



UNODC

United Nations Office on Drugs and Crime

CONCEPT NOTE

Anti-Corruption Measures in Afghanistan

Time Frame: January 2010 – December 2012

Background

Corruption is one of the most significant factors undermining peace-building, security and stability in Afghanistan. As the "guardian" of the UN Convention Against Corruption (UNCAC), the United Nations Office on Drugs and Crime (UNODC) provides practical assistance to Member States in timely implementation of obligations under the Convention. This includes support for development of comprehensive anti-corruption policies, strengthening judicial integrity, supporting development of international cooperation, and enhancing asset recovery capacities.

In Afghanistan, with the ratification of the UNCAC on 25 August 2008, UNODC efforts intensified. It played a key role in creating the High Office of Oversight and Anti-Corruption (High Office or HOO) and has, through its R86 Project been intensively engaged in law reforms and supporting anti-corruption efforts by the High Office, the Attorney General's Office and the Supreme Court.



All of these efforts have been undertaken in close partnership with other relevant members of the UN family. UNODC's R86 Anti-Corruption Project works in daily collaboration with the UNDP Accountability and Transparency (ACT) Project. UNODC and UNDP early on agreed on a clear and complementary division of labour with UNODC responsible for supporting capacity building in relation to the role of justice institutions in anti-corruption and the role of the High Office in anti-corruption justice and enforcement activities, while UNDP has specialized in capacity building relating to prevention of corruption and administrative measures to detect and punish corruption. UNODC and UNDP have also benefited from the opportunity to partner with UNAMA which, in its political role, supports much needed advocacy.

Due to 2009 election fraud, corruption has been in the centre of national and international attention. Release of the Transparency International 2009 Corruption Perception Index found Afghanistan in second to last place globally, behind only Somalia. To compare, in 2005 it was tied for 34th to last place. Calls by the governments of the United States and the United Kingdom for a new anti-corruption commission were met in November 2009 by President Karzai's response in his second inaugural speech where he pledged his commitment to fight against corruption and end the culture of impunity.

Shortly after his inauguration, President Karzai issued a decree tasking the High Office to organize a national anti-corruption conference to be held 15-17 December 2009, for which UNODC provided close technical support. UNODC has also been continuing its technical support of the MOI in its development of its Anti-Corruption Strategy, of the High Office in developing its Asset Verification and other strategies, and to its international partners on the issue of anti-corruption strategies, metrics of corruption, as well as hosting the sub-Working Group on Anti-Corruption Courts.

With the heightened attention to anti-corruption in Afghanistan, a unique and limited window of opportunity exists to drive real progress through evidence-based policy and action, with a focus not only on capacity building and law reform, but more significantly on discovering and detecting the crime, engaging in successful indictment and prosecution, and guaranteeing the integrity of the judicial institutions.



Continuing the existing division of labour between UNODC and UNDP, UNODC will focus its expanded efforts at the intersection of anti-corruption and criminal justice, working closely with the full range of justice and law enforcement institutions to encourage and support their varied but interlocking initiatives in the following areas of anti-corruption.

Proposed Areas of Intervention

- ***Strengthening national policy, leadership and coordination.*** The High Office was created with a mandate to coordinate and oversee the implementation of the Anti-Administrative Corruption Strategy. Its broad mandate includes oversight of the preventative and administrative measures against corruption to be established by all Afghan institutions, including the National Assembly and Supreme Court, as well as monitoring the performance of law enforcement and justice institutions in following up complaints and instigating detection, investigation, prosecution and adjudication of both criminal and disciplinary corruption cases.

