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MAKING GOVERNMENT ACCOUNTABLE TO THE PEOPLE

4

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A. Introduction

4.1 Afghan citizens have two channels through which they hold the government to account: the direct channel of elections and the indirect channel of checks and balances on the executive's abuse of power. These restraints on the executive are exerted formally by the National Assembly (NA), Control and Audit Office (CAO), and independent agencies at arm's length from government; while the media and civil society organizations (CSOs) comprise a less formally organized oversight mechanism. This chapter will mainly explore the latter indirect means of citizens' control over the executive i.e. public accountability, which requires the executive to explain and justify its decisions and actions to citizens, who can pose questions and pass judgments. Although very far from a reality in Afghanistan, the judiciary is meant to be protecting the rights of citizens (and the executive as well). As Afghanistan's political systems are still evolving, the media and CSOs have the potential to become important means of self determination and self expression, providing citizens the opportunity to engage more fully in political and economic decision making.

4.2 Public accountability is a critical element of PAR, whose objective is to bring security and services to the people. Through sharing of information and feedback between the government and citizens, reform's progress against its objectives can be checked by both on a continuous basis without waiting for the next election. Public accountability is closely linked to the other two elements of PAR that were discussed in the two preceding chapters. The executive's accountability is closely linked to the first PAR element (Building an Effective Civil Service, discussed in Chapter II) because it is the means by which the

public puts pressure on elected and appointed public officials to serve the public's interest instead of their own. Government's accountability to its people is linked to the second PAR element (Local Governance and Service Delivery, discussed in Chapter III) because it is at local levels and through delivery of public services that citizens interact most often with Government.

4.3 But public accountability is the least advanced among the three elements of Afghanistan's PAR strategy. The legal framework is uncertain and unenforceable, while the judiciary is virtually absent. Insecurity and intimidation prevent even oversight agencies from performing their functions in some provinces. In these places, law enforcement agencies cannot make arrests without agreement from the local strongman. Political interference—from members of the Cabinet, parliamentarians, and provincial counselors—hampers all stages of the Attorney General's investigation and prosecution process⁶⁵. Members of the Afghanistan Independent Human Rights Commission were threatened when the Commission issued reports on abuse of power by those in the Government⁶⁶. Large sums of donor assistance, almost three times what the Government itself earns in revenue, is spent on reconstruction activities; and about half of it flows outside the national budget⁶⁷.

B. Bringing Public Accountability to the PAR agenda

4.4 The direct election channel of public accountability was exercised in September 2005 when more than 6 million Afghans went to polls to elect the lower house of the National Assembly (*Wolesi Jirga*) and 34 Provincial Councils. The 249-member directly elected

⁶⁵ UNDP 2007b.

⁶⁶ See, for instance, statements from Human Rights Watch at <http://www.rferl.org/featuresarticle/2005/10/ac3308eb-df83-4738-9f6a-ef0b86e9a8fa.html> at Esfandiari 2005.

⁶⁷ In SY 1385, actual domestic revenues were \$580 million. Donor assistance to the core operating budget was \$380 million, to the core development budget \$320 million, and to the external budget \$743 million.

lower house, and the 102-member upper house (*Meshrano Jirga*) comprise Afghanistan's National Assembly (NA). Within four years of the Bonn Agreement, Afghanistan had had a Presidential election (2004), an elected National Assembly, and officially established bodies for oversight of the executive⁶⁸.

4.5 While the direct channel of public accountability was developed quite quickly, the indirect channel had a necessarily slow start in Afghanistan's PAR agenda. In 2002, at the start of rebuilding Afghanistan, humanitarian and reconstruction needs were so immense and immediate, and government's capacity so sparse relative to the challenge, that the objective of donor-assisted reconstruction was to first get the system back on its feet before fine tuning its performance. Even the World Bank, which supported development of Afghanistan's public financial management systems, began funding treasury functions (2002) before turning its attention to a procurement law (2004). Thus, the extreme "capacity deficit"⁶⁹ inevitably ignored the "accountability deficit."

