

EXECUTIVE SUMMARY

INTRODUCTION

1. **Over the past year, and particularly in recent months, the question of sub-national administration has escalated tangibly in importance:** it has become the focus of much attention in Government documents, has been the subject of a number of substantial analytic efforts, and donors have begun to direct expanding amounts at initiatives targeted at the sub-national level. There are three chief reasons for this:

- *A number of sub-national institutions mandated by the Constitution (such as the Provincial Council) have been established, lifting expectations but also exhibiting problems and generating considerable confusion about their roles and responsibilities. In some cases – such as the District and Municipal Councils - their introduction has been deferred indefinitely, creating a constitutional and institutional vacuum, and raising questions about how this is to be filled;*
- *While numerous local investment and service-delivery programmes have been rolled out, they have often found that *co-ordination and alignment* are difficult and sustained delivery has been hard to achieve. Moreover, security-driven investment approaches (often, but not exclusively, emanating from the Provincial Reconstruction Teams), which focus mainly on the rapid creation of physical assets using non-government systems, have sometimes conflicted with government institutions and processes. And, where broadly successful programmes have generated institutional capacity at the sub-national level, key choices concerning the future of this capacity have become stark and unavoidable. What, for example, should become of the thousands of CDCs established under the NSP when their current funding runs out?*
- *The continued weakness of sub-national structures in certain parts of the country has allowed militia commanders and criminal elements to assert themselves, undermining local governance and service delivery and aggravating security problems. The resurgence of the insurgency and the destruction of local facilities in certain parts of the country have brought home the point that the key question surrounding the character of the state in Afghanistan is not that of a strong centre vs a strong periphery(ies). Rather, it is whether the current de jure (and often hollow) state at the periphery can become a de facto state at the periphery; whether robust and institutionalized systems of government can be expanded and deepened within the provinces and below. It is increasingly widely recognized that success in this area is central to achieving progress in respect of the three fundamental challenges identified in the IANDS: security, governance and development.*

2. **One of the key constraints to strengthening the sub-national system in Afghanistan is the absence of a clear policy framework** regarding its desired institutional structure, and a strategy to guide actions and activities to realize it. In fact, GoA has recently pointed this out, identifying a need for

“a strategic institutional framework to improve the operating capacity of sub-national governing units...[with] a need for higher clarity on the roles, functions, relationships and resource allocation for the various entities within the provincial administration.”

3. **This report comprises an initial effort to address this question.** It builds on the considerable analytical work that has already been done on sub-national administration and governance and seeks to add value in four areas: first, to provide additional information and analytic insight into the nature of sub-national service delivery and governance in Afghanistan;

second, to develop a simple and coherent substantive framework regarding the sub-national system for discussion and dialogue within government and the donor community; third, to propose a number of concrete initiatives that could be undertaken in order to strengthen the sub-national framework as proposed; and fourth, to suggest some procedural recommendations in order to move things forward.

THE SUB-NATIONAL INSTITUTIONAL STRUCTURE: MAIN ELEMENTS, KEY ISSUES

4. **Territorially, Afghanistan is divided into 34 provinces, 2 of which were created by the Karzai administration immediately before the Presidential election of May 2004.** Although there is some disagreement about numbers and boundaries, as of April 2007 the Central Statistics Office considered that there were 364 rural districts, and 34 provincial urban centres, some of which are subdivided into *nahia* or urban districts. A commonly agreed figure is that there are a total of 217 provincial and rural municipalities with a population of more than 5000 people. According to the household listing exercise (2003-2005) there are an estimated 40,020 rural villages.

