

Independent Project Evaluation of the

**Criminal Justice Cluster**

**AFG/T03 – Criminal Justice Capacity Building  
– Extension to the provinces**

**AFG/R87 – Prison System Reform in  
Afghanistan - Extension to the Provinces**

**AFG/R86 – Strengthening Anti-corruption  
Measures in Afghanistan**

Afghanistan  
July 2013



UNITED NATIONS  
New York, 2013



This evaluation report was prepared by an evaluation team consisting of Ron Renard (Team Leader), 2) Angus Henderson (Law Enforcement Evaluator), 3) Paul English (Criminal Justice Evaluator) and 4) Trevor Gibson (Alternative Livelihoods Evaluator) in cooperation with the Independent Evaluation Unit (IEU) of the United Nations Office on Drugs and Crime (UNODC).

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The Independent Evaluation Unit of the United Nations Office on Drugs and Crime can be contacted at:

United Nations Office on Drugs and Crime  
Vienna International Centre  
P.O. Box 500  
1400 Vienna, Austria  
Telephone: (+43-1) 26060-0  
Email: [ieu@unodc.org](mailto:ieu@unodc.org)  
Website: [www.unodc.org](http://www.unodc.org)

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*Note – This evaluation report is part of a wider cluster exercise also covering law enforcement and alternative livelihoods projects in Afghanistan. Those two cluster reports as well as the overarching summary cluster report are available separately at:*

*<http://www.unodc.org/unodc/en/evaluation/independent-project-evaluations-2013.html>*

# LIST OF ACRONYMS AND ABBREVIATIONS

ACU	Anti Corruption Unit
AGO	Attorney General's Office
ANDS	Afghan National Development Strategy
ATI	Alternatives to Imprisonment
BPHS	Basic package of health services
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
COAFG	Country Office Afghanistan
CCTG	Anti-Corruption Cross Cutting Thematic Group
CEDAW	Committee on the Elimination of Discrimination against Women
CJ	Criminal Justice
CJP	COAFG Sub-Programme on Criminal Justice
CLP	Core Learning Partner
CLRWG	Criminal Law Reform Working Group
CoC	Code of Conduct
CP	Country Programme
CPD	Central Prison Department, Ministry of Interior
CRC	Convention on the Rights of the Child
CSO	Civil Society Organisation
DoJ	Department of Justice
DRAT	Demand Reduction Action Teams
EUPOL	European Police Mission in Afghanistan
HoO	High Office for Oversight
HRMS	Human Resources Management Service
IDM	Inter-Divisional Mission
IEU	Independent Evaluation Unit
Is	International Institute of Higher Studies in Criminal Science
JRC	Juvenile Rehabilitation Centre
JSC	Justice Sector Coordinator
ISCIC	International Institute of Higher Studies in Criminal Science
KFPDC	Kabul Female Prisoners Detention Centre
MoI	Ministry of Interior
MoJ	Ministry of Justice
MOU	Memorandum of Understanding
NJSS	National Justice Sector Strategy
NPP	National Priority Programmes
PJCM	Provincial Justice Coordination Mechanism
PRR	Priority Restructuring Reform
PRT	Provincial Reconstruction Team
PWG	Prison Working Group
SMR	Standard Minimum Rules for the Treatment of Prisoners
TAB	Total Approved Budget
ToT	Training of Trainers
UNAMA	United Nations Assistance Mission to Afghanistan

UNCAC	United Nations Convention against Corruption
UNDP	United Nations Development Programme
UNDSS	United Nations Department for Safety and Security
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHAS	United Nations Humanitarian Air Services
UNICRI	United Nations Interegional Crime and Justice Research Institute
UNODC	United Nations Office on Drugs and Crime

# EXECUTIVE SUMMARY

## Introduction

The rule of law in Afghanistan is an area of governance, which requires significant investment and support by national and international stakeholders<sup>1</sup>. Although in the last ten years much have been accomplished and the justice system has been reanimated, specific areas of the justice system - such as prisons, juvenile justice, anti-corruption, and the overall capacity of criminal justice sector need improvement and sustainability. It is impossible to overstate the importance of rule of law to the transition/peace-building effort in Afghanistan. One of the greatest threats to peace in Afghanistan has been the perception by a large proportion of the population that the central government cannot enforce the rule of law and, in some cases, does not abide by the rule of law. This lack of trust has played a crucial role in strengthening the insurgency and in undermining the government's ability to successfully prosecute its own anti-insurgency strategy. The absence of rule of law actors in many parts of the country, the relative powerlessness of some of these actors even when they are present, and the perception – and reality – that rule of law actors are frequently engaged in corrupt behaviour are all factors that encourage self-help, willingness to accept anti-government sentiments, cynicism regarding the role of the international community, and resignation regarding corruption.

