international military personnel confirm that they are well aware of this practice.

Box 2: The nexus between power networks and corruption in two provinces

In Badakhshan, the president appointed a provincial governor from 2005 to 2009 who was affiliated with Hizb-i-Islami (one of Afghanistan's main Islamist parties), aiming to reduce the power of Jamiat-i-Islami (another of Afghanistan's main Islamist parties) in the province. However, the then police chief was affiliated with the strong networks of Jamiat-i-Islami and was alleged to control the drug routes in the northern parts of the province, on behalf of several people including a member of the provincial council. The police chief was also backed by the most powerful nonstate actor of western Badakhshan, who had been a famous commander of the Jamiat-i-Islami during the *jihadi* era and who was considered by the local population to be the "shadow" provincial governor. This person controlled not only parts of the national army and police, but also seemingly a large militia. Both the provincial governor, who was reputedly one of the big players in the opium economy, and his political opponent, the "shadow" power holder of western Badakhshan without an official state position, were said to have co-opted state actors, such as the police chief, district governors and members of the provincial council to take control of resources such as the drug routes to Tajikistan, the lapis lazuli mines and pastureland that is distributed to nomads. Different forms of corruption, such as the buying and selling of positions, the buying of public officials' acquiescence or silence toward criminal activities and the allocation of public resources to criminal networks, were reported as being used as "currency" by the different networks.

Balkh displays a different system of power relations and networks from the local to the national level. The president appointed a technocratic moderniser as governor in 2002. The rationale for the appointment of this university professor was to dismantle the power position of the predecessor, a regional strongman who was one of the main commanders of the *Jamiat-i-Islami*. Subsequently, the latter, who is said to have had and to still have control over a large militia in northern Afghanistan, destabilised the security situation of Balkh. The new governor, who did not have connections with any of the *jihadi* networks in the province, quickly lost power over the national army, the police and the entire administration.¹ In an attempt to keep government control over Balkh and stabilise the province, the president re-appointed the former governor to his original position in 2004. The province has been relatively peaceful ever since. The former warlord and current governor presumably controls many of the construction firms in Balkh Province, which seem to belong largely to his relatives.² Large construction contracts seem to be mostly assigned to companies in his networks, while companies not belonging to his networks have a reduced chance of obtaining any contracts.

1 Various interviews, 2006.

2 Interview with a university professor in Mazar-i-Sharif, 2009; focus group discussion with members of the provincial administration of Balkh, 2007.

overpaying family-owned companies (public-private corruption) or extracting bribes from citizens in return for the delivery of supposedly free state services. For example, the ex-governor of an important southern province is said to have admitted to receiving US\$1 million a week from import duties and from the opium trade.⁶³

There are similarities in how the circle of corruption and power operates within the vertical networks between the subnational and central levels, but there are also important differences between the provinces. Badakhshan and Balkh, for example, have different political histories, which have led to different governance structures, different power relations between the central and subnational levels, and different patterns of corruption (see Box 2). Balkh is one of the wealthiest provinces of Afghanistan, while Badakhshan is one of the poorest. The existence of different resources created different incentives for corruption and for the creation of networks. Applying a one-size-fits-all

63 Interview with a trader in Mazar-i-Sharif, 2006.

approach would defeat the aim of tackling corruption effectively without aggravating conflict. Province-specific strategies must address the forms of corruption most damaging to state-building efforts and their root causes.

These examples show that the circle of corruption and power feeds into and feeds off the governance and government structures of Afghanistan at all levels. The central state policy of *maslehat* appointments has a direct impact on corrupt networks and practices at the subnational level. Taking into consideration that corrupt practices are mostly not isolated acts of individual choice for self-enrichment but an instrument of achieving group purposes, the networks involved in corruption tend to depend on and protect each other through a conspiracy of silence, as all involved benefit from the system. This situation generates considerable challenges for meaningful anti-corruption efforts.

3.2 Links between corruption, subnational governance and state-building

The state never did anything for us. The mosque, the road, the water channels, everything was built and financed by us villagers. Even security is not guaranteed by the state but by commandans.⁶⁴ How can we legitimise a state which just seeks to extract the little money we have out of our pockets?

Farmer and *shura* head, Badakhshan Province, 2008

This statement vividly illustrates a common perception among the rural people who make up about 80 percent of the Afghan population.⁶⁵ State-citizen relations in Afghanistan, already fraught with profound distrust and alienation due to the long period of war, are further strained by rampant corruption in the fragile post-conflict context. State-society relations are at the core of state legitimacy and performance. Both depend to a large extent on how citizens perceive the state and its responsiveness. The core institutions of the state, such as the police and the tax administration, necessarily are run by the central government, but it is at the periphery that their performance is judged and the legitimacy of the state originates. Crucial services such as health and education are delivered to citizens through subnational institutions, and their performance and legitimacy are also assessed at this level.

Subnational governance was not an issue in Afghanistan until late 2004, when the international coalition ceased to support regional and local commanders who had often been used as supporters in the “War on Terror.” The Bonn process was mainly concerned with the central state institutions in Kabul. Research undertaken by AREU between 2002 and 2004 pointed to the resilience of existing subnational state structures and recommended building on them.⁶⁶ However, policymakers at the centre, national and international alike, did not use this window of opportunity.

The GoA pursued a stabilisation agenda at the national and subnational level, relying mainly on a co-optation agenda that was not well coordinated with the efforts to rebuild

⁶⁴ Security is currently provided by a number of different state and nonstate actors in Afghanistan. In addition to the regular Afghan National Police and Afghan National Army there are, in different regions, *arbakis* or village or clan militia (for example, in Paktia Province), militias in northern Afghanistan that were disarmed during the Disarmament, Demobilization and Reintegration process but have rearmed, and nonstate criminal actors, for example those who secure drug transports by co-opting the state police. This scenario is made more complex by the existence of private security firms.