5. **The institutional structure of governance and administration in Afghanistan can be divided into four main levels:**

- a. The *provincial level*, which comprises
 - Provincial Line Departments (PDs), with basic service delivery responsibility in key sectors (health; education etc.);
 - Provincial Governors (PGs, or OOGs), appointed by the President, with considerable formal and informal powers, including sign-off on expenditures, participation in procurement, and certain powers of appointment;
 - Provincial Councils (PCs), elected, with advisory, monitoring and conflict resolution roles;
 - Provincial Development Committees (PDCs), with limited co-ordinating and planning functions.
- b. The *district level*, which comprises
 - District Offices (DOs) of some central ministries with limited functional responsibilities;
 - District Governors (DGs), appointed by the President, with a relatively limited formal role.
- c. The *municipal level*, which comprises Municipal administrations led by mayors, currently appointed by the President, with functional and service-delivery responsibility mainly for urban services.
- d. The *village level*, which comprises CDCs (currently in about two-thirds of the country), elected according to different systems in different areas, responsible for local infrastructure development and some administrative functions.

6. In addition there is a very substantial cohort of ancillary organizations which exist alongside and outside of the state, and which are deeply involved in service delivery. The most important of these fall into two categories: Provincial Reconstruction Teams and NGOs.

7. The main body of the report provides a detailed and updated overview of each of these elements and identifies the key issues that each confronts. The remainder of this Executive Summary focuses on the key cross-cutting features of the SN system as a whole and a proposed strategic framework for strengthening it.

THE SUB-NATIONAL INSTITUTIONAL STRUCTURE: KEY FEATURES

8. The institutional structure described above exhibits five important features. Collectively considered, these constitute the core of the “sub-national problem” in Afghanistan, and generate the basic challenges that efforts to strengthen the system must address.

9. **First, the overall structure is characterized by significant systemic contradiction.** Direct formal functional and budget authority for the delivery of most key services in the provinces - such as education, health, water and roads - is held by highly centralized Line Ministries which work in vertically integrated silos with relatively weak, “externalized” linkages between them. However, this system co-exists with – and is cut across by - the Provincial Governor system which allows the PGs to intervene in the affairs of the Line Ministries and other agencies (e.g. the Municipalities) through a number of “soft” institutional channels, some legislated, some not. For example, PGs hold extensive powers over the appointments of civil servants to Departmental positions in their provinces and they hold approval powers for all expenditures of all the PDs funded from the core budget. In sum, centralized modalities of service-delivery are combined with – and subject to – a range of interventionist powers on the part of the PGs in a way which blurs and undermines accountability and creates significant operational difficulties.

10. **Second, even given the choice of a centralized governance and service-delivery intergovernmental structure for Afghanistan, existing institutional arrangements are often highly inefficient.** In particular, Line Ministries tend to be over-centralized, with their offices in Kabul retaining functions which could much more efficiently be performed at the provincial level. To some extent this problem is not unrelated to the one discussed above. So long as Line Ministries perceive that any significant deconcentration of budget or functional authority to their Provincial Departments is likely to make these authorities subject to influence and capture by the Provincial Governors, they are unlikely to have much incentive to do so.

11. **Third, the current system is both asymmetric and inequitable.** While some of the current institutional asymmetries appear to make sense, others are the result of arbitrary processes connected with history, varying donor practices, and the like rather than considered design choices. The models of the Provincial Governors offices that are being implemented in the PAG provinces, for example, are rather different from those in Balkh and Herat – resulting in higher degrees of Governor influence in the latter - and it is not at all clear why. Ultimately, these are likely to introduce significant strains and tensions at the SN level as the system consolidates and attempts to cohere. The inequitable distribution of resources across sub-national jurisdictions also presents a key problem. Per capita expenditures in health and education differ widely and consistently between provinces and cannot be accounted for by physical and other conditions that might cause input costs in different provinces to vary. These inequalities are also large relative to other countries characterized by strong inter-provincial inequity, even those with intergovernmental structures similar to those of Afghanistan.

12. **Fourth, while the most autonomous and potentially accountable elements of the sub-national system – the Municipalities and the CDCs – escape some of the “systemic contradiction”**

problems mentioned above, they confront major difficulties of their own. Municipal Council elections have yet to occur, and until they are held the potential of municipalities to deliver accountable local government in their areas will be highly circumscribed. In addition, the fiscal and functional framework governing them is both unclear and constraining of effective and efficient service delivery. CDCs face existential questions derived from the possible discontinuation of the funding which provides them with the basic wherewithal to play a meaningful role.