## The Projects

This report assesses three Criminal Justice projects individually but also assesses the COAFG Programme on Criminal Justice (CJP) as a whole. The projects include: (i) AFG/T03 – Criminal Justice Capacity Building – Extension to the provinces (6 years, 2007-2012), (ii) AFG/R87 – Prison System Reform in Afghanistan - Extension to the Provinces (8 years, 2005-2012), and (iii) AFG/R86 –Strengthening Anti-corruption Measures in Afghanistan (5½ years, 2007-2012). Collectively the projects that form the Criminal Justice cluster amount to just short of twenty years of activity and all ended in 2012. They had a cumulative budget of US\$25,932,994 with implementation in Kabul and provincial sites. The donors were Canada, Japan, Austria, the United States, the United Kingdom, Italy, and Poland.

The projects in the Criminal Justice Cluster support enhancing the rule of law through criminal justice reform. Assistance is provided to the justice institutions of Afghanistan: the Supreme Court, the Attorney General's Office, the Ministries of Justice and Interior, and the High Office of Oversight and Anti-Corruption. The projects address poor infrastructure, lack of professional staffing, perceived corruption, as well as a lack of independence from the government's executive branch. There has been support to other parts of the criminal justice system, such as the police, prisons and the judiciary. There has been a dramatic increase in the number of people in detention approximately 22,000 in 2011 (with the number expected to double within five years).<sup>2</sup> This increasing prison population has placed additional requirements on UNODC to continue to advocate for human rights and special care for vulnerable groups in the justice system such as women, juveniles, and drug users.

Work under the projects promotes conventions and standards of which UNODC is the custodian, e.g. United Nations Convention against Corruption (UNCAC) and Standard Minimum Rules for the

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<sup>1</sup> An interesting analysis of the justice system in Afghanistan is contained in “Reforming Afghanistan’s Broken Judiciary”, ICG, Asia Report No 195. November 2010.

<sup>2</sup> UNODC Country Programme 2012-2014.

Treatment of Prisoners (SMR). National priorities are now reformulated under the National Priority Programmes (NPPs). The projects are still strongly characterized by relevance to that new framework under Governance: (Economic and Financial Reform, Transparency and Accountability, Efficient and Effective Government, Local Governance, Justice for ALL, Human Rights).

### **Political Will**

The operational environment has been extremely challenging and COAFG has faced major difficulties in implementation in the fluid and deteriorating security situation. This will remain a major and increasing determinant to the transitions over the next 36 months: the exit of international forces, changes, possibly a reduction, in donor funding and the approaching Presidential and parliamentary elections. This is likely to prompt the further need for UNODC to be active in the field of Rule of Law and require significant budgetary increases, as well as changes to security plans and practices. The needs and priorities of the Afghan national authorities and the nature of international involvement have evolved significantly in the intervening period during which time UNODC has demonstrated a commitment to learning and adaptation, based on contextual changes and experiences from earlier interventions.

### **UNODC Processes**

The role of UNODC Headquarters in supporting the projects administered in Afghanistan was assessed through a desk review and in-depth discussion with COAFG staff as well as access to an Inter-Divisional Mission (IDM) report regarding many of these issues. These gave the Evaluation Team some understanding of the processes involved. The assessment of the cooperation between project management and HQ is mixed, which in some cases had led to delays that were detrimental to the implementation of the projects. There were reports from CJP of a good relationship with the Justice Unit but there were concerns in the Regional Section about CJP delays in providing quality information required for reporting, accountability and meetings with donors. CJP also reported delays with regard to the Human Resources Management Service (HRMS), procurement issues and the processes involved in project revisions. The IDM report points out a number of causes of these problems, including a lack of close cooperation between the Division of Management and COAFG as well as work flows and applications in Vienna that were not available to COAFG leaving processes un-automated and complicated.

# SUMMARY MATRIX OF FINDINGS, EVIDENCE AND RECOMMENDATIONS

Findings <sup>3</sup> : problems and issues identified	Evidence (sources that substantiate findings)	Recommendations <sup>4</sup>
<b>Critical</b>		
Worsening security environment has made implementation more difficult, unpredictable and expensive.	Interviews with CLPs, COAFG documentation and other international documentation	COAFG needs to ensure donors and national partners understand the implications and build tolerance into project planning and expenditure.  COAFG and Vienna need to maintain constant review of impact of security on staff and staffing.
The projects were in several areas over-ambitious in scope.  The original Project Documents are very limited with regard to indicators and means of verification; however, more recent similar project documents, and to an extent, the Country Programme (CP) have shown a marked improvement.	COAFG documentation, CJP Project documentation and interviews with Core Learning Partners (CLPs).	COAFG and Vienna need to ensure that staff responsible for preparing project documentation is well versed in results based management.  COAFG and Vienna need to ensure systematic oversight of project document development.  CJP needs to draw upon monitoring and evaluation expertise in COAFG to integrate robust evaluation tools and procedures in project documentation.
The work and output of the Criminal Law Reform Working Group is widely respected and has contributed to the Afghan National Development Strategy (ANDS).	Interviews with CLPs and documentation review.	COAFG needs to continue ensuring that a relevant blend of expertise and experience available to the Criminal Law Reform Working Group (CLRWG) and remains understood by the donor

<sup>3</sup> A finding uses evidence from data collection to allow for a factual statement.