4.6 Security and stability so overwhelmed reconstruction needs during the early days of reconstruction that it detracted government's and donors' attention from public accountability issues. Military assistance vastly outweighed developed assistance, at an estimated ratio of 10:1⁷⁰; and this asymmetry was reflected in Government's strategies. Good governance was one of the three pillars of the National Development Strategy. But, the government's 2004 economic development strategy⁷¹ concentrated only on the core of public administration, (the center of Box 1.1) by choosing security, an effective civil service, and good budget management among focus areas of governance, and omitting institutions of public accountability and the fight against corruption. Investment in media was clubbed with culture and sports, with the hope that these would help 'create an open society and revive the cultural diversity of the country.' The security sector received a high level of donor assistance (\$3.9 billion during 2003-06), with its major part (79 percent) remaining outside the core national budget. Developing security forces was

Box 4. 1: The 2005 Parliamentary Elections in Afghanistan

The Joint Electoral Management Body (JEMB), consisting of 9 Afghan members, 4 international members plus the (non-voting, UN-appointed) Chief Electoral Officer had overall authority for the 2005 election. Actual implementation of the election was the responsibility of the JEMB secretariat, headed by the Chief Electoral Officer.

The technical and logistical challenges of conducting the elections were formidable. The Taliban had threatened to disrupt the election. A combination of international military forces, the Afghan National Army, the Afghan National Police, and the National Security Directorate provided election security.

The Electoral Complaints Commission, an official, independent body established by electoral law to handle electoral grievances, examined 5,397 registered complaints. Forty five candidates were rejected because scrutiny of their nomination found evidence of connection with armed groups, or for not giving up their government jobs. The Media Commission, set up under electoral law, had the mandate to ensure that voters had an opportunity to make an informed choice when they voted.

The strong performance of female candidates characterized these elections. The Afghan Constitution guarantees 27 percent lower house seats, and election law guarantees 25 percent Provincial Council seats for women. However 19 women in the *Wolesi Jirga*, and 29 women in Provincial Councils won their seats in their own right, and ended up not needing the quota provisions of the Constitution and election law.

Source: Wilder 2005.

⁶⁸ The upper house is meant to have one-third of its members elected from within each of the Provincial Councils, one third from the District councils, and one third are to be appointed by the President. As district elections have not been held, and are unlikely to be held anytime soon, a Presidential decree was signed authorizing each provincial council to elect a transitional upper house member in addition to their regular member until district elections can be held.

⁶⁹ Cliffe and Manning forthcoming.

⁷⁰ Lockhart 2006.

⁷¹ Islamic Republic of Afghanistan and International Agencies. 2007. The ADB, UNAMA, UNDP and the World Bank helped prepare the report *Securing Afghanistan's Future*. It can be seen at

essential to good security on the ground. But security forces' effective management and oversight by civil authorities, which was lost during the long period of conflict, was slow in returning. The Ministry of Defense's organizational restructuring and institution-building remained outside Government's reform arrangements. During these early years, the justice sector received very few resources⁷². Thus, the "security deficit"—like the capacity deficit—ignored the accountability deficit.

4.7 Donors' short-term reconstruction priorities were not compatible with the long-term effort required to build institutions of public accountability. For example, in the education sector, donors helped to reconstruct / rehabilitate 3,516 schools during 2002-2005⁷³, but it was only in 2006 that school management committees for community oversight of schools became part of the sector's strategy, whose preparation was supported by donors. Many donors channeled their support through the external budget using NGOs and private contractors. The Control and Audit Office estimates the amount of donor assistance spent through NGOs and private contractors during the past five years to be about \$11 billion. Most of these funds have never been audited, while many audit reports have remained with donors only⁷⁴.

4.8 Past social and cultural traditions partly explain the absence of formal accountability institutions during the conflict years and even before it. While Afghan society's traditions have included informal checks and balances, the first Constitution of 1923 did not introduce formal checks and balances on the King's powers. This was reinforced by the 1964 Constitution, which while giving the status of a Constitutional body to the traditional *Loya Jirga*, also gave the King the power to dissolve it. In the 1977 Constitution, the Party was the guarantor of power and all branches were accountable to the party, including the President. Throughout the turbulent times, the *Shari'a* continued to be the source of Afghan law. No elections were held during the Taliban period because (they explained) the *Shari'a* did not allow politics or political parties. Instead of an election, their leader's legitimacy came from *Bay'ah* or oath of allegiance in imitation of the Prophet and early Muslims.

C. Improving the Effectiveness of Parliament and the Judiciary

4.9 Although formal oversight organizations have been set up, a broad understanding of their roles and functions is still evolving. These institutions are as much affected by institutional weaknesses as executive organizations: absence of clear legal framework, lack of understanding of legal provisions and organizations' mandates, and little coordination among government organizations. Insecurity deters the voice of dissent. In addition, a huge obstacle to these oversight organizations is citizens' general lack of trust in individuals and institutions. Respondents of a 2006 World Bank-sponsored survey in 32 provinces reported much higher trust in extended family and village elders than in central government, provincial governors and provincial councils. Given the years of conflict and the on-going resource-scarce environment which produces extreme competition for resources, it is almost impossible to get people to believe that decisions are made for objective reasons, rather than for personal, tribal, or ethnic ones. The perception is exacerbated when these organizations' members display their unwillingness to follow laid-down mandates and procedures.