13. **Fifth, like the rest of the Afghan state, the entire SN structure is afflicted by the sorts of problems which are characteristic of LICUS countries:** severe human resource weaknesses, an absence of properly functioning operational systems, shortages of equipment, and sparse supporting infrastructure (such as electrical power and phone systems) necessary to get things functioning properly. Afghanistan is particularly badly affected by these and reform and strengthening of the SN system will be no less affected by them than any other significant institutional reform in the society.

ADDRESSING THE SUB-NATIONAL CHALLENGE

14. The legal and political environment creates parameters for reform actions to address these problems. The most important of these is **a constitutional dispensation and political climate which precludes any significant reform to the underlying intergovernmental structure in the short or medium term.** The Constitution refers to “preserving the principles of centralism”, and it is also clear that the dominant consensus within the current political establishment is committed to the current, de jure, centralized intergovernmental structure and has no appetite for substantial political devolution to sub-national levels. Consequently, the basic thrust of any SN strategy must be to improve the functioning of the current system rather than to restructure it. Such **intra-structural reform efforts** need to be designed with two sorts of impact in mind: first, they need to strengthen specific elements of the system (organizational impacts); second, they need to ensure that the functionality of the system as a whole improves (systemic impacts).

15. Against this general backdrop, **the assessment given above suggests that at the sub-national level, four broad challenges need to be addressed if service delivery and governance are to be improved.**

16. **Challenge/Activity Area 1.** *Establish an overall direction for reform of the SN institutional system which, while building on the current one, diminishes the existing levels of systemic contradiction and begins to reduce the unproductively “mixed” character of current arrangements.* This direction should be based on the broad allocation of roles and responsibilities outlined in the figure overleaf. Among other things, this suggests two particularly important orientations for reform. First, in order to reduce the current levels of systemic contradiction, it is necessary to strengthen and consolidate the role of the office of the Provincial Governor in the areas of co-ordination and planning while limiting it with respect to the exercise of functional, budget and operational authority in the delivery of main services which fall under the Provincial Line Departments. Second, in order to enhance accountability, the oversight and “supervisory” role of the PCs to provide checks and balances over the activities of the delivery agencies needs strengthening.

17. **Challenge/Activity Area 2.** *The second major reform area is to focus on strengthening the performance of the main service-delivery agencies through improving their organizational structures.* One key, cross-cutting activity in this area is for Line Ministries to ensure that functions are divided between their Central offices and the Provincial Departments in order to

improve their organizational efficiency. In a number of cases this is likely to involve the deconcentration of various powers and functions of the Line Ministry from Central to Provincial Department level. In fact, in some cases this is already underway – MoE, for example, is currently in the process of deconcentrating teacher recruitment to the provincial level.

18. **Challenge/Activity Area 3.** *The third major challenge is to provide sufficient resources for the key organs of SN governance and service-delivery to play their ascribed roles.* For example CDCs face a fundamental threat as their access to funding under NSP is due to terminate, and without the funds necessary for their development activities they will wither and die. At the provincial level, organs such as the PCs need to gain access to sufficient funds to allow them to conduct their operations as envisaged under the recently amended law; while at municipal level an overall fiscal framework which provides a rational, equitable and affordable solution to the fiscal gap they face needs to be developed.

19. **Challenge/Activity Area 4.** *The final challenge is to enhance the operational performance of all of the various organs at the sub-national level through providing them with the systems and capacities that they require.* In some areas (e.g. some OOGs) substantial progress is being made; in others (the Provincial Councils), it has really only just begun. Needs obviously vary across organizations, but certain generic themes can be identified. Training is one; IT, offices and communications systems are others.