<sup>4</sup> Recommendations are proposals aimed at enhancing the effectiveness, quality, or efficiency of a project/programme; at redesigning the objectives; and/or at the reallocation of resources. For accuracy and credibility, recommendations should be the logical implications of the findings and conclusions.

		community
<p>The CLRWG was a good example of the projects and teams working collaboratively.</p> <p>The CJP projects work mainly with the same government counterparts, while at times, this made it difficult to evaluate project activities, as the counterparts saw them as a single approach, though this is a strong indication of a programmatic approach that is the foundation of the new CP.</p>	<p>COAFG documentation, CJP Project documentation and interviews with CLPs.</p>	<p>COAFG needs to identify common issues e.g. law reform and gender, that feature in all the projects and consider thematic teams, and identify common activities e.g. training, and develop common approaches and ensure learning from previous activities.</p>
<p>The CJP projects were highly relevant though there are significant examples of inefficient implementation.</p>	<p>Interviews with CJP personnel, Regional Section for West and Central Asia CLPs, Project documentation, national and international reports.</p>	<p>COAFG and Vienna needs to continue to review and develop measures for minimizing inefficiency. Of particular concern are lengthy extensions without an increase in overall budget, resulting in unfavorable balance between activities and recurring costs.</p>
<p>Donor management is weak in some components of the Sub Programme.</p>	<p>Interviews with CLPs, COAFG personnel, Regional Section for West and Central Asia and a documentation review, including IDM 2013 report on Afghanistan.</p>	<p>The evaluation is not able to identify if there is any weakness in the Vienna operations concerning donors and so limits the following recommendations accordingly; albeit, they require the agreement and contribution from Vienna.</p> <p>COAFG needs to convene semi-annual roundtables for all CJP donors to include a presentation of challenges and progress and a Q and A opportunity.</p> <p>COAFG works with Vienna to proactively ensure that donors (and new donor staff in Kabul) can either directly access ProFi or know that they can ask for ProFi reports from their headquarters.</p> <p>COAFG to offer introduction</p>

		<p>to ProFi reports for Afghan-based donors.</p> <p>COAFG/CJP implements a higher standard of quality control on semi-annual and annual reports, which should be prepared with explicit attention to the function they perform in donor reporting.</p>
<p>The contribution of UNODC through the COAFG CJP projects is respected, highly relevant and valued.</p> <p>The trust established between long serving and experienced CJP staff and government counterparts is a key component of the continuing influence of the programme.</p>	Interviews with CLPs.	COAFG should review areas of achievement and processes that have delivered cost-effective change with a multiplier effect.
<b>Important</b>		
<p>The cooperation between CJP and Vienna was mixed, which in some cases had led to delays that were detrimental to the implementation of the projects.</p> <p>There were reports from CJP of a good relationship with the Justice Unit.</p> <p>There were concerns in the Regional Section about CJP delays in providing quality information required for reporting, accountability and meetings with donors.</p> <p>CJP also reported delays with regard to HRMS, procurement issues and the processes involved in project revisions.</p> <p>However, the scope of the evaluation does not allow a finding of the cause of these problems, which could be due to lack of capacity, e.g. not</p>	Interviews with COAFG staff and Regional Section and the IDM 2013 report on mission to Afghanistan.	<p>On the CJ consultant's understanding that this theme is common to the other cluster evaluations, and that in this evaluation it is not possible to identify causes, the recommendation is limited to the findings of the IDM report and propose selected case studies, e.g. one from procurement, one for a project revision etc., and implementing a review on each step taken, and what the issues were that has led to the delays.</p>

<p>enough staff to deal with all that is required; lack of experience and skills in the processes required, systems that are not for the purpose of implementation.</p>		
<p>Justice users, i.e., - those before courts and those who are in or have been in prisons - experiences are little understood, except with a reference to corruption.</p>	<p>Interviews with CLP and project documentation.</p>	<p>COAFG needs to develop activities to capture experiences of justice users, for the purposes of project planning and advocacy.</p>
<p>The projects have some excellent practices through a process of research, development of baselines, evidence based advocacy, promoting collective action and leveraging fund e.g., women in detention.</p>	<p>Project documentation, international and national reports, interviews with CLPs.</p>	<p>COAFG needs to further apply the evidence based advocacy model throughout the CJP.</p> <p>COAFG Research Programme should ensure that resources and expertise are available for the CJP.</p>
<p>The model of project funding that seeks to combine donor geographical and activity interests influences CJP prioritization of project activities, sometimes to the consternation of national authorities.</p>	<p>Interviews with CLPs and COAFG personnel.</p>	<p>COAFG should maintain proactive approach to communicating funding constraints to national partners.</p>
<p>Rapid donor funding with short term implementation periods cause challenges for management processes, such as by requiring project revisions and also regarding procurement standards.</p>	<p>Interviews with COAFG personnel and project documentation.</p>	<p>COAFG and Vienna need to develop an income generation strategy for the CJP</p>
<p>In the CJP projects, governance and management is inconsistently applied even though clearly stated in project documents.</p>	<p>Interviews with COAFG and Regional Section for West and Central Asia personnel and project documentation.</p>	<p>COAFG and Vienna should ensure project governance and management obligations as per CP are adhered to and documented, with decisions and action resulting from them followed up.</p>
<p>The impact of the training is little understood.</p>	<p>Project documentation, interviews with COAFG personnel and interviews with CLPs.</p>	<p>COAFG needs to develop systems and tools to ensure impact of training is monitored, understood and feeds into programme planning and implementation.</p> <p>To assist the evaluation of</p>

		future training activities the CJP evaluator proposes the following approach in Annex 5.
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# I. INTRODUCTION