⁶⁵ See Central Statistics Organisation, “National Risk and Vulnerability Assessment 2007/08” (Kabul: Islamic Republic of Afghanistan, 2009), <http://www.nrva.cso.gov.af>.

⁶⁶ Afghanistan Research and Evaluation Unit (AREU), “A Guide to Government Functioning Outside of Kabul: Early Observations Based on Missions to Herat and Faryab” (Kabul: AREU, 2003); AREU, “A Guide to Government In Afghanistan: Faryab Province” (Kabul: AREU, 2004).

formal institutions. This was illustrated by the *maslehat* appointments of district and provincial governors:

*The government—in particular the President and his entourage—have consistently sought to use senior subnational appointments and patronage-based politics in ways that have undermined a more formalised form of institution building, while paying lip service to the policies that their practices are undermining.*⁶⁷

Selective, personalised and clientelistic practices at the subnational level have alienated the citizens from the state.⁶⁸ In order to engage citizens and avoid foreseeable trends of drug trafficking and state capture by nonstate and criminal entrepreneurs, a series of national programmes were formulated by the Afghan central government and the international community.⁶⁹ The NSP is one of them, aiming to achieve state presence at the subnational and specifically at the community level through the creation of local governance structures. One of the goals of this approach is the replacement of warlords or their gradual conversion into controlled and controllable state authorities at the community level “to stimulate political and economic development.”⁷⁰ But these programmatic interventions do not seem to have affected patron-client relationships at the subnational level. Rather, as discussed above, illicit nonstate actors were often brought into these state-building processes through patronage.

The advantage of patronage-based politics is that it apparently put an end to armed conflict in non-Pashtun provinces in the north. Its greatest drawback at the subnational level has been the consolidation of organised crime. Networks of mutual interest have been strengthened as a few powerful and politically well-connected individuals started to control both the processing and trafficking of opium.⁷¹ While in the past informal actors’ interest in the state was mainly defined by the pursuit of political power, interview evidence shows that organised crime networks have pursued both financial and political power with the aim of controlling parts of formal state institutions such as the police, district governors and to some extent the judiciary. These developments have affected state-building efforts in the sectors of land, energy and imports as interest groups have tried to expand their illicit businesses and make use of their accumulated capital. As a result, the systemic effects of corruption go far beyond traditional subnational governance problems, and policies aiming at countering it have to take these dimensions into account.

Not only do the co-optation agenda and the circle of corruption and power go hand in hand in Afghanistan, but it has also become clear that the manifold abuses of public office by often vertical criminal networks have negatively affected the trust between citizens and the state and undermined the legitimacy of an already weak state administration that has only a partial geographic presence in Afghanistan. State positions are perceived and used as a means to access or maintain power and as resources for enrichment of oneself or one’s group. The degree of state presence and thus the value of the “state uniform” (a formal state position) as a resource varies depending on the political, geographic and ethnic makeup of a province or district.

67 M. van Bijlert, “Between Discipline and Discretion,” 3.

68 Various interviews, 2005-2010.

69 Until 2005 these programmes were grouped under the National Development Framework. Later, the 12 National Priority Programs, including the NSP, fell under the umbrella of Securing Afghanistan’s Future. Since 2006, these programmes have all been part of the Afghanistan National Development Strategy.

70 H.O. Zakhilwal, “Extending Governance Structures beyond Kabul: Progress and Potential for Development Programs—the Case of NSP,” for the Ministry of Rural Reconstruction and Development (Kabul, 2005).

71 S. Lister and A. Wilder, “Strengthening Subnational Administration in Afghanistan: Technical Reform or State-Building?” *Public Administration and Development* 25 (2005): 39-48.

At the local, district and provincial levels, governance structures are characterised by a mixture of formal and informal institutions. Contradictions and weaknesses in these hybrid systems provide opportunities for abuse and corruption, while rent-seeking opportunities, abuse and corruption inhibit the growth of formal state institutions. This creates a mutually reinforcing feedback loop.

Box 3: Badakhshan: The case of Wakhan District

The following example from Wakhan District in Badakhshan illustrates how subnational governance structures have been permeated by corruption, not only alienating citizens from fledgling state structures but also seriously compromising the functioning and legitimacy of local institutions.

In order to understand the current local governance structures in the Wakhan Corridor, it is necessary to look briefly at this border region's history. Its great distance from the central government has protected the activities of its population from regular central state controls. Its harsh environment has made civil service and military positions in the region unattractive to skilled and experienced staff. Prior to the coup d'état of 1979, the appointment of governors to remote districts was used as a penalty. This policy is still used today as a political instrument to strike deals of co-optation and resource extraction by supporting the cycle of position selling and buying.