4.10 During its first year, the National Assembly started asserting its role of oversight on executive power. It interviewed the nominees for Cabinet and rejected 5 out of the President's 25 nominations requiring him to make fresh nominations. It also rejected the President's nominee for Chief of the Supreme Court and three other nominations for the 9-judge bench. However, parliamentary scrutiny of the Government's budget and accounts has been impeded by NA members' unfamiliarity with presentation of public financial management information, and passing of the SY 1385 and SY 1386 budgets by the NA were delayed by several weeks. In SY 1385 parliamentarians refused to pass the budget until Government committed to raise civil servants' salaries and martyrs' pensions. The NA receives the annual report of audit of Government accounts from the Control and Audit Office, but it has no established system of scrutiny and response for audit reports.

⁷² In World Bank 2005e, the Bank reported that during 2002-05, Government's expenditure on the justice sector (the ministry, Supreme Court and Attorney General's office) was less than 3 percent of what was spent on national defense, internal security, the National Directorate of Security in charge of gathering intelligence, Borders and Tribal Affairs, counter narcotics and mine clearance.

⁷³ Islamic Republic of Afghanistan, Ministry of Education 2007.

⁷⁴ UNDP 2007b.

Although the Constitution provides for legislative scrutiny bodies, there is no parliamentary committee with a charter similar to that of a Public Accounts Committee to review the effectiveness of public expenditure. The media reported that when parliamentarians summoned a minister or head of independent agency, members spent most of their time resolving personal disagreements and ignoring issues of public interest.

4.11 The NA plays a role in controlling corruption. It oversees governance via its Complaints and Petitions Commissions that exist in both houses. The Commission in the upper house has the mandate to receive citizens' complaints on all matters, including those related to the executive's corruption and mal-administration. The Commission has the right to summon ministers for questioning or follow-up on issues raised by citizens. In general the Commission acts as a parliamentary ombudsman trying to solve disputes peacefully. For example, the Commission intervened when the issue of 1,200 prisoners serving prison time beyond their terms. However, its interventions carry the risk of violating the constitutional principle of separating state powers.

4.12 Parliamentary effectiveness is reduced by the absence of strong and effective political parties. Political parties suffer a major image problem in Afghanistan because people continue to associate them with communist or jihad-era political parties that played such a negative role in Afghanistan's tragic history. In the lower house, less than one-third of members are generally believed pro-government, and they are aligned to 13 political parties, factions and independents. Thus third party groups form the balance between pro and anti-government factions making legislation a challenging, time-consuming task, not to mention a potentially expensive one in an environment of high levels of graft and patronage expectations. During the first year of the National Assembly, many sessions had to be canceled for lack of a quorum because there was no party discipline to keep members in the house. This was in spite of NA members having to record their attendance in order to receive their salaries. More seriously, absence of political parties to aggregate interests resulted in the NA and Government becoming *de facto* political parties, an adversarial

relation between the two, with parliamentarians attacking the Government instead of legislating⁷⁵. In his January 2007 speech to the NA as it started its second year, the President had to reiterate several times that the NA could usefully consult with government officials, and give them healthy advice for improving their performance.

4.13 Justice institutions are probably the least developed among formal oversight organizations. These include the Supreme Court, the Ministry of Justice, and the Attorney General's office. The legal framework's consistency needs to be urgently developed. Not only is applicable law in Afghanistan difficult to determine due to numerous regime changes, it is further complicated by the power, that the Bonn Agreement gave to the interim head of state, to issue decrees until a National Assembly was in place. Several hundred decrees were passed starting from early 2002 and until November 2005, when the NA first met. Stronger legislative capacity and skills in legislative methods and techniques will be required in the NA, the Cabinet and the Ministry of Justice. The legislative process, while being participatory, requires greater coordination between the Cabinet and the NA. Delays arise because of limited drafting capacity of Ministry of Justice staff, language differences with international experts, and lack of explanatory notes when presented to the NA.