## Linkages to SPF/Country Programme 2012 - 2014

The CP's Criminal Justice sub-programme is detailed in the AFGK62 Project Document which has three outcomes, delivered through a number of outputs. The Country Programme's sub-programme on Criminal Justice has three outcomes and several outputs, as follows:

- (a) Outcome 1: Afghan authorities reform criminal justice system in line with international standards and norms.
  - (i) OUTPUT 1.1: Support to the legislative reform process, as a permanent consultative process involving Afghan institutions and major experts within the international community.
  - (ii) OUTPUT 1.2: Strengthened legislative and institutional capacity to prevent and combat terrorism.
  - (iii) OUTPUT 1.3: National capacity for international judicial cooperation in criminal matters of justice and law enforcement institutions promoted.
  - (iv) OUTPUT 1.4: Measures to prevent and combat trafficking in persons in Afghanistan set in place.
  - (v) OUTPUT 1.5: Enhanced operational capacity (including working conditions) of judges and prosecutors in selected provinces.
- (b) Outcome 2: Anti-corruption measures strengthened in line with UNCAC.
  - (i) OUTPUT 2.1: Strengthened professional capacity in the High Office for Oversight (HoO)
  - (ii) OUTPUT 2.2: Research capacity of HoO enhanced for more effective evidence-based policy.
  - (iii) OUTPUT 2.3: National law harmonized with Afghanistan's obligations under the UNCAC.
  - (iv) OUTPUT 2.4: Strengthen the capacity of Civil Society Organisations (CSOs) and the private sector to advocate for anti-corruption enforcement measures.
  - (v) OUTPUT 2.5: Support promotion of integrity by justice and law enforcement bodies with a focus on the implementation of Codes of Conduct
- (c) Outcome 3: Prison system reformed in line with international standards and norms, with an emphasis on alternatives to imprisonment and pre-trial detention
  - (i) OUTPUT 3.1: Improved penitentiary system conditions through the implementation of comprehensive training curricula for prison officials.
  - (ii) OUTPUT 3.2: Alternatives to imprisonment and detention established with special focus on women and girls.
  - (iii) OUTPUT 3.3: Vocational and educational training established and available to facilitate reintegration for all prisoners, male, female and juveniles.
  - (iv) OUTPUT 3.4: Health and drug treatment services available for prisoners in selected facilities.

- (v) OUTPUT 3.5: Special care for vulnerable groups, including imprisoned women and their children.
- (vi) OUTPUT 3.6: Improve the capacity of the district detention system.
- (vii) Output 3.7: Juvenile Justice System reformed to be in line with international standards.

The outputs and outcomes of all three projects of the Sub Programme are all linked to and make a direct contribution to the SPF which has operational targets linked to Compact Benchmarks.

- (a) Compact (Benchmark 7.7): Reduce domestic demand for narcotics.
  - (i) 5 a - Demand Reduction Action Teams (DRAT).
  - (ii) 5 b - Data collection prevalence of drug use.
- (b) Compact (Benchmark 2.2) UN Convention against Corruption.
  - (i) 6 – Corruption: prevention and criminalization.
- (c) Compact (Benchmark 2.7.1): Legal framework.
  - (i) 7 - Ratification and compliance to UN Conventions and Protocols.
- (d) Compact (Benchmark 2.7.2 to 2.7.4): Functioning institutions of justice.
  - (i) 8 - Strengthen the capacity of the judiciary and penitentiary sectors.
- (e) Compact: Coordination and monitoring.
  - (i) 9 - Evidence-base system established for both drug and crime.

#### Contributions to the SPF/Country Programme 2012 -2014

The Criminal Justice Sub Programme is integral to the Operational Targets as per the COAFG Strategic Programme Framework 2006-2010 and these are in turn linked to the Country Programme 2012 – 2014.

There are clear links from the Criminal Justice Sub-programme to the CP. Work undertaken before the commencement of the CP has contributed through lessons learnt, to robust working relationships and direct outcomes. Contributions since the recent commencement of the CP, which at the time of evaluation had only recently started are harder to gauge, though contributing ongoing activities include:

- (a) T03: through the CLRWG to Outputs 1.1 and 1.2.
- (b) R86: with training on the police code of conduct to Output 2.5 and support to HoO regarding UNCAC obligations to Output 2.1.
- (c) R87: with prisoner resettlement activities in Kandahar and support to the juvenile open centre in Kabul – most of Outcome 3.

The end of the projects and transition to the CP has been a gradual process and has happened in stages, with, at the time of evaluation, some activities are understood as part of projects and some as part of the CP.