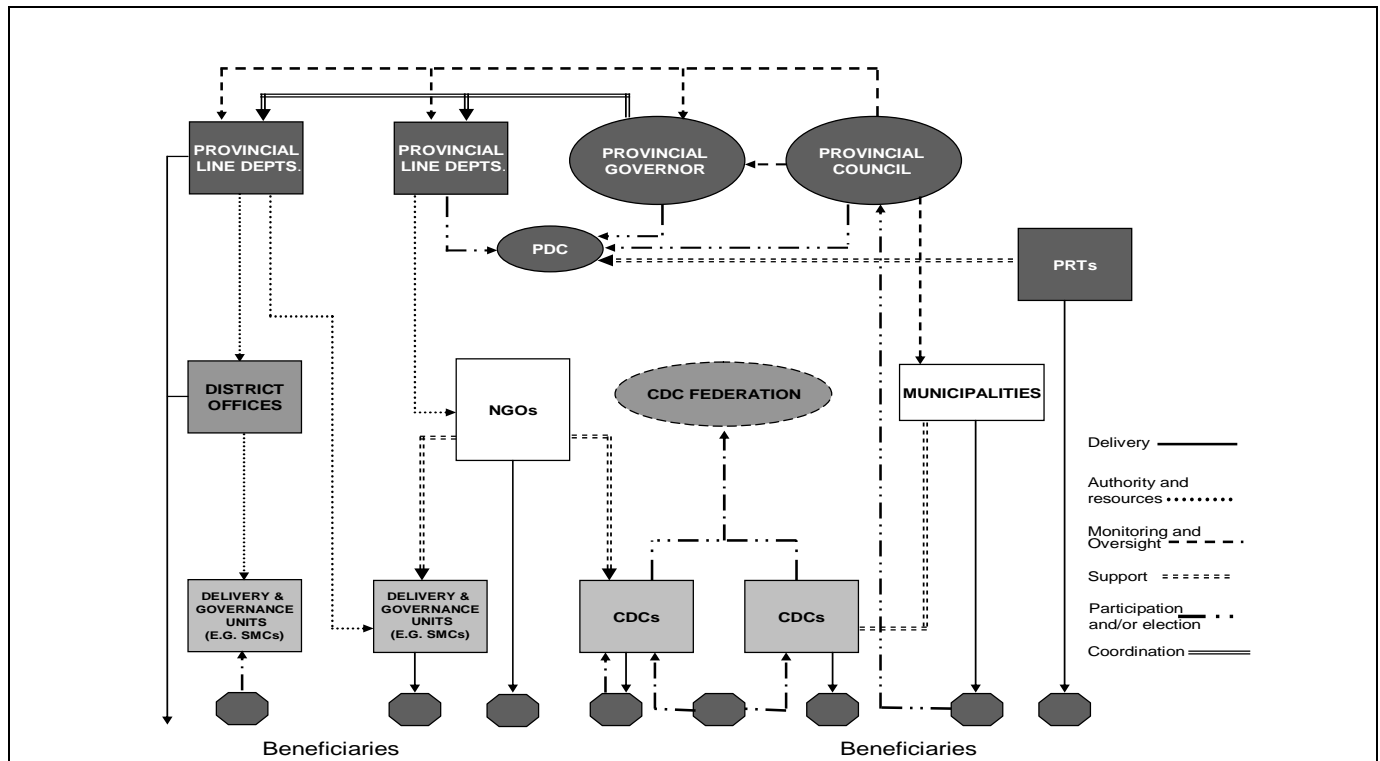
20. **In order to address these challenges, a wide range of concrete initiatives will need to be undertaken.** The most important of these are as follows.