4.14 A majority of Afghan citizens know little about the formal legal framework. Customary law prevails widely, and most disputes are settled in non-state forums⁷⁶. But, customary law and informal justice systems are biased against women, who are not represented. At the same time, confidence in the formal justice institutions is low, and strengthening the sovereignty and integrity of the Afghanistan courts will require transparency of courts' operations and procedures, uniform application of law with predictable and credible decision-making, and courts' capacity to deliver services and manage resources. Some 330-360 functioning courthouses are required, each with a minimum of 2-3 judges and several prosecutors. The Supreme Court has approximately 1,350 official judge positions. Of these, 50 percent are currently occupied, and of that 50 percent one-third are estimated to have been educated to university standard.

⁷⁵ Wilder 2005.

⁷⁶ Barfield et al 2006.

According to the Prosecutor general, 2,212 legal professionals are needed nationwide. Legal information, education and service are critical for the courts productivity and accountability. Many judges do not have access to legal texts, and simply apply their own version of *sharia* law to many disputes. The role of judiciary, especially the Supreme Court, in enforcing constitutionality of laws and regulations and reviewing legality of administrative decisions needs to be strengthened. The Supreme Court's interpretation of the Constitution is rarely available, and ignored even when it is. Especially with regard to Parliamentary vetting of ministers, it is unclear whether the NA also has the authority to dismiss a minister. The Supreme Court has ruled that the Constitution has not granted such power to the NA, but this advice has generally been ignored.

D. Rethinking the Roles of Media and CSOs

4.15 Historically, Afghan press had always been the domain of the state, and under Taliban rule, media became severely restricted. Radio Afghanistan was renamed Radio *Shariat* to reflect the Islamic fundamentalist values of the Taliban; and Television Afghanistan, believed to be a source of moral corruption, was closed down. The Ministry of Culture was mainly concerned with suppressing music for entertainment, and banning photographs and depiction of living things—including destruction of the Buddha statues at Bamiyan.

4.16 Considering this very low base from which media development started during reconstruction, its growth in volume is impressive. Today, nearly 350 publications are registered with the Ministry of Culture and Youth Affairs, many appearing in both Dari and Pashto, and with a majority operating from Kabul. Afghan print media is still a long way from financial independence, so newspapers are either closely associated with political and military factions, or depend on international donors for funding. Low literacy rates, lack of efficient distribution networks, almost non-existent culture of advertising in newspapers and difficulty in accessing many rural areas keep Afghanistan steeped in a culture of radio, on which the majority of the population depend for news and information. Radio in Afghanistan comprises the state-run Radio Television Afghanistan (RTA), which broadcasts from Kabul and 18 provincial stations; more

than 50 local FM stations; a national radio show funded by Internews; international broadcasters BBC, Voice of America and Radio Free Europe; and stations and programming funded by NATO and US Coalition forces. Television has once again become the country's main source of entertainment, though even in Kabul only 25 per cent of families have a television and power blackouts are frequent⁷⁷.

4.17 Recent tensions between the media and government are evidence that the media has started playing its role in public accountability. There was considerable media consternation at and opposition to the provisions of the new media law that can be potentially used to restrict the media's freedom⁷⁸. It draws upon the constitutionally mandated supremacy of Afghanistan's religious beliefs over other laws to prevent dissemination of prohibited material. The new media law provides for a High Council of Media to keep track of income and expenditure of mass media, ensuring that they are overt and transparent. The Religious and Cultural Affairs Commission's recommendation on the High Council's composition is still in flux, but initial recommendations of the Commission omitted representation of both the media industry and civil society. The new law reiterates an independent commission for management and oversight of RTA, but the commission existing under the earlier law is inactive. So, currently the Ministry of Culture and Youth Affairs takes all decisions about RTA's management. The number of registered cases of journalists' intimidation rose from 45 in 2005 to 50 in 2006. Media leaders claim that these are gross underestimates as most cases go unreported, and journalists' insecurity has resulted in their self-censorship. The Government in Kabul is concerned about who controls radio programming in the provinces and how safe each station is from the possibility of dissident elements gaining control. But the Government's determination of what are facts could result in one-sided reports. Sections of the media point out this law's contravention of Article 19 of the Universal Declaration of Human Rights, to which Afghanistan is a signatory. The Government had sought to introduce a clause in the newly passed amnesty bill immunizing all *jihadis* from prosecution that would force the media to honor the *jihadis* in any reports, but this was withdrawn.

⁷⁷ The Killid Group and Inter Press Services 2007.

⁷⁸ The bill has been passed by both houses of the National Assembly and needs to be endorsed by the President before it becomes law.

Box 4. 2: The Constitution and Media's Freedom of Expression

Article 34 states that "freedom of expression is inviolable... [and] every Afghan has the right to express his thought through speech, writing, or illustration or other means, by observing the provisions of the constitution. The same article further gives every Afghan the "right to print or publish topics without prior submission to the state authorities in accordance with the law."