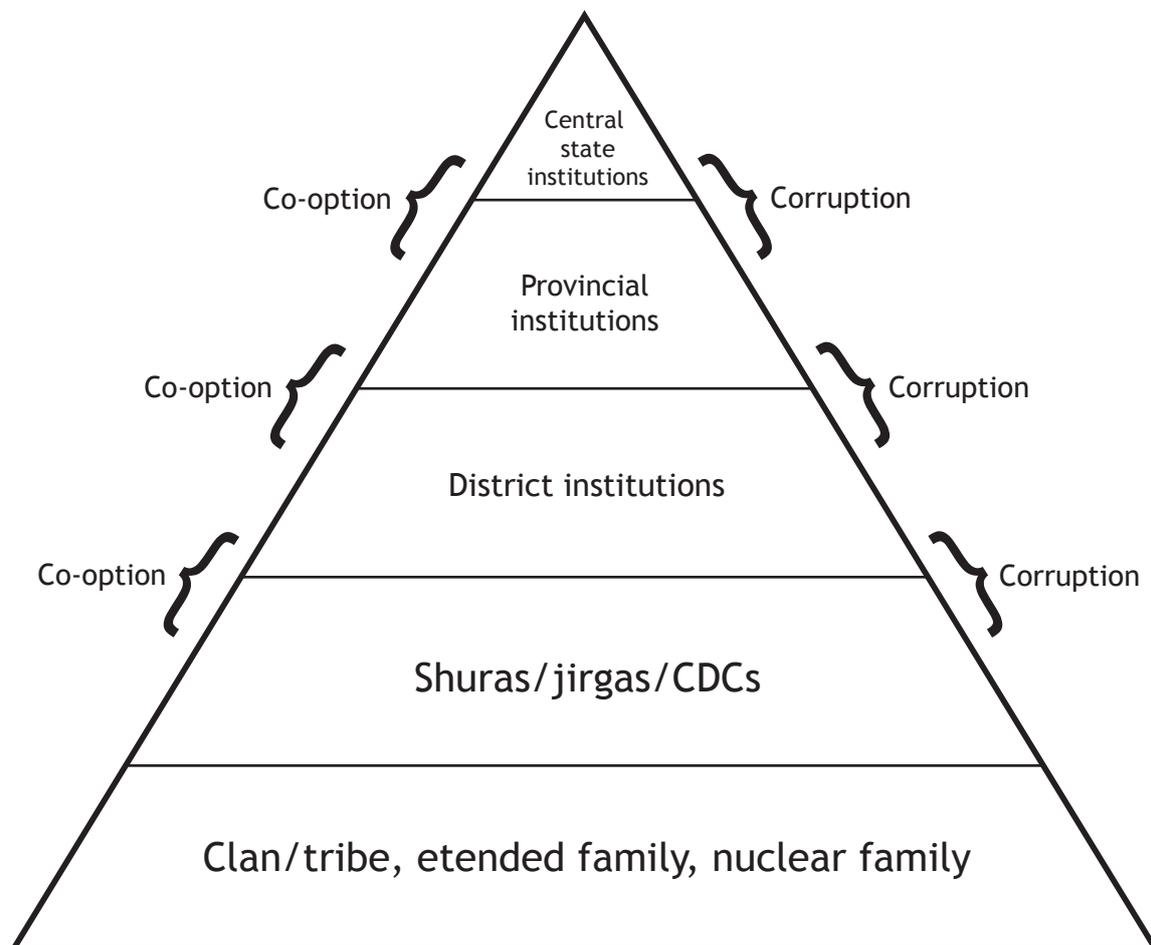
In present-day Wakhan, the district administration appeared, at least until 2008, the time of the last interviews of the authors in the district, to be involved in corrupt practices and drug trafficking. As a result, the Wakhan people tried to avoid interactions with the district administration, in particular the district governor, even in cases of local conflict. Conflicting parties allegedly had to pay bribes to the district governor without getting a solution to their conflict. Then they were sent back to their home villages to have their conflicts resolved by elders. On the other hand, the district governor of Wakhan, who was well connected with big land-owners, is said to have focused on larger-scale corruption, claiming his share of extortion schemes that big landowners imposed on those who were indebted to them. As a drug-addicted farmer said in an interview in Qazideh village in 2005: "I am addicted to opium and therefore indebted. I lost my small land to the district governor. Now I am working on the land I formerly owned, but get paid by the tenant of the governor with opium."

The district governor reportedly also co-opted several CDC heads and deputies in Wakhan by providing them with free opium. In exchange, these individuals were forced to provide the district governor with a share of the block grants and to ensure his influence within the CDCs. By stimulating corrupt behaviours by other institutional actors, the district governor got access to the financial resources of the government, but also undermined the power and legitimacy of the CDC.

From a broader perspective, formal state structures in Wakhan still have a limited, contested presence. A prominent feature in Wakhan continues to be the power of jihadi commanders who have co-opted formal state institutions and exploit and subordinate the Wakhan community. Formal state structures that are introduced and at times imposed by the central government on subnational areas with existing informal power networks, and that are not subject to sufficient oversight and control, like in Wakhan, can become a rich source for corruption and other rents. This can increase the burden on people who do not have *wasita* or political connections to Kabul.

Some of the informal institutions, such as the *shuras*, compensate to some degree for the lack of functioning subnational state institutions, while provincial and district governors and police chiefs often misuse the “state uniform” to cover or conduct criminal activities, thus reinforcing the perceived lack of state presence. As a result, local institutions are still the most trusted institutions to Afghan citizens. But they have suffered serious setbacks due to their infiltration by criminal networks closely related with often abusive state officials. Figure 2 illustrates the importance of the different legitimate institutions in rural Afghanistan and the distance between the village, district, provincial and central state levels.

Figure 2: The remote Afghan state—co-optation and corruption alienates citizens from the state



4. Anti-corruption Approaches in Afghanistan

4.1 How the Afghan government has addressed corruption

The GoA has adopted two distinct approaches to corruption. Both have been influenced by its understanding of the state and of corruption as well as by other factors such as donor support. The two approaches could be characterised as “preventive” and “sanctions-based.”

Prevention

The preventive approach focuses on transparency and integrity, often without explicitly targeting corruption. This involves reform efforts in some of the core state functions such as revenue collection, allocation of resources and financial management. Early improvements in public finance management, for instance, can be considered an important step toward prevention.

Progress in this approach has varied depending on the existence of political will at the highest level of the state, the personality of the ministers responsible for implementing the reforms, and donor assistance.⁷² Institutions such as the Ministries of Finance, Defence, and Rural Rehabilitation and Development, where successful reforms took place from 2002 to 2006, seem to have since become affected by corruption. For instance, the Ministry of Finance has been struggling to collect taxes from private companies. State officials interviewed for this study said that this was due to bribes paid to officials within the ministry. Understating the value of imported merchandise was used as late as 2009 as a technique for reducing customs duties. For example, a Ministry of Finance internal investigation team found in early 2010 that rifles worth more than US\$100 each were registered with a price of US\$6 each.⁷³ Even though significant reform efforts are currently underway in the Ministry of Finance, the absence of credible information about reform implementation helps increase the perception of corruption.⁷⁴ More systematic efforts to prevent corruption in other key ministries or sectors have until recently been absent, with national and international policymakers losing an important window of opportunity to lay the foundations for sustained reform early in the reconstruction process.