As a new organization with a daunting set of responsibilities, the HOO has urgent capacity-building needs in the areas of infrastructure, staffing, and technical assistance. UNODC, in consultation with the HOO's other partners, has identified a number of key areas of assistance to provide:

- 1) International advisors in: a) development of the HOO's overall strategy in the area of enforcement; b) implementation of the HOO's strategy on asset verification; and c) High Office input into relevant law reform processes.
- 2) National advisors in: a) responding to the daily workload in the HOO's Policy and Planning Department; and b) providing legal expertise to the Case Tracking, Asset Verification, and Complaints departments.
- 3) High Office databases for: a) managing and tracking data on asset verifications by public officials; b) managing and tracking information on complaints received and tracked by the High Office; and c) gathering centrally information on all contractors that have received Government contracts in order to track distribution of contracts, performance of contractors, etc. and permit blacklisting of contractors where warranted.
- 4) Law reform efforts aimed at harmonizing national law with the UNCAC including: (i) adoption of a revised version of the Criminal Procedure Code to incorporate modern investigation techniques and asset freezing as specified in the UNCAC; (ii) revision of the Penal Code to fully incorporate corruption-related offenses specified by the UNCAC; (iii) bringing the pending Law on Extradition and Mutual Legal Assistance into line with the UNCAC; (iv) revision of the law that created the HOO (Law on Overseeing the Implementation of the Anti-Administrative Corruption Strategy); (v) revision to the Law of Courts to create a specialized anti-corruption court; and (vi) training of justice actors, on the relevant UNCAC-related legislative reforms and how legal and police practices should change as a result.

Research capacity building for evidence-based policy. The High Office has moved forward in developing its organizational structure and initiating its functions, but urgently requests assistance from the international community, specifically UNODC, to help gather data that can

ground its work in evidence. Measuring perceptions is useful to mobilize action; evidence is needed to target action, make these interventions efficient, and define evidence-based policy. Evidence on corruption in Afghanistan, will be used by the HOO in the following ways: (i) to provide an overall baseline against which the prevalence of corruption in Afghanistan can be measured; (ii) to inform the HOO's use of its limited resources so that it can focus those resources on the parts of government that are the source the types of corruption most frequently experienced by, and of concern to, the community; and (iii) to provide a baseline for the HOO to use to measure the efficacy of specific initiatives it undertakes; and (iv) to permit the HOO to advocate effectively with the GoA for the resources it requires to effectively perform its mandated functions. In addition, this data will also provide an important resource for the GoA and the international community to use in measuring the efficacy of the anti-corruption efforts. Our support would include the following components:

- 1) Technical assistance through an international advisor and national advisors in establishing and building the capacity of a High Office research unit.
 - 2) Jointly executed or managed research projects undertaken by the High Office and UNODC with the objective of producing credible data for the objectives listed above, including development of a set of global corruption indicators designed specifically for the Afghan context.
- **Discovery and detection of graft.** As pressure increases, under international scrutiny, for successful investigations of corruption cases, particularly involving high level suspects/accused, there is a growing need for law enforcement actors entrusted to take on these sensitive cases, especially at the subnational level.

We propose to utilise our extended field presence as a platform for supporting anti-corruption law enforcement capacity building on a subnational level. By placing anti-corruption law enforcement mentors in these field offices, UNODC will be able to significantly contribute to building the anti-corruption expertise of police, NDS, and customs/border officials at the provincial level. By mentoring local law enforcement actors from beginning to end as they undertake corruption detection and discovery (law enforcement investigations), this intervention will produce both successful prosecutions and greater national capacity.

The presence of a dedicated international anti-corruption law enforcement mentor would offer a huge improvement in terms of ground truth, intelligence receipt, and deconfliction on the ground. This mentoring would be closely coordinated with the efforts of UNODC and all other actors engaging in subnational law enforcement mentoring and activities, including those actors focusing on counter narcotics and counter insurgency. Our support would consist of:

- 1) A specialized international anti-corruption police mentor with a national counterpart in each of the five field offices in Kabul, Kandahar, Faizabad, Mazar-e-Sharif, and Herat.
- **Prosecution and adjudication.** There have been very few prosecutions – and even fewer successful ones – of corruption cases in Afghanistan. Even after a successful investigation, there is an urgent need to ensure that there are prosecutors and judges with the expertise to manage these cases competently, particularly at the subnational level. UNODC proposes to build on its long relationship with the Attorney General's Office and the Supreme Court, and its mandate to support UNCAC implementation by providing capacity building on anti-corruption prosecution to justice actors, primarily at the subnational level. We propose the following activities:
 - 1) Support to the Supreme Court in development of its strategy for providing a specialized forum for anti-corruption cases at the subnational level;
 - 2) Technical assistance to the Attorney General's Office as it develops a strategy to expand the expertise of its Anti-Corruption Unit to the subnational level;
 - 3) Training of judges in the adjudication of corruption cases; and