Freedom of expression is further strengthened by Article 7, which obliges the state to "abide" by international conventions to which Afghanistan are a signatory, including the Universal Declaration of Human Rights

But the freedoms enshrined in Afghanistan's Islamic constitution are also guided by Article 3, which stipulates that "in Afghanistan, no law can be contrary to the beliefs and provisions of the sacred religion of Islam."

4.18 As the media acquires capacity to play the public accountability role, the Government is also adjusting to having its actions being scrutinized by the media. Recently, the country's most popular TV channel has been locked in a standoff with the Attorney General after police raided its office following allegations of misquoting by the channel. The management of a weekly is in conflict with the Speaker of the NA after having alleged his misappropriation of a large sum of money. The concept of investigative journalism still has not taken root in large parts of the media and Government. Thousands of journalists and would-be journalists have been trained in donor-sponsored workshops, there are two journalists' unions and two media watchdog groups, but the current belief and training in universities still is that a journalist should reproduce the handed out communiqué. The situation of both state-run and private media is more sparse in the provinces than in Kabul. At least 9 provinces have no local media. A recent review of corruption articles that appeared during the last two years in five of Afghanistan's largest newspapers found that 90 articles had been published, but most of them had reproduced official news handed out by Government organizations⁷⁹. Among newspaper articles about corruption, accountability of government institutions received marginal (0.82 percent) coverage. A 2006 media coverage survey showed that more than half (53 percent) of published information was attributed to Government sources, domestic and foreign; and civil society was a very small (8 percent) source of information. The media ignores thousands of *shuras*, associations and NGOs as news sources;

nor do these groups use the media to voice their concerns⁸⁰.

4.19 The communication gap between media and CSOs is partly due to the current role of CSOs: more that of project implementer than defender of public accountability. International humanitarian aid programs had continued during the years of conflict and drought. These were implemented by international organizations that lacked knowledge and expertise and needed a local partner to implement their projects. Many international organizations eagerly sought "implementing partners" and found Afghan CSOs, most of which were located in Peshawar in Pakistan, well equipped for this task. Comprising returning refugees that had been educated in their host countries, these CSOs had the 'capacity' that donors sought. The CSOs, on their part, found it comparatively easy to work in their own and familiar regions of Afghanistan, and many were motivated to contribute to their country's reconstruction. Demands of the donor community and their emergency aid programs led to relocation of Afghan NGOs from Pakistan to Kabul and mushrooming of several new Afghan NGOs all over the country, who carved their own niche in delivering much-needed humanitarian aid throughout the country while following international organizations' policies and practices. The private sector, being hostage to the vagaries of insecurity, provides few opportunities, and donors' compensation is much higher than civil service salaries. So, a majority of Afghan CSOs continued to work as contractors or "implementing partners" of the donor community⁸¹.

⁷⁹ Delesgues and Torabi 2007.

⁸⁰ The Killid Group and Inter Press Services 2007.

⁸¹ Padamsee 2004.

4.20 There is deep mistrust for “NGOs” as a group, making it hard for civil society groups in general to transition from their current role of donors’ sub-contractors to honest brokers of public accountability. NGOs are largely perceived by the population as a foreign phenomenon that has gained control over the money meant for Afghans⁸². This mistrust extends to Afghan NGOs as well. Arising partly from misplaced frustration and out of jealousy for NGOs’ access to resources, blame for wasting development aid sometimes gets directed at NGOs. As others in similar post-conflict circumstances, the Government resents

the level of international resources that flow to NGOs and private contractors in Afghanistan. Owing to a 2-year freeze on NGOs’ registration, and to avoid the stigma attached to the term NGO, many civil society groups registered themselves as Social and Cultural Organizations taking advantage of the 2002 law that provided for such organizations to register with the Ministry of Justice.

4.21 Having worked for long as “doers” within a rigid structure, CSOs may themselves find it hard to transcend from their current role to becoming custodians

Box 4. 3: The Universe of Afghanistan’s CSOs

Civil society is the sphere of institutions, organizations, and individuals—located between the family, the state, and the market—in which people associate voluntarily to advance common interests. The four main types of CSOs currently observable in Afghanistan are: Community Development Councils (CDCs), *Shuras*, Non Governmental Organizations (NGOs) and Social and Cultural Organizations (SCOs). In general, NGOs are perceived to make profits while SCOs do not. Where they are registered sometimes turns out to be the only differentiation between CDCs (registered with MRRD), NGOs (registered with the Ministry of Economy), and SCOs (registered with the Ministry of Justice). However, some organizations are registered with more than one ministry!