The contributions that the three projects made to the SPF 2006-2010 included, (i) Drugs survey in prisons and health provision in prisons and communities; (ii) Support to HoO, justice institutions and police e.g. code of conduct; (iii) Support to HoO in regard to UNCAC obligations; (iv) to some extent, work with and support for the judiciary, either through training, infrastructure support or equipment support; (v) Research under R87 has delivered evidence from which responses are partially derived; and (vi) The perception surveys under R86 are also influential in providing evidence based system.

## Challenges/Limitations to Cluster Implementation

The implementation took place amid a variety of challenges that must be recognized (some also affecting the Evaluation itself). COAFG and the CJP team have demonstrated a serious degree of analysis and strategically sound response to these challenges that are often beyond their direct control. Here are the major constraints to the work of this Cluster's projects:

### **International**

The international community is heterogeneous and represents, albeit in quasi-coordinated entities, many interests and an even broader range of approaches. This diversity places pressure on national Afghan authorities, who at times appear to be pulled in differing directions. That some members of the international community are backed by vast budgets can further distort the coherence of national planning and prioritization. This occasionally disjointed national planning environment makes it hard to focus programme support. Domestic pressures on members of the international community can also make a significant impact on the programme as governments swiftly, dramatically and sometimes injudiciously reduce the nature of their commitment (as is beginning to be the case), with little regard for needs in Afghanistan.

### **Regional**

Afghanistan is vulnerable to events in neighboring countries, Iran and Pakistan in particular. Border closures can have dramatic consequences for implementation, leading to spiraling costs of imported concrete or fuel. Movement of Afghan citizens to and from Iran poses isolated but telling challenges for the criminal justice projects with (often involuntary) returnees being drug users and in some cases ending up in Afghan prisons.

### **Capacity of National Institutions**

It was an almost constant refrain from national partners that there was a shortage of important documentation, e.g. national laws and important training manuals. While the projects and programmes have increased capacity and still aim to do so, such fundamental gaps are indicative of severely limited capacity and remain an impediment to the impact of legislative development.

### **Kabul-Centric Development.**

The reach of government initiatives is limited, meaning that CJP work, which is correctly based on agreements with government authorities posted in Kabul are sometimes impeded. In Bamyán, for instance, the draft of the National Priority Programmes could not be discussed as there were no versions in Dari, and the National Justice Sector Strategy (NJSS), finalised in 2008, had not, as of May 2011, been made available to judicial officers in the province.

### **Insecurity**

The changing and deteriorating security context with in which the CJP is implemented has a dramatic impact (as discussed elsewhere). The necessary vigilance, precautions and procedures established by the United Nations Department of Safety and Security means that implementation is frequently interrupted. This can be through the inability to travel in Kabul due to security status, road missions to project sites not being possible, flights cancelled at the discretion of United Nations Humanitarian Air Services (UNHAS) and government counterparts having their priorities distracted due to insecurity so meetings cannot always take place as planned.

### **Staffing.**

Of foremost concern is the toll of insecurity on, and welfare of, COAFG personnel. The CJP is not unique in the UNODC portfolio of projects that the national counterparts are particularly vulnerable (security and justice institutions). The Ministry of Interior, Prisons and the Ministry of Justice and Courts are key national counterparts; project implementation requires visits to locations that pose high levels of risk that restrict movement.

Costs. The changing nature of threats and risks demands changing security arrangements. Also affected are travel, office, accommodation, personnel terms and conditions. These, with other service and goods providers increasing their costs, which in turn are passed onto COAFG, have escalated costs leading to a reduction in activities. The provision for international staff to take periodic “R&R” breaks means that a full staff team in country is a rarity. Other pressures, intimidation for instance, exist for national staff. The Evaluation Team is unaware of what provisions have been made to accommodate this.

## II. EVALUATION FINDINGS

### Relevance

The project activities are derived from earlier work of COAFG in the criminal justice sector and are clearly informed by national strategies. As the context has changed, and in particular more of the international community took an interest in criminal justice reform, the focus adapted and found areas of specialized relevance as well as maintaining a lead role in some matters e.g. UNCAC.

The projects are highly relevant and also linked to cross cutting issues beyond the mandate of UNODC, but of key importance to the Afghan authorities. The involvement of non-state actors has been highly relevant in fostering an enabling environment and increasing accountability.

### Effectiveness

Assessing effectiveness is particularly hard with the original Project Documents very limited with regard to indicators and means of verification. However, more recent similar project documents, and to an extent, the CP have shown a marked improvement. The absence of Project/Sub Programme governance and oversight for instance tri-partite reviews and Project Steering Committee further hinders gauging the effectiveness.

It was interesting to note with the CJP projects working mainly with the same government counterparts, projects were viewed by officials as a single entity i.e. a programme. This is a strong indication of a programmatic approach that is the basis of the new CP. This also indicates that the approach is underway and informs effectiveness of implementation.

Assessing change and lessons learned have not been integral to some of the activities. For instance, there has been only nominal work done on assessing what has changed as a result of training. Most usually an end of training feedback form to seek feedback on the quality of the workshop. The need for training is undeniable and recipients expressed their appreciation, however what had been done differently as a result of the training is little known to COAFG and this is linked to the weakness of indicators and data collection systems in the project. However, the change as a result of the training needs to be properly assessed in order to gauge its actual effectiveness.