Although the preventive approach is crucial to bring about systems reform, attitudinal change and the modification of individual and collective behaviours, it has suffered from a series of shortcomings, seriously limiting its potential impact. Because this approach has dealt implicitly with the issue, largely based on the assumption that greater state effectiveness, efficiency and transparency would prevent corruption, little attention has been paid to understanding the impact of different forms of corruption on the success and sustainability of these reforms. For example, assessments of vulnerability to corruption were only initiated in 2007 in a few sectors and the systematic implementation of their

72 World Bank, “Afghanistan: Managing Public Finances for Development” (Kabul: World Bank, 2005). For instance, procedure simplification for foreign investors that required the establishment of the Afghan Investment Support Agency resulted from a desire to support the private sector as a strategic pillar of the state-building effort. Donors’ insistence coupled with reformist leadership in the financial institutions led to systemic efforts in the Central Bank and the Ministry of Finance.

73 Informal discussion with Ministry of Finance official, January 2010, Kabul.

74 For instance, the recent removal of the head of a state-owned bank by the Minister of Finance was widely perceived as an act of corruption, although the reality may well be different. An official close to President Karzai stated in an interview in Kabul in March 2010 that the removal followed the detection of embezzlement. However, the Afghan media, notably Tolo TV, portrayed it as the sacking of yet another competent state official.

recommendations is still pending. Moreover, the delivery of many public services requires the contributions of multiple state agencies. Reform of the judiciary, for instance, will not achieve results if the police are not also reformed. Relying on the personal integrity of individual ministers may result in problems of systemic accountability.⁷⁵ Also, corruption in the appointment system and its reform has not been systematically assessed or dealt with.

The HOO, an anti-corruption body with preventive and investigative functions, has started to address procedure simplification in order to reduce petty bribery. So far, only one such reform, affecting the car registration process, has taken place,⁷⁶ although the HOO is working with IWA on similar projects.⁷⁷ All of these reforms have focused on Kabul. The expansion of the reforms to the provinces is expected to take place once the pilot programs have been implemented in the capital.

Other efforts to address the concerns of public service users are in an experimental phase. The Ministries of Finance and the Interior, among others, have recently set up complaint boxes and hotlines. While part of the HOO's mandate was to set up a department to centralise complaints about different ministries, it is currently relying on focal points in each of the ministries, delegating the responsibility to respond to complaints to the respective ministerial "integrity system."⁷⁸ But what happens if these integrity systems are nonexistent, dysfunctional or manipulated? Other similar plans, such as a Health Complaints Office, exist currently only on paper.

The preventive approach has been used in a variety of central-level public administration and sector reforms, but it does not seem to have been consciously, much less systematically, used in national programmes and policies operating at the subnational level. The NSP has often been praised for its positive effects on participation, transparency, accountability and to some extent corruption control. Although a more differentiated assessment would be beneficial (NSP has not been free from corruption, see Page 14), it has made valuable achievements in improving state-society relations, trust among the actors and local corruption control. However, other subnational programmes and policies seem to have been created in a sort of vacuum, drastically neglecting to monitor, analyse and address problems of corruption.

For corruption at the subnational level, the Independent Directorate of Local Governance (IDLG), established in 2007,⁷⁹ plays an important role. One of its goals is to eliminate corruption in order to improve the effectiveness, transparency and accountability of

75 For instance, a UN agency recently shifted the funding for an entire program from one ministry to another as a trusted minister moved to the new ministry.

76 Car registration previously included no less than 15 signatures and cost US\$500 for private owners and US\$700 for companies. Although there is no independent assessment of the effectiveness of the reform, participants in this study reported in 2010 that corrupt practices are still prevalent. The Traffic Department, however, announced a significant increase in its revenues and argued that this was proof of the effectiveness of the reform.

77 The idea is to map the procedures involved when the state delivers a single service. Once this process has identified zones with high risk for or actual practice of corruption, the HOO will start working on simplifying the procedures.

78 High Office of Oversight and Anti-corruption, Islamic Republic of Afghanistan, "Complaints and Information Gathering," http://anti-corruption.gov.af/index.php?page=en_Complains (accessed on 18 February 2009).

79 The creation of the IDLG is based on Article 137 of the constitution, which states: "The government, while preserving the principle of centralism, shall delegate certain authorities to local administration units for the purpose of expediting and promoting economic, social, and cultural affairs, and increasing the participation of people in the development of the nation."

the government at the subnational level. However, to date it enjoys little trust of the Afghan public and is not even known to more than half of the population.⁸⁰ Also, the IDLG was alleged to have been heavily involved in supporting President Karzai's electoral campaign, a matter that was criticised by the media and by other candidates. Many governors were reported repeatedly by Afghan television stations in July and August 2009 as acting as provincial campaign managers for the president.⁸¹ On a more positive note, the IDLG has a politically and technically competent leadership and has been able to channel resources to the subnational level, draft the subnational governance policy in a consultative manner and put in place mechanisms to ease the relationship between governors and citizens. As a close observer of IDLG said, "Faryab's governor now holds regular public meetings with citizens and tries to find out solutions to their problems" in more transparent and accessible manner.⁸²

The subnational governance policy deals with corruption in a simplistic and rather inadequate way. The underlying drivers of corruption are ignored, and corruption is assumed to be controllable through a programmatic approach independently of its determining factors.⁸³ Yet none of the suggested measures address the issues of patronage-based appointments of provincial and district governors and corruption within security institutions. An additional serious problem is that policymakers do not seem to have drawn the lessons from prior missed opportunities to address corruption at the national level. Corruption is still considered by the IDLG as a secondary problem for governance and stability at the subnational level.⁸⁴ Similarly, the Afghan National Development Strategy of 2006 aimed to significantly reduce corruption at the subnational level only by the end of 2013 and without specifying any intermediary benchmark.