Provincial Line Departments

21. **The performance of the Provincial Line Departments needs to be improved through a combination of capacity development and reorganisation, with specific reference to the division of powers and functions between central and provincial offices in order to enhance efficiency.** This needs to be designed and implemented as appropriate to the service-delivery model prevailing in each specific sector. In general, however, it is likely to involve both vertical intra-ministry deconcentration and increasing operational autonomy from provincial governor offices at the horizontal level. More specifically:

- a. Cross-cutting PAR reforms should be accelerated at the sub-national level, with appropriate coordination with the development of the capacity development plan for the common functions. *Ministries formulating restructuring plans under PAR (particularly the new phases) should explicitly address the division of powers and functions between central and lower levels in areas such as budgeting and expenditure authority.*
- b. *Reform Implementation and Management Units (RIMU) should continue to be established to manage and oversee ministerial reforms, although care should be taken that RIMUs do not become a large structure parallel to the civil service and a substitute for sustainable capacity development of staff in line positions.*
- c. *The provincial budgeting process should be deepened and expanded, with the proposed expansion in numbers of ministries and provinces, as well as management at the local level of 'goods and services' and 'asset acquisition' allocations, as planned.*
- d. *Other PFM reforms at the subnational level should be continued and expanded to ensure a strengthened oversight and monitoring role for the MoF.*

Roles and responsibilities of sub-national institutions: proposed directions



- **Responsibility for direct service delivery in sectors such as health, education, water and roads, should fall under the operational jurisdiction of the Line Ministries** (and, in their areas, CDCs and municipalities) using a variety of different service delivery models. These organizations need to improve their internal organizational efficiencies through increasingly deconcentrating functions and expenditure responsibilities from the central offices to provincial departments. Their internal operations, should become increasingly less permeable to the interventions of external agencies, particularly the Provincial Governors' offices. PRTs will also play a key investment role for the foreseeable future. Their activities need to be increasingly aligned with those of the organs of government and/or directed in a way which does not negatively impact institutional development processes.
- In the absence of district and municipal elections (and except in respect of CDCs) **the basic "bottom-up" accountability function in the provinces should be exercised through the Provincial Councils.** In essence this means that their monitoring and oversight functions in respect of both the provincial offices of the Line Departments and of the PG offices need to be expanded and consolidated. Going forward, their capacity to play this role needs to be strengthened through increasing their resources, improving their systems and making them increasingly self-sufficient in performing this function. A further dimension of the oversight role of the PCs is the approval power they hold in respect of provincial planning and budgeting, which appears now to be appropriately defined. At the community level, CDCs are structured in a downwardly accountable manner, hence exercise this function in respect of the activities which they undertake. They may also support the PC accountability role through providing information and so on. "Top-down" accountability for delivery agencies (e.g. the provincial offices of the line Ministries) is exercised through existing institutional processes and fiduciary mechanisms within the line departments and the mustofiat (at the provincial level), municipalities, and CDCs.
- **Co-ordination of the activities of the provincial line departments and provincial planning** is the core responsibility of the Provincial Governors in and through the institutions which fall under his jurisdiction (e.g. Provincial Administration Assemblies) or over which he presides (e.g. the PDCs.) Given that budget, functional and operational authority lie with the line Ministries/Departments the lateral co-ordination links will be institutionally "soft" rather than "hard" in character. Nonetheless they are important, and the province-level planning and co-ordination function needs to be strengthened by properly resourcing the key organizations which are responsible for it, particularly the Provincial Governors' offices and the PDCs. At lower levels, CDCs and Municipalities have planning responsibility for their areas. Federations or alliances of CDCs may be able to play a planning role at the District level, e.g. through the National Area Based Programme Initiative.
- **Conflict resolution** is dealt with by a combination of bodies, mainly PCs, CDCs and the District Governor - depending on the type and scale of the conflict. These bodies need to be resourced to be able to play this role more effectively.

Offices of the Governors

22. **The core reform initiatives here need to focus on consolidating the role and capacity of the OOGs for co-ordination and planning at the inter-departmental level, while reducing their incentive and ability to become involved in the operational functions and activities of the line agencies.** In particular:

- a. *Regulatory reform is needed to ensure consistency between the powers given to different institutions at the provincial level so that line departments are able to operate effectively.* For example, the sign-off powers of the governor on line department expenditures should be eliminated, or at least reduced. In time, a revised Local Government Law should clarify the co-ordination role of the OOGs at the inter-departmental level while reducing the scope for their involvement in intra-departmental matters.
- b. In order to avoid conflicting with the mandate of line ministries, *donors should avoid making substantial sums available to provincial governors for service delivery activities.*
- c. *The capacity of governors to play a co-ordination and development planning role in line with the overall institutional framework should be strengthened* through the continued roll out of reform of the OOGs through the PAR process, but using appropriate institutional models.