Community Development Councils (CDCs), also known as Village Organizations (VOs), were created to implement the National Solidarity Program (NSP). Project funds up to \$200 per family could be allocated to communities for infrastructure related community projects, but applications for those funds had to come through CDCs, representing 25 to 30 families. Lacking the capacity to build CDCs, the Ministry of Reconstruction and Rural Development (MRRD)—the line ministry for the NSP—contracted 20 facilitating partners to take responsibility for creating CDCs in one or more province. As of 30 April, 2007, 16,753 CDCs had been in 279 districts, and registered with MRRD.

Shuras are seen, in most parts of the country, as functional local decision-making mechanisms. Their membership is comprised almost wholly of male village elders, who are not elected. *Shuras* do not represent the younger cohorts in the population, “alternative thinkers”, and the less-well-to-do. Because donors typically implement their projects through CSOs, any *shura* that wants to become eligible for a grant becomes registered as an NGO or SCO.

Non Governmental Organizations (NGOs), of whom 2000 are registered in the Ministry of Economy’s Registration Department. A large proportion of them are construction organizations not fitting any conventional definition of a CSO, or “inactive storefronts” or “briefcase NGOs”. The number of “real” civil society organization among NGOs may be any figure between 150 and 400. A smaller number of international NGOs (333) are also registered with the Ministry of Economy. There was strong internal pressure on Government to adopt a more controlling stance towards NGOs. With representation from the CSO community, a working group drafted a law for regulating NGOs’ activities, but since 2003 the draft law remained untouched for more than two years until NGOs’ registration responsibility was transferred to the Ministry of Economy and the new minister had a less adversarial approach towards NGOs. Registration of NGOs also remained frozen during this two year hiatus.

Social and Cultural Organizations (SCOs) comprise political parties as well as associations, unions, and tribal *shuras*—in addition to a smaller number of project-based CSOs, of which 242 are registered with the Ministry of Justice. As NGO registration had been frozen in 2005 and to avoid the stigma which got attached to the term NGO, many CSOs have been registering themselves as SCOs.

Source: Ayrapentas 2005.

⁸² Moore 2005. According to Ministry of Finance information, between January 2002 and September 2004, 45.5 percent of donor funding went directly to the UN; 28.5 percent went directly to the Afghan Government; 16.4 percent went directly to private contractors; and 9.6 percent went directly to NGOs. These statistics do not reveal the total percentage of donor assistance that ultimately went to NGOs, as the UN or Afghan Government often re-program funding through NGOs.

of the voice function. Afghanistan had little or no tradition of formalized community participation in political decision-making or development planning, either at the national or local level. “New democracy” starting with the Constitution of 1964 was mostly a “democracy from above” without involving local communities⁸³. Civil society groups were not included in the Bonn political process: individuals’ initiatives led to the creation of the Afghan Civil Society Forum that took place in parallel to the Bonn process. During the 2005 parliamentary elections, civil society groups played a valuable role in civic education by going out into communities to explain the electoral process but these tasks were performed on behalf of the Chief Electoral Officer and the messages were not something that the CSOs themselves had developed. Women’s involvement in discussion and debate is impeded in traditional arrangements as *shuras* (see Box 4.3) have a patriarchal structure. Because youth groups lack professional contacts, they are rarely counted among CSOs.

4.22 CSOs’ capacity to play the role of monitoring government is not fully developed. Although some government reports and external evaluations are available online, few CSOs themselves have the capacity to analyze the reports and inform the public, and fewer are willing to take the risk. In Afghanistan, the international community continues to monitor the Government, and only a few umbrella CSOs monitor the development community. CSOs rarely lobby the National Assembly or the executive. The first exception to this happened when Afghanistan’s two major CSOs together exerted pressure on government for Afghan SCOs to be allowed to receive funds from non-Afghan donors. The second instance was when CSOs lobbied the President and Supreme Court to release a journalist who had been condemned to life imprisonment for criticizing Islam⁸⁴. In a recent survey of 678 CSOs in 22 provinces, a majority of respondent organizations reported fund-raising as their main need. They also cited advocacy as a main need along with communication of all types – from travel to electronic⁸⁵. Security conditions not only threaten the opportunities for international NGOs to assist in

developing Afghan civil society, but are also diminishing the ability of local NGOs to enhance their own capacity and legitimacy. Last year 24 NGO personnel were killed. This year, although the number of fatalities is currently less, the number of attacks on NGO staff has dramatically increased. Local perceptions about association with internationals, particularly the Provisional Reconstruction Teams, are adversely affecting the security of NGOs.