From a responsive state-building perspective, few efforts seem to have been made by the GoA to explore which kinds of corrupt and abusive practices Afghan citizens expect to be addressed by the government, both in terms of the impact on their personal lives and in terms of their expectations for a functioning and legitimate state. Also, since corruption has emerged as an issue on the public agenda, an important element has been missing: a focus on increasing the role of citizens in monitoring the state and holding its officials to account.⁸⁵

Sanctions

The sanctions-based approach is intimately linked to the establishment of specialised anti-corruption bodies. The first anti-corruption institution, the GIAAC, was established at the end of 2004 and coincided with the end of the transition period.⁸⁶ As early as

80 IWA's 2010 survey.

81 This was confirmed in interviews with several sources in the campaign offices of the two main candidates.

82 Various interviews, 2010.

83 The subnational governance policy considers a series of measures for curbing corruption at the subnational level. These include free access to information, awareness raising, complaint offices placed under the authority of the elected bodies, use of electronic tools, protection of whistle blowers, external and internal audits, enhancement of financial management, and standard procurement. Independent Directorate of Local Governance, *The Subnational Governance Policy*, draft, summer 2009, 216-18.

84 Government of Afghanistan, "Strategy Paper on Launching of the Independent Directorate of Local Governance" (Kabul: 2008).

85 For example, the current governmental anti-corruption strategy, developed by a high-level presidential commission under the leadership of Chief Justice Azimi, did not provide for consultations with civil society organisations or citizens.

86 While the GIAAC had the legal mandate to investigate all cases of bribery and corruption, it focused

2005, it became apparent that the government's anti-corruption effort ran the risk of being politicised.⁸⁷ Former employees of GIAAC, interviewed for this study, noticed that their efforts had been directed toward a specific province whose governor had a difficult relationship with the president and the head of the GIAAC at the time. The GIAAC was disbanded by parliament in 2008, partly in reaction to the refusal of President Karzai to dismiss its last director, who had been involved in multiple scandals, including a conviction for drug trafficking in the United States.

The HOO was created in late 2008. It had a weakness from which GIAAC had also suffered: it had to rely on law enforcement agencies to investigate and prosecute corruption cases. This has undermined the very function for which the agencies were created. Pressure by the US and UK governments as well as other donors led to a plan to establish a specialised anti-corruption tribunal and to hire attorneys specifically dedicated to anti-corruption investigations. At the London Conference on Afghanistan in January 2010, the GoA committed to expanding the authority of the HOO to oversee the investigation and prosecution of corruption cases. The decree of March 2010 that amended and slightly reinforced the powers of the HOO was expected to bring change. However, the HOO is still dependent on the judiciary and the police for law enforcement. It can only conduct the primary investigation before submitting the case to the Attorney General. The law compels other state agencies to coordinate and cooperate with HOO, but it is not clear if such efforts will bring about the desired effects. The chief concern is the security of individuals fighting corruption, but concern also remains about the risks of political manipulation.

As the sanctions-based approach to high-level corruption cases continues to attract the most attention from anti-corruption policymakers, there is a risk that the smaller-scale corruption that affects the majority of Afghan citizens will not be effectively dealt with. To respond to this concern, the GoA promised to adopt a whole-of-government approach, encompassing prevention and sanctions, which will require all government entities to identify three priorities for action on corruption.⁸⁸ This evokes, however, a sense of *déjà vu*. The Azimi report, elaborated by multiple public agencies under the leadership of Chief Justice Azimi between 2006 and 2008, adopted a similar approach. It became the National Anti-corruption Strategy of the government in 2008 and was integrated into the Afghan National Development Strategy as a cross-cutting issue paper. However, many of its recommendations have not been translated into practice yet and prioritisation has been lacking.

4.2 Ambitious commitments, ambivalent actions

After the 2009 presidential election, which was widely perceived to have been fraudulent on a large scale, and the 2010 London Conference, the government of Afghanistan has made more ambitious public commitments to address corruption. In his oath-taking

on the cases of grand corruption of the strongmen as an "internal and informal rule." Cases that GIAAC investigated reportedly involved more than US\$1 million and Karzai himself was considered supportive of documenting these corruption cases. Various interviews, 2006 and 2010.

⁸⁷ On rare occasions, investigations were dropped for national security reasons. Out of 72 cases involving former warlords, governors and ministers, only 24 ended on the table of the attorney general for further investigation. In addition, Karzai reportedly issued instructions to the attorney general's office not to pursue certain cases, supposedly because of their destabilising effect. The president seems to have been caught in a dilemma: needing to ensure the success of the Bonn process and at the same time to needing to minimise the potentially destabilising effect of corruption.

⁸⁸ Government of Afghanistan, "Presentation of the Afghan Delegation to the London International Conference on Afghanistan" (Kabul: 2010).

ceremony, for instance, Karzai renewed the GoA's commitment to building a public administration free of corruption. Yet the symbolism of the ceremony revealed strong contradictions with the public statements.⁸⁹

At the London Conference, the GoA's public pledges again raised a mix of hopes and concerns. According to the government's anti-corruption concept note presented at the conference, its efforts would focus on six areas, none of which is aimed at seriously strengthening state-citizen accountability.⁹⁰ But only the areas of financial accountability and the administration of land explicitly refer to some extent to the role of citizens and civil society in building accountability and integrity. However, the GoA also promised at the London Conference to further concentrate on the simplification of administrative procedures and to independently monitor the effectiveness of reforms.⁹¹

The concept note briefly discussed corruption at the subnational level and emphasized the need for police reform and for unspecified "mechanisms for hearing and acting on legitimate community grievances." However, it neglected to address the participation of individual citizens and civil society organisations in political and administrative processes.