The equipment, in particular IT provision, and buildings and refurbishment provided respond to a critical need and are effective in enabling the work of recipients towards the aims of the projects.

The CLRWG, drawing on all three projects, has been extremely effective and was highly regarded by national and international stakeholders. The particular role of UNODC to be able to bring stakeholders together and draw upon diverse experience, that may not be possible for other international development partners, was seen by the CJ Evaluator as particularly effective. The blend of national and international expertise that UNODC provide through COAFG was another feature deemed as highly effective.

The robust research work that provided a platform for evidence based advocacy was similarly effective; this is indicated by changing and improved practice and also by leveraging new funding. The research on corruption and women in prison are both particularly high quality.

## Efficiency

The mutual commitment of resources from all the projects to activities, such as the CLRWG, represents a high level of efficiency, particularly as the CLWRG was also widely regarded as an effective activity. The projects also drew upon the expertise and resource of other projects in COAFG, for example, in the field of HIV and AIDS in places of detention; this has been an efficient use of resources.

The escalating costs of construction and the inability of COAFG to respond to these represent an inefficiency. While most cost increases are beyond the control of UNODC, the processes by which the changing costs have to be managed impede efficient implementation. However, those same processes seem reasonable if viewed purely from the perspective of financial accountability and transparency. The ill-conceived, incomplete and abandoned construction work represents an appalling inefficiency.

The cumulative extension of duration of the three projects has been from 78 months to 213 months, a very significant 189 per cent, overall while the budget of the CJP increased only by 58 per cent. This represents an inefficiency as project recurring costs (not the fixed percentage PSC) continued more or less unchanged, resulting in a proportionally reduced activity budget. T03 and R86 increased their budgets and in so doing, this represented less inefficiency in this context.

The cooperation between CJP and Vienna was mixed. In some cases this led to delays detrimental to project implementation. There were reports from CJP of a good relationship with the Justice Unit. There were concerns in the Regional Section about CJP delays in providing quality information required for reporting, accountability and meetings with donors. CJP also reported delays with regard to HRMS, procurement issues, and the processes involved in project revisions.

It was not possible to ascertain the causes of these problems, as the evaluation only included interaction with COAFG and Regional Section personnel but not the other involved Vienna-based units. Some likely causes include: a lack of capacity in some cases e.g. insufficient resources for tasks, insufficiently experienced or trained personnel, and, as systems evolved personnel well-matched for the challenging implementation environment in Afghanistan. The net result of the weaknesses in cooperation is additional work and significant delays for all involved as tasks poorly implemented in the first place are inconclusive and need to be recommenced.

## Impact

The CJP delivered a positive impact through all three projects. The projects have contributed to a new body of enabling legislation. The legislative framework including anti-corruption legislation provides traction in working towards reform and accountability framework, though work is still required to ensure that opportunity is used for increased impact.

In the field of criminal justice, the facilities UNODC made available to justice agencies are being used and making a difference in terms of increased coordination of justice agencies in some locations and increased number of open trials. For prisoners, particularly women, children and other vulnerable prisoners there have been improvements. The bigger challenge of what should be done for the large male population remains a work in progress.

## Sustainability

The knowledge gained, the publications produced, the equipment and infrastructure provided and the systems developed can all last long. The increased capacity of government agencies and non-state actors is also a core contribution to sustainability. The sustained use of all the positive inputs is dependent now on an enabling environment for those agencies that have been part of the programme. The CJP should be

commended for its hard work hard to ensure interventions and support firmly in line with the expressed needs of Afghan government which has increased chances of sustained influence and positive change.

The legislative and policy developments provide a changed framework for the enhanced work of criminal justice agencies, protection of rights for individuals and increased accountability.

The needs of the Afghan government require continuing donor support and so sustainability is also noted in that context. The Sub Programme has stimulated donor interest in some key areas, which offer the prospect of ongoing support to further encourage sustained change and impact.

## Partnerships

Government partners spoke highly of the approach of UNODC in particular that UNODC provided appropriate expertise and supported Afghan-led initiatives and needs. Concern was expressed that, as a result of the project funding model and the conditions of donors accepted by UNODC (usually relating to location of intervention or speed of intervention), there were some interventions that were not always a good match for Afghan government prioritization of needs.

The CJP programme is, compared to some other international organizations, a small team. This required UNODC's expert influence to be focused and to use other larger international agencies to carry that influence. Judicious interventions and a high level of expertise from the CJP team ensured these partnerships were used to a high standard.

The main concern with partnerships has been the programme's relationship with the donors. Donors appreciated the difficult circumstances within which the activities were implemented. However, it was the case more often than not that dissatisfaction was expressed with the timeliness of communication with donors, the quality of the reporting and weaknesses in reporting successes or weaknesses or changes outside of the formal reporting. This donor concern is supported by the documents provided by donors to the CJ Evaluator in the course of the assignment.