4.23 Given their different geneses and orientations, there is no clear answer as to which amongst the current civil society organizations have the highest potential for being effective participants in local level governance—in district level planning and prioritization, as well as monitoring of services. There is a large gap between the mandate of a traditional community *shura* and a local community development association. *Shuras*’ traditional roles have been more reactive than proactive: their main focus is on problem solving, including the resolution of local conflicts. Religious leaders and networks have always played a prominent role as civil society forces in Afghanistan, but the question is how the Taliban experience may have affected traditional Islamic leaders’ potential as forces in civil society.⁸⁶ CDCs, being elected bodies and having more women’s representation than traditional *shuras*, could potentially evolve into local governance organizations.

4.24 The CDCs themselves have asked to be considered as village councils, and to be involved in the planning process. A CDC conference took place in Kabul during November 10-15, 2007, bringing together 450 delegates from all provinces, over a third of whom were women. Some evaluations have found evidence of CDCs’ future potential because NSP communities have far more tools than non-NSP communities for envisaging problems, linking priorities, and planning⁸⁷. Some argue that while the NSP has delivered actual results on the ground, the advocacy of those with political stakes in the NSP, and NGOs that functioned as implementing partners may have been overstated. Others point out that more than half of CDC members are local elites, and dominance by traditional leaders and local elites may deter community participation. And

⁸³ Boesen, 2004.

⁸⁴ Delesgues and Torabi 2007.

⁸⁵ Ayrapentas 2005.

⁸⁶ Harpikven et al, 2002.

⁸⁷ See Christiansen and Olesen 2007. This was one of the background papers commissioned for the report.

once CDCs become ‘part of the establishment’, they will be much less the ‘voice of the people’ than they are now and they will potentially compete with existing authority structures at the village level. It also remains to be tested how CDCs perform outside their currently limited remit of planning and implementing small infrastructure projects, and with less funding than provided under NSP.

E. Increasing Information Flows and Transparency

4.25 Timely and reliable information is the basis of public accountability, and Government and donors can demonstrate their commitment to transparency by effecting greater information flows within government and from the government to the outside. Weak communications, the steep learning curve of parliamentarians, and relatively undeveloped CSOs make it quite impractical to expect that either parliamentarians or civil society groups can even demand the required information, let alone analyze it to hold government to account. Therefore, rather than waiting for CSOs to demand information, government can open up spaces into which civil society can come in later. Indeed, in many successful experiences of developing social accountability, it has been the government or international agencies that were the ones who took the first initiative⁸⁸.

4.26 The overall objective of these information flows initiated by Government will be to create conditions that encourage public scrutiny of government actions. The interventions will have to be in one or two selected areas, and in topics of significant resonance in society. Worldwide, independent budget analysis is a common task of many CSOs. In Afghanistan, budget information, including execution rates, exists from the impressive achievements in public financial management, but that information is not available in real time on the Finance Ministry’s website. Even if it were, citizens, lacking access to the internet, would not find it useful. However, citizens would be able to access the information if Government made printed copies freely available at provincial governors’ offices, district level offices and in mosques. The technical language of budgets could be a

deterrent to the average citizen. The government could draw upon the experience of the Malawi Economic Justice Network, which in a young democracy with weak checks and balances in public financial management systems, simplifies technical materials, such as the national budget and PRSP, and is widely distributed. Government could also telecast hearings of parliamentary committees probing specific issues, at the same time issuing instructions that government officials are bound to answer parliamentarians’ questions. Opening up the Pakistan parliament’s Public Accounts Committee hearings to the media greatly increased public interest and participation in government performance. Afghan ministers have presented their programs during Accountability Week and then answered questions. They could occasionally be interviewed in radio shows, in a format similar to the e-GAMES forum of Hungary but adapted to the status of communications in Afghanistan. Public procurement is a substantial fraction of the GDP, so the government could adapt from Mexico’s Social Witness of Public Procurement program, which has significantly reduced the costs of public contracts and increased the number of bidders participating in procurement processes.

4.27 Better information flows—even among government organizations—can bolster anti-corruption efforts. For example the police and the Office of Bribery and Anti-Corruption in the Ministry of Interior have no obligation to inform General Independent Administration against Corruption (GIACC) or the Attorney General’s Office that a corruption case in being investigated. The Auditor General has also drawn the President’s attention to the lack of communication between organizations and overlapping responsibilities for fraud and corruption, which contribute to the current ineffectiveness. In the absence of a central tracking system, overall statistics on corruption complaints and cases under investigation are not available and figures provided by one agency are contested by others. The current confusion is fuelled by the large number of complaint mechanisms at all levels without there being any guidelines or laid-down procedures of how these should be addressed or managed.