The final communiqué of the London Conference made detailed reference to the GoA's commitments related to corruption, integrity and governance. Yet these reflected the concerns of the GoA and donors rather than the daily preoccupation of Afghan citizens, who are mainly concerned with corruption in basic public services, notably the provision of justice and security, which the London Conference commitments did not sufficiently address.⁹² The communiqué also contained the GoA pledge to provide improved government services at the subnational level and urged "the international community to provide additional support to train 12,000 subnational civil servants in core administrative functions in support of provincial and district governors by the end of 2011."⁹³

Corruption has clearly become one of the major issues on the political agenda in Afghanistan. Efforts to address this multifaceted problem have been considerably increased by the GoA, the international community and Afghan civil society over the past

89 The patrons of Afghan politics, who bear significant responsibility for the expansion of corruption, sat in the front rows. Karzai praised the "effective management of the IEC [Independent Election Commission]," whose staff was alleged to have been partially responsible for massive frauds. He did not refer directly to the work of the Electoral Complaint Commission, which had investigated and invalidated over one million fraudulent votes.

90 The pillars include: governance of natural resources building on the principles of the Extractive Industries Transparency Initiative (EITI); increasing the financial accountability of the state in order to channel within the next two years 50% of the aid money through the government systems; addressing the smuggling of goods; tackling corruption in the administration of land; contracting of the delivery of goods and services; and improving counter-narcotics.

91 "[The] business processes of the government, particularly in the areas of intense interaction between the government and citizens, will be reformed and simplified. Time bound targets will be developed to address procedures in the following six areas: i) passport; ii) driving license; iii) the selection and participation in the Hajj; iv) education admission and degree issuance procedures at Kabul University and other key high education institutions as well as recognition of foreign degrees; v) public procurement systems; vi) government permits, especially in the construction sector. Citizen report cards carried out in collaboration with responsible independent NGOs and other institutions will be used both before and after the reforms to provide a user perspective on the efficacy of changes." Government of Afghanistan, "Presentation of the Afghan Delegation."

92 IWA's 2010 survey.

93 Paragraph 20; the London Conference Communiqué is available at <http://afghanistan.hmg.gov.uk/en/conference/communique>.

two years. Yet these efforts continue to have shortcomings which may well be ignored in the rush to show quick results in a field in which, by definition and international experience, it takes a long time to bring about positive change. The final section of this paper aims to stimulate informed debate on how to address corruption at the subnational level. In view of the tremendous complexity and systemic nature of corruption, this paper can only touch the tip of the iceberg. It invites national and international policymakers to engage in a thorough reflection about such central questions as which forms of corruption should be addressed as a priority, what the primary goals of anti-corruption efforts should be, and how they should be carried out.

5. Implications and Challenges

Corruption in Afghanistan is largely used as an instrument to acquire and maintain political and economic power at all levels of the state administration. It has permeated formal and informal institutions from the central to the village level, and it is growing. It threatens the increasingly fragile political settlements, negatively affects the delivery of core state services and jeopardises the legitimacy of the Afghan state and the international community alike. Its forms, manifestations and drivers are manifold and vary at the subnational level according to the political context, the geographic location, economic activities and socio-cultural environment of the provinces, districts and at times even villages. At the same time, policymakers in Afghanistan still seem to tolerate certain forms of corruption and consider them instruments to secure stability, in particular at the subnational level. While corruption at the central level has started to be researched, the changing patterns, drivers and networks of corruption and the links with criminal networks at the subnational level are not yet well understood or researched.

Efforts to address corruption at the subnational level in Afghanistan seem to suffer a similar fate to those pursued with more public fanfare since 2008 at the central level: state-building efforts consider corruption as a secondary problem, and the relevant policies and programmes do not systematically develop strategies to address the different forms in an appropriate way. Opportunities are lost to integrate an anti-corruption dimension with a state-building perspective into the increasing number of subnational-level policies, programmes and projects.

This final section summarises the main issues that national and international policymakers should take into account when designing subnational state-building and anti-corruption approaches in Afghanistan. It also raises crucial issues that require further multi-stakeholder deliberation and research before concrete policy recommendations can be developed.

5.1 Understanding corruption

The importance of context-specific and conflict-sensitive policy development is widely acknowledged in theory, but this recognition has not yet progressed from words to deeds, partly because of insufficient knowledge about corruption in Afghanistan and its patterns, drivers, causes and consequences within a context of resurging conflict. As a recent Organisation for Economic Co-operation and Development (OECD) report stated:

The challenge in post-war environments is to target the types of corruption which, if not addressed, can derail the entire transition and to layer transparency, accountability and anti-corruption throughout the central state building processes in a way that reinforces stability and builds trust in state-society relations.⁹⁴

In this regard, policymakers in Afghanistan need to consider the following issues:

Contextual analysis that combines state-building and anti-corruption perspectives is an indispensable prerequisite for policymaking.

Although certain forms of corruption, especially petty corruption in the health, education and energy sectors, may be similar in their manifestations and drivers across

94 Hussmann and Tisné, “Integrity in State-Building.”

Afghanistan, other forms of corruption used as instruments for political and economic power tend to follow different patterns in different provinces. A clear understanding of the underlying causes, political dimensions and network structures of corruption, as well as the links between subnational power-holders and central state authorities, is crucial for the design of effective and conflict-sensitive anti-corruption measures. Finally, citizens' views on acceptable and intolerable practices matter. Their beliefs and values need to be taken into account when designing anti-corruption policies to increase the legitimacy of the state.