- 4) Training of prosecutors in the prosecution of corruption cases.
- ***Integrity within Justice Institutions.*** Once effective investigation, prosecution and adjudication of corruption crimes can be guaranteed, the next element in the chain is to ensure accountability and integrity within the justice institutions themselves. While it is important for all government institutions to have internal accountability mechanisms, nowhere is this more critical and more sensitive than within the justice sector. Justice institutions, rightly or wrongly, are perceived as among the most corrupt of Afghan institutions, a belief that poses a major threat to peace building in Afghanistan, as it undermines public confidence encouraging reliance on the Taliban and self-help as alternatives to state institutions. Motivation to prosecute the crime is also adversely effected within law enforcement and judicial branches. We propose to continue and build upon our work in the following areas:
 - 1) Support to the Attorney General's Office in the institutionalization of its new Code of Conduct and its Inspectorate (Taftish) Unit, through training and mentoring on methods of internal complaint investigation, adjudication and discipline. This will include meeting all professional and investigative standards, including human rights issues on covert and technical surveillance.
 - 2) Support to the Supreme Court in its establishment of regional Inspection and Control Offices, through infrastructure support to individual offices, training and mentoring on its Code of Conduct and the methods of internal complaint investigation, adjudication and discipline. This will include meeting all professional and investigative standards, including human rights issues on covert and technical surveillance.
 - 3) Support to the Ministry of Interior as it formulates, adopts and implements an anti-corruption strategy.

Project Activities

National Policy, Leadership and Coordination

- 1) Technical assistance on strategy through international advisors.
- 2) Technical assistance on law and policy through national advisors.
- 3) Support in the development of databases for use by the High Office.
- 4) Support to law reform efforts aimed at harmonizing national law with the UNCAC.

Research

- 1) Technical assistance in establishing and building the capacity of a High Office research unit.
- 2) Jointly executed or managed research projects undertaken by the High Office and UNODC.

Detection and Discovery of Graft

- 1) Specialized international anti-corruption police mentoring through UNODC field offices.

Prosecution and Adjudication

- 1) Support to the Supreme Court in handling anti-corruption cases at the subnational level.
- 2) Support to Attorney General's Office as its Anti-Corruption Unit expands to the subnational level.
- 3) Training of judges in the adjudication of corruption cases.
- 4) Training of prosecutors in the prosecution of corruption cases.

Integrity within Justice Institutions

- 1) Support to Attorney General's Office in institutionalization of Code of Conduct and Taftish Unit.
- 2) Support to the Supreme Court in its establishment of regional Inspection and Control Offices.
- 3) Support to the Ministry of Interior as it develops an anti-corruption strategy.

Activities proposed for funding under this concept paper

Activities	Timeframe	Estimated Cost (\$)
Technical assistance on strategy through international advisors.		\$700,000
Technical assistance on law and policy through national advisors.		\$360,000
Support in the development of databases for use by the High Office.		\$100,000
Support to law reform efforts aimed at harmonizing national law with the UNCAC.		\$750,000
Technical assistance in establishing and building the capacity of a High Office research unit		\$500,000
Jointly executed or managed research projects undertaken by the High Office and UNODC.		\$800,000
Specialized international anti-corruption police mentoring through UNODC field offices.		\$3,750,000
Support to the Supreme Court in handling anti-corruption cases at the subnational level.		\$200,000
Support to Attorney General's Office as its Anti-Corruption Unit expands to the subnational level.		\$200,000
Training of judges in the adjudication of corruption cases.		\$300,000
Training of prosecutors in the prosecution of corruption cases.		\$300,000
Support to Attorney General's Office in institutionalization of Code of Conduct and Taftish Unit.		\$800,000
Support to the Supreme Court in its establishment of regional Inspection and Control Offices.		\$800,000
Support to the Ministry of Interior as it develops an anti-corruption strategy.		\$300,000
TOTAL		\$9,860,000