Provincial coordination and planning: PDCs/PAA and PDPs

23. In the current institutional structure, **PDCs and PAAs are the only fora where cross-sectoral co-ordination and province-wide development planning can take place.** PDCs are also developing an important role in the MOF provincial budgeting initiative, participating in the formulation of budgets. While PDPs are emerging as central to the planning process at the provincial level, there remains a need to clarify exactly what PDPs are and can achieve. Specifically:

- a. *The PDCs need to be given sufficient support to play their mandated role in development planning and budgeting,* according to the overall institutional framework. This mainly requires support in basic systems and organizational infrastructure, as well as institutionalization of internal practices through the development of standard practices and manuals, and so on.
- c. *The relative roles of the PAA and PDCs should be reviewed,* as there is currently the potential for overlap and duplication of effort. The PAA, under the leadership of the governor, could have a stronger reporting role to central government on provincial affairs.
- d. *The active and direct participation of the governors in the PDCs* needs to be strengthened through provision of appropriate support and by strong encouragement from the Office of the President.
- e. Given the problems with linking PDPs directly to resources or institutional action within the existing framework, *PDPs should be seen less as costed plans and more as strategic documents* giving some sense of priority issues to guide line ministry and donor decision-making in the provinces.

Provincial Councils

24. **The key role of the PCs is to exercise an accountability function. In order to strengthen this, a number of things are needed:**

- a. *Ensure widespread dissemination of and training to both councils, government bodies and other subnational actors on the roles of the councils as laid out in the revised Provincial Council law.*
- b. *Clarify the mechanisms by which the PCs can exercise their oversight role and act on problems that they identify.*
- c. *To strengthen the accountability function, clarify with all actors the role of PCs in providing qualified sign-off on budgets formulated by PDCs.*
- d. *Provide substantially more resources for internal systems and institutional development, also IT infrastructure, transport and so on. To ensure improved coordination in this, re-establish the joint government-donor technical working group on provincial councils, ensuring some means of PC input to it.*
- e. *Enable councils to link up with government and other (for example, PRT) data sources to enable improved monitoring and oversight.*
- f. *In the medium-long term, assess whether the current institutional location under the OAA allows the proper development of the councils as independent bodies.*

District level

25. **In the absence of an agreed institutional framework surrounding the Districts, limited reform at this level is possible.** However, some steps may be taken:

- a. *District offices of line ministries should be included in intra-ministry deconcentration initiatives.*
- b. *It is not clear that the district governor offices should be extensively strengthened in terms of staff numbers, given their limited role, the large numbers of districts and limited resources available to the government. However, it is important to ensure that district governors are appointed in a transparent manner and are held accountable for their actions. This will require reform at the MOI, as well as discussion with the National Assembly.*
- c. *Donors funding programmes operating at the district level and attempting to build institutions should ensure that they are establishing consistent structures across the country. Impromptu donor initiatives at the District level in the absence of a wider institutional framework should be avoided.*
- d. *Promote district level planning and service-delivery processes as they begin to develop (for example through NABDP) but ensure that planning at this level is kept relatively simple, with clear links both upwards and downwards.*

Municipalities

26. **Municipal challenges should** be addressed through a number of broad measures:
- a. Developing legislation which provides *a clearer categorization of the different sorts of administration which should be created in order to manage different sorts of settlement, and clarifying the resources consequences and claims of these* (e.g. what human resource and funding frameworks should pertain in each case, and so on).
 - b. *Clarifying the functional roles, expenditure assignments and frameworks governing service-delivery for municipalities.*
 - c. Formulating a *comprehensive financing framework for municipalities* which rationalizes and improves own-source revenue assignments (and clarifies municipal authorities over base and rate setting in respect of these); introduces measures to strengthen municipal revenue administration; and establishes a transparent rules-based system to allocate central transfers equitably and rationally among municipal jurisdictions.
 - d. Developing *improved budgeting, financial management and accounting systems* and instituting measures to build capacity to administer these systems within municipal administrations.
 - e. Introducing *elections for Mayors and Municipal Councils* at the earliest feasible opportunity.
 - f. Developing *institutional measures to deal with the CDC-wakil interface* and to bridge the current gap between the bottom-up system for expression of community voice and need, and planning and budget decision-making.