The forms of corruption that delegitimise the state most need to be identified and addressed.

Although corruption is endemic in Afghanistan and combating it requires a holistic approach, priority setting and sequencing is crucial in this massive task. Focusing on state building, policymakers should aim to identify those forms of corruption that are most harmful to and opposed by Afghan citizens. This may well leave out certain types of grand corruption and thus conflict with the priorities of certain parts of the international community. Policymakers should ensure that anti-corruption efforts themselves enjoy broad support and legitimacy in the eyes of the population.

Different forms of corruption may be stabilising or destabilising in different provinces and districts, and these patterns are likely to change over time. Ongoing assessments are needed to keep track of these distinct situations.

Traditional anti-corruption mechanisms are insufficient because many corrupt practices are not isolated individual acts but instruments for the benefit of groups and networks.

This study has shed light on the complex and multilayered web of power networks that dominate Afghanistan's subnational governance structures. Corrupt practices, particularly those that damage the legitimacy of the Afghan state, are often carried out not to enrich an individual but to benefit and empower a group. Hence, standard anti-corruption mechanisms do not seem to offer sufficient solutions. A conspiracy of silence among participants in corruption schemes further complicates the scenario. Framing corruption not only as an act of individual choice and an aberration of the norm but as an instrument of group power and part of the current norm will be helpful in the search for adequate countermeasures.

Discrepancies between legal and socio-political definitions of corruption need to be overcome.

Corruption is currently framed in terms of its historically established forms, such as bribery, embezzlement or classic corruption in procurement, that have a specific term, a legal definition and a sanction. Emerging forms of corruption such as money laundering, sexual extortion, influence trading and political corruption are largely ignored in legal reforms and law enforcement. For instance, establishing business monopolies through collusion with high officials is hardly considered a form of corruption. Such practices will, at most, result in a fine for the business owner, while practices more widely recognised as corrupt may result in imprisonment.⁹⁵ Given that the newer forms of corruption

⁹⁵ Another example of new forms of corruption in Afghanistan is the corruption of political elites who engage in the drafting of a law or the establishment of power relations with a view to personal or group benefits. Mid- and high-level officials only have a basic understanding of what political corruption means.

are socially rejected and have a negative effect on state legitimacy, they should be integrated into future anti-corruption efforts at the national and subnational levels.

Not all practices that are defined by Afghan or international law as corrupt are considered corrupt by those who implement the laws. For years, the highest level of public officials displayed a more tolerant attitude toward corruption than the Afghan laws allowed for.⁹⁶ The discourse of the GoA and individual public officials has changed over the last eight years, but a limited, often narrow or vague conception of corruption among public officials still hinders reform. Bringing legal, political and social definitions of corruption in line is an essential ingredient for effective reform.

A shared understanding on corruption needs to be forged between different subnational stakeholders.

Building a shared understanding on corruption among different stakeholders in the provinces is the basis for policy development, programming and project management, but it will be a challenge. For instance, the GoA will have to engage with Provincial Reconstruction Teams of different nations who have their own understandings of corruption and anti-corruption efforts in Afghanistan. Suspicion needs to be overcome, and the GoA's prioritisation and workplan needs to be understood. For instance, there is a need to explain to many stakeholders why the judiciary and the police, which are considered the most corrupt institutions at the subnational level, are not the focus of anti-corruption efforts.

5.2 (Re-)thinking the approaches to address corruption

The following measures could contribute to a more effective anti-corruption effort at the subnational level.

Define the overarching goals of anti-corruption work with a state-building focus.

While most anti-corruption efforts in developing countries have focused either on reducing poverty, boosting economic growth or strengthening the rule of law, anti-corruption efforts in fragile post-war states need to pay specific attention to state building. Policymakers do not need to reinvent the wheel, but they should carefully review the overarching goal of anti-corruption work to ensure that it focuses on improving the trust between citizens and the state, strengthening core state functions so as to respond to citizen expectations and strengthening the legitimacy and stability of the state. Because citizens are most affected by corruption at the local level, emphasis must be given to local manifestations of corruption. Such an approach entails a review of the current approach to transparency, accountability and anti-corruption, as well as the strategic selection of appropriate tools.

Address grand and petty corruption at the same time. In tackling grand corruption, strike a balance between stability and legitimacy considerations.

A more systemic view on corruption is needed. The often-cited differentiation between grand and petty corruption is misleading. Small-scale corruption by low-level civil servants has multiple linkages with grand corruption by higher-level officials. The two forms of

Similarly, classic forms of corruption in public procurement are identified by public officials as such, while more complicated forms, such as state capture, are not seen as corruption.

96 IWA, "Reconstruction National Integrity System Survey" (Kabul: IWA, 2007).

corruption often justify, reinforce and sustain each other in a circle of corruption and power (see Section 3). In the view of Afghan citizens, small-scale bribery cannot be addressed effectively and legitimately without tackling grand corruption. Impunity for individuals and networks engaged in grand corruption sets the wrong example for those who engage in petty corruption such as bribery. Afghans often refer to a Dari proverb to describe the dilemma and their own powerlessness: “What can we do when the water is muddied from the source?” In their minds, a sanctions-based approach to corruption should start by penalising the most powerful.

However, tackling grand corruption is difficult because of the perceived risks to political processes, including power-sharing arrangements. As previously stated, national and international policymakers have for a long time considered fighting corruption to be less urgent than achieving security and stability, and Afghan authorities have been reluctant to challenge the impunity surrounding grand corruption. There is a need, though, for a more transparent and accountable way of assessing the risks of instability in order to avoid, to the extent possible, manipulation by criminal and corrupt networks.

Strike a balance between criminal sanctions, administrative sanctions and prevention.