⁸⁸ See Ackerman 2005, 34-35.

Box 4. 4: Innovative Public Accountability Initiatives

Hungary's e-Games (Government Assessment, Measuring and Evaluation System) could be modified to the Afghan context. This is a sophisticated forum integrated into the Hungarian Government's internet portal, allowing citizens to interact with each other and ministers in real time. Users cannot be anonymous; they are identified by their real names. They can assess each other's comments with positive and negative points, providing a value judgment on every user's participation. Aggregated points show a picture of public opinion. In addition to value judgments, the number of contributions to the topics forum leads to a popularity index. Public officials are users but cannot comment on the opinions expressed by citizens. Ministers are regularly invited to chat with citizens at a predefined time. The responses during these online "office hours" as well as their contributions, are measured by points from the users.

In Mexico, a "social witness" participates in government procurement as an observer. The social witness is a representative of the civil society, which is recognized for its professional and ethical approach. (S)he works with the individuals and organizations participating in the bidding process. The social witness can make recommendations to enhance transparency and increase efficiency of the procurement process. After the contracting process is completed, the social witness releases a public testimony describing what (s)he observed during the process and making recommendations for future improvement.

Source: Caddy, Peixoto and McNeil 2007

4.28 Donors can support the transparency agenda by intervening opportunistically while being sensitive to the country's history, culture and politics. They could:

- Encourage the Government to move beyond the legal basis of public accountability and corruption, and to initiate a few practical steps. GIACC has been established in June 2004 with the mandate to coordinate all anti-corruption efforts in the country. The government presented an Anticorruption Roadmap Paper (which had been drafted with several international partners) at the Afghanistan Development Forum in April 2007. However, there was little follow-up or action on the recommendation of this report. In August 2007, the NA ratified the UN Convention Against Corruption. The current anti-corruption law, which pre-dates the formation of the NA, is considered suspended. Now that Transparency International has included Afghanistan in its world-wide rating and ranking of countries' Corruption Perceptions Index, publicizing this information by the Government can start a debate on the subject.
- Help gather baseline information in critical areas such as poverty reduction and service delivery. This has begun in the health sector. As reported in Chapters I and II, health outcomes are being tracked according to the models being used to deliver health services. This can enable an informed decision about what models are most suited to different sectors. The World Bank, EC and ADB have also helped implement the National Risk and Vulnerability Assessment. In addition to supporting critical surveys in a scattered way, donors could help strengthen the Central Statistics Organization which could then start implementing these and service delivery surveys.
- Stress a communications component in each of their projects, and provide information on their own projects: objectives, expenditures and results achieved. On its external website, the World Bank publishes details of all contract awards as well as the rules governing them. It also provides detailed implementation updates of all its projects.
- On a selective basis, encourage participatory monitoring of their own projects. The National Solidarity Program requires that CDCs, assisted by facilitating partners, monitor progress of project implementation based on a few selected key indicators; and the information be made available to communities by CDCs through regular briefings and information sharing. A community participatory monitoring system, being piloted, will monitor procurement, financial management, implementation and maintenance of the subprojects as well as facilitating partners' performance.
- Allow better information flows among themselves and in critical areas such as narcotics control. For example, Afghanistan is now responsible for 93

percent of the total global illicit opium production, and drug-related activities are the dominant source of corruption. Corruption in counter-narcotics efforts has inadvertently contributed to making the drug industry stronger (more consolidated, with fewer, powerful players with strong political connections) and parts of the Government severely compromised. Greater information sharing and consensus between the USA and UK (lead donor for counter-narcotics) can help strengthen the fight against narcotics.

4.29 Systematic and comprehensive implementation of a broad-based, long-term agenda is unrealistic in

Afghanistan: because of the unstable security situation, the Government's lack of capacity, and its limited reach outside Kabul. For government organizations and donor agencies this translates into seizing entry-points and opportunities as they arise. But this asymmetric (or opportunistic) approach can also be very inefficient, if everyone pulls in different directions. That's why it is so important for the government to have a clear idea of priorities at any point in time: what must be done now, and what can wait until later. Donors must be willing to work within this framework, and support the government's priorities. PAR priorities and a 12-point agenda to implement them are discussed in the next chapter.