Executive Summary

Policymaking and the state-building agenda in Afghanistan

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

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

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

The drafting of the Afghanistan National Development Strategy

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

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

Policymaking in the agriculture and rural development sectors

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

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

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

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

Building capacity for policymaking in the Ministry of Education

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

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

Policy surrounding subnational appointments

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

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

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

The making of the Shiite Personal Status Law

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

Leveraging change: Options for strengthening state legitimacy

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

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

Recommendations for donors

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

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

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

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

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

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

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

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

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

Recommendations for policymakers

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

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

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

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

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

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

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

Recommendations for research institutes

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

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

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

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