Sanctions-based anti-corruption efforts are likely to be challenged more at the subnational level than they have been at the national level. Political decision-makers may be unwilling to implement such an approach equally in all provinces, notably concerning the “big fish. Countering risks of instability in many regions and making current power-sharing arrangements work are likely to be considered more important than addressing corruption. Absence of law enforcement capacity will be another challenge to imposing a sanctions-based approach in many provinces. Administrative or political sanctions such as demotion could provide an alternative to legal sanctions for public officials convicted of corruption. Demotion in particular could be applied if public officials are caught red-handed or if they are unable to justify their lifestyle. In addition, as discussed earlier, a preventive approach with a state-building lens should be integrated into all core policies and programmes with relevance to the subnational-level administration.

Supplement prevention- and sanctions-based approaches with social accountability.

Highly publicised national-level anti-corruption efforts, negotiated over the last two years between the GoA and the international community, have failed to include citizens. When anti-corruption efforts are designed for the subnational level, this should be acknowledged as a lesson learned. Citizens and civil society organisations should participate in the design and monitoring of such efforts.

Donors’ anti-corruption support to civil society has been limited so far. Most funding seems to go to the HOO. There is a need to decentralise this funding in order to allow a variety of actors to contribute to anti-corruption efforts at the central and subnational levels.

Anti-corruption efforts currently focus on strengthening formal institutions and procedures, neglecting the many interlinked informal drivers of corruption that need to be tackled through drastic reforms. Legitimate informal institutions at the subnational level (including *shuras*, *jirgas* and *arbabs*) should also be much more systematically integrated into anti-corruption efforts. While these are mainly community-level institutions, existing mechanisms could be extended to the district level in order to hold state officials accountable.

Supplement the emphasis on anti-corruption agencies with solid mainstreaming and the clarification of roles and responsibilities.

Too much hope and expectation have been placed on specialised anti-corruption agencies to fight corruption. Corruption affects every institution and sector at all levels of the Afghan administration. Making one or a few institutions responsible for reducing systemic corruption is not likely to succeed. On the other hand, the disconnection between policy analysis and policy development has often resulted in stand-alone anti-corruption projects, while a systematic anti-corruption mainstreaming approach (the integration of an explicit analysis of corruption and the design of appropriate prevention, detection and sanction mechanisms into relevant reform policies and programmes) has not taken root as yet. Most sector policies and reform programs also do not build on a complete understanding of corruption. Explicit, context-specific and conflict-sensitive corruption diagnostics framed with a state-building perspective should be integrated into all relevant subnational policies and programmes. Similarly, measures to address the most relevant forms of corruption for specific sectors or institutions should be mainstreamed with a shared responsibility for progress.

Currently, the HOO does not seem to have a specific vision on how to address corruption in provincial and district governor offices. There seems to be the understanding that this falls into the mandate of the IDLG. At the same time, there are tensions between the Civil Service Commission and the HOO with regard to their respective responsibilities to reduce corruption in appointments and to simplify procedures. The roles and mandates of each institution should be more clearly delimited. Instead of focusing attention on just one anti-corruption institution, capacity should be built and incentives offered for coordination between all relevant institutions.

Link subnational and national anti-corruption efforts while remaining mindful of the different considerations at each level.

Current anti-corruption approaches reflect the mindset of the centralised state elites and are not necessarily useful at the subnational level. (Their usefulness at the national level is also still to be proven.) Asset declarations of public officials to allow for the prevention of conflicts of interest and lifestyle monitoring will not have significant effects at the subnational level, where reducing corruption in service delivery will be the most relevant approach. While developing core public institutions should be kept as a long-term preventive approach, there is an urgent need to address corruption within line departments at the subnational level.

The simplification of procedures started in Kabul and will be replicated in provinces on the assumption that what is good for Kabul is also feasible there. It is assumed that similar procedural reforms will take place in the same way everywhere. This does not take into account informal networks, institutions and dynamics that are likely to generate different types of resistance in different locations.

The HOO is unlikely to have the capacity, political support, mandate and human and financial resources to address corruption in every state institution at both national and subnational levels. Its trajectory since its establishment has already shown institutional, statutory and budgetary deficits. Moreover, international experience shows that anti-corruption commissions do not always succeed and that they often have a particularly poor record at the subnational level.

The goals of anti-corruption efforts at the subnational level should be made clear and should not contradict national anti-corruption goals.

The current donor-supported efforts to strengthen subnational governance, focussing closely on local, traditional institutions, may create parallel power and administrative structures. Anti-corruption efforts at the subnational level are likely to face similar challenges. It is unclear how current isolated anti-corruption efforts through subnational-level programmes are linked with central-level approaches and institutions. It is equally unclear how the GoA's recent political commitments to fight corruption will be translated to the subnational level.

Donor agencies should lead by example.

Certain practices and behaviours of the international community are perceived to have further fuelled corruption in Afghanistan. A first step to addressing these issues should be to launch comparative research into the question of whether and how international practices have fuelled local corruption (conceived in terms of both international and local definitions of corruption).

To address the perceptions of corruption in aid, increasing transparency by international actors could help empower Afghan citizens and address grievances while simultaneously reinforcing state legitimacy. The easiest step for donors to take in improving state-society relations is to lead by example. Just as governments need to produce a Budget in Brief in language citizens can understand, donors could provide a Foreign Aid in Brief document that improves the transparency of the pledges, disbursements and outputs of donors and implementing agencies. Leading by example could become a leitmotif for donors in other crucial areas related to the integrity of their engagement in Afghanistan. They could consistently involve beneficiaries in the design and monitoring of aid-financed projects; put greater emphasis on building or strengthening cultures of integrity within their own organisations and those of the partners they work with (including explicit training on integrity, on-the-job coaching and participatory monitoring); create shared databases on reference prices of local goods and services, including rents for properties; and support the creation and maintenance of spaces in which state and nonstate actors can meet and engage in constructive dialogue.

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