Community Development Councils

27. **Three key initiatives are needed to assist the CDCs face the basic challenges they confront:**
- a. *CDCs need to secure a regular and reliable funding flow to resource the local level development activities which provide their raison d'etre.* The primary initiative here should be to establish a dedicated fiscal transfer mechanism which gives them a source of ongoing funding which they can then allocate to local projects at their discretion. A secondary initiative should be to seek opportunities for steering funding which is meant to be dedicated to support sector-specific investments at the local or community level via CDCs, or federations of CDCs.
 - b. *As far as CDCs' roles are concerned, these should be consolidated on the basis of the new Byelaw.* Insofar as the parameters of their role are concerned, CDCs should broadly take on public goods provision functions, and should not become involved in activities such as the selection of individual micro-finance beneficiaries or livelihood assistance as this would entail risks of conflict of interest, nepotism and corruption.
 - c. *The matter of "ownership" of CDCs at the central level will, of course, have to be settled within the central government by those agencies and Ministries which have a core interest in this question.*

Provincial Reconstruction Teams

28. **PRTs confront – in fact they constitute – a critical dilemma:** in trying to create the space for the Afghan state to develop and cohere they run the risk of undermining it. A number of steps may be identified in order to address this risk:

- a. *Scale down PRT activities in relatively secure areas and begin to route the resulting resources through government systems and budgets.* PRTs should really only exist where security conditions make them absolutely necessary. The ESC should undertake a review of PRT establishments in terms of this criterion and begin to phase them out, or rightsize them, accordingly, diverting the resource yield to supporting government institutions and on-budget projects and initiatives.
- b. *Each PRT commander should develop a condition-based plan for phasing his/her PRT out.* Given that PRTs are interim structures which have their own demise as their core objective, each PRT should formulate a description of the concrete conditions which would make the realization of this objective possible, key indicators of these conditions, and a plan for how they are to be achieved.
- c. *PRTs should begin to move away from small-scale community-level projects and initiatives,* where the conflicts between local prioritization and governance and top-down PRT processes are likely to be most pronounced, *Instead, the CERP budget and other such resources should be focused increasingly on larger scale, bulk and link infrastructure, where the need is obvious and process-conflicts are likely to be much fewer.*
- d. *Insofar as PRTs continue to provide resources outside of the government budget, they need to ensure maximum alignment with it.* This involves producing accurate and timely information on project costs and details and ensuring that government inputs are accurately costed, particularly salary and operating costs once the project is completed.
- e. *Finally, the ESC should issue a policy discouraging the poaching of government staff and provision of salary top-ups.*

Procedural steps

29. **In order for progress to be made on these fronts, two initial procedural steps should be taken:**

- a. *First, an Inter-ministerial Committee, reporting directly into the President's Office, should be formed to establish a framework for sub-national strengthening and reform.* In the short to medium term, this should focus on providing clearer direction for the evolution of the sub-national system, thus guiding donor initiatives in this area. In the longer term, this sort of body should oversee a more thoroughgoing policy exercise which should ultimately lead to the development of a new Local Government Law.
- b. *A donor group focusing specifically on sub-national issues (policy questions, institutional strengthening, capacity building, funding of services and infrastructure) should also be formed.* In many other countries, where the sub-national is of critical importance, these groups have been established and have played a critical role in co-ordinating donor activities and ensuring that they support, rather than undermine, the development of a coherent

institutional framework at the sub-national level. Apparently such a group has recently met. This is encouraging, and should be encouraged.