## Innovations/human rights/ crosscutting issues / other criteria etc

The projects have some excellent practice through a process of research, development of baselines, evidence based advocacy, promoting collective action and leveraging funds, e.g., regarding women in detention. The research capacity as stated in the CP should be used to support increasing such very good activities.

### III. CONCLUSIONS

The projects have had marked successes and generally have been implemented in a satisfactory manner. There have been, however, some unfortunately high profile weaknesses. All international agencies met by the CJ evaluator reported some degree of similar experience. COAFG and these projects were reported by Afghan government partners to compare favorably to other international agencies, in their adherence to Afghan stated priorities, transparency, continuity of assistance and having specialised and much needed expertise.

The projects are built upon the early interventions of UNODC in Afghanistan. There has been a commitment to learning from previous activities but lessons learnt have not always been fully applied, particularly in construction activities. However the new CP includes little in the way in the construction and COAFG has increased professional capacity for any such activities.

The projects benefit from some long serving team members who have considerable experience and expertise, as well as offering sound institutional memory. The CP is more enabling as a managing structure than the previous projects but needs to use the incorporated governance and oversight mechanisms.

The commitment to learning, a good team on board, and more thoughtful and detailed project documentation, which are all within the control of the COAFG, bodes well for the future of the CP.

The major concern is the context in which the CP will be implemented. The increased insecurity and further changes in 2014 will have a significant impact. The main issue must be the safety and welfare of all COAFG staff. They face intense and severe pressures in various contexts. The provision required to manage these pressures requires swift and frequent analysis and review and, possibly, subsequent investment and expenditure. This seems to be problematic, as UNODC decision making processes appear lengthy and the model of funding – project based – leave little in the way of flexible resources.

UNODC has a very specialist mandate and during the period under review, deployed highly specialist expertise as part of its mandate. In Afghanistan, as part of the CJP, the most effective work has been on those areas where it has added value and inspired thoughtful consideration.

## IV. RECOMMENDATIONS

### Critical

COAFG needs to ensure donors and national partners understand the implications of the deteriorating security environment and build tolerance into project planning and expenditure. COAFG and Vienna need to constantly review the impact of security on staff and staffing

COAFG and Vienna need to ensure staff responsible for project documentation preparation are well versed in results based management. COAFG and Vienna need to ensure systematic oversight of project document development. CJP needs to draw upon monitoring and evaluation expertise in COAFG to integrate robust evaluation tools and procedures in project documentation.

COAFG needs to continue ensuring that a relevant blend of expertise and experience is available to CLRWG and that the high performance of the CLRWG remains understood by the donor community

COAFG needs to identify common issues e.g. law reform and gender, that feature in all the projects and consider thematic teams. COAFG needs to identify common activities e.g. training, and develop common approaches and ensure learning from previous activities

COAFG and Vienna should continue to review and develop measures for minimizing inefficiency. Of particular concern is lengthy extensions without an increase in overall budget, resulting in unfavorable balance between activities and recurring costs.

COAFG should convene twice yearly roundtables for all CJP donors to include a presentation of challenges and progress and a Q and A opportunity. This can be done by working with Vienna to proactively ensure that donors (and new donor staff in Kabul) can either directly access ProFi or know that they can ask for ProFi reports from their headquarters. COAFG should offer an introduction to ProFi reports for Afghan based donors. COAFG/CJP needs to implement a higher standard of quality control on semi-annual and annual reports, which should be prepared with explicit attention to the function they perform in donor reporting.

COAFG should review areas of achievement and processes that have delivered cost effective change with a multiplier effect.

### Important

The cooperation between CJP and Vienna was mixed, which in some cases had lead to delays that were detrimental to the implementation of projects.

The consultants understanding that delays in work between COAFG and Vienna is a theme common to the other cluster evaluations, though it is difficult to identify causes in this CJ Cluster report. As a result, recommendations are limited to using a selection of case studies as well as findings of the IDM report, e.g. one from procurement, one for a project revision etc and implementing a review on each step taken, and what the issues were that has lead to the delays

COAFG should develop activities to capture experiences of justice users, e.g. those in detention or those under trial for the purposes of project planning and advocacy.

UNODC needs to further apply the evidence based advocacy model throughout the CJP such as for women in detention and the corruption surveys. The CP has a dedicated research programme and these resources and expertise should be made available for the CJP.

With weakness in project governance in the CJP upto the time of the evaluation, and with so many less positive elements of the sub-programme being in part process related, COAFG and Vienna should ensure project governance and management obligations as per CP are adhered to, with documented decisions and action resulting from them followed up. As part of the project governance commitment COAFG can maintain a proactive approach to communicating funding constraints to national partners contributing to a fuller shared understanding of opportunities and obstacles that are beyond the direct control of UNODC.

The likelihood of funding decreasing for prison and corrections seems quite high. There has been some recent success with securing new income, but there was little evidence of a systematic plan for income generation. It is important that COAFG and Vienna develop an income generation strategy for the CJP.

COAFG should develop systems and tools to ensure impact of training is monitored, understood and feeds into programme planning and implementation.

## ANNEX I. CRIMINAL JUSTICE EVALUATION SCHEDULE

Note there were several and frequent ad hoc meetings with COAFG personnel including the Representative, Deputy Representative, CJP team members and other programme and operations teams and the between the evaluation team that took place to take advantage of changed schedule, these are not listed here.

Date	Meeting/visit	Location	Person to meet
Sunday 2 Sept.	Arrival to Kabul Airport	Kabul Airport	
	Security Briefing	COAFG	
Monday 3 Sept.	Desk –review of documentation at COAFG	COAFG	
	Operation briefing and administration	COAFG/UNOCA	
Tuesday 4 Sept.	Meeting with Legislative Dept. MOJ	MOJ	Dr. Herawi, Head of Legislative Department
	Meeting with JSSP	UNODC	Charles Rick Parker, Justice Advisor
	Meeting with HOO	HOO	Mohammad Rafi, Director Strategy, Policy and Planning Rasoul Zahir, Research and Analysis Advisor
	Meeting with UNAMA	UNAMA	Stephanie McPhail, Head of Rule of Law
Wednesday 5 Sept.	Meeting with AIBA	AIBA	Mr. Qarizada, President, AIBA
	Meeting with AGO	AGO	H. E. Amini, Deputy Attorney General Malawi Zada
	Meeting with Embassy of Japan	Embassy	Sachiko Furuya, First Secretary, Economic Cooperation section
Thursday 6 Sept.	Meeting with Embassy of Canada	Embassy	Katherine Verrier Frechette Grace Lee, Program Analyst Gillian Frost, Deputy Head of Section
	Meeting with Embassy of UK (Foreign and Commonwealth Office)	Embassy	Helen Knipe Iain Drennan, (Justice) Stuart Kennedy and Sioux Nealings (Prisons)
	Meeting with UNDP	UNDP	Henrik Lindroth, Anti Corruption Project Manager
Friday 7 Sept	Document review	COAFG	
Saturday 8 Sept.	Document review	COAFG	

Sunday 9 Sept	Group meetings		CJP Team
	Meeting with Meeting with AFGR87 Project	COAFG	Collie Brown
Monday 10 Sept.	Meeting with Supreme Court	S Court	Mr. Zubal, Head of Study and Research unit,
	Meeting with MOI	Moa	H. E. Yarmand, Deputy Minister
Wednesday 12 Sept.	Meeting with Afghan Independent Human Right Commission	AIHRC	Shamsullah Ahmadzai
	Meeting CPD	CPD	Gen. Habib, Chief of Staff, CPD
	Meeting with CSSP	CSSP	Bill Davis, Chief of Team,
	Visit to Transition House	Women For Afghan Women	Huma Safi & Manizha Naderi
	Visit to Female Detention Center + JRC	FDC	Gen. Baryan & Ms. Aziza
Thursday 13 Sept.	Travel to Bamyan province Security Briefing Meeting UNAMA Rule of Law		Michael Lackner, RoL Coordinator, UNAMA
Friday 14 Sept.	Review CJP		Gary Collins, UNODC Senior Advisor, Criminal Justice Programme
Saturday 15 Sept.	Meeting Appeal Court Meeting Governors' Office Visit JSC Meeting Department of Justice		Mohammad Asif Mobaligh, Deputy Governor, Bamyan Province  Head of Governmental Cases and OiC Justice Department
	Afghan Independent Human Rights Commission, Bamyan Office, Travel to Kabul		Mr Hossaini, Monitoring and Investigation, AIHRC
Monday 17 Sept.	Travel to Kundoz Province Security Briefing Meeting UNAMA representative		Leila Boucheboubba, Head of Office and Area Security Coordinator, North East Region, UNAMA
Tuesday 18 Sept.	AGO Office Kundoz Prison Meeting UNAMA Rule of Law		Mr Haji Oman, Deputy Prosecutor, AGO Zabihullah Nabil, National Rule of Law Officer, UNAMA
Wednesday 19 Sept.	Meeting Appeal Court Visit JSC, Travel to Kabul		
Thursday 20 Sept	Meeting with AFGT03 project	UNODC	Radifullah Hamid
	Meeting with AFGR87 Project	UNODC	Haji Sayed Afzal Sherzad
	Meeting with AFGR86 Project	UNODC	Sohail Ghuorwal Victor Schmidt Mariam
	Meeting with ICRC	ICRC	Karine Benyahia, Detention Coordinator Benoit Chavez, Detention Coordinator
	Canada	Conference Call	Katherine Verrier Frechette Grace Lee, Program Analyst Alanna Parson, HQ program officer, Peter Cahill, Canadian representative, based in Vienna
Friday	Formulation of initial findings		

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21 Sept			
Saturday 22 Sept.	Formulation of initial findings		
Sunday 23 Sept.	Departure from Kabul Airport		
In UK	Marianne Moore, Director, Justice Studio		

## ANNEX II. DESK REVIEW LIST

### Afghanistan Government

<http://www.thekabulprocess.gov.af/>

<http://www.thekabulprocess.gov.af/>

“Governance Cluster National Priority Program for Human Rights and Civic Responsibilities” (NPP 6) Oct 2011.

“Islamic Republic of Afghanistan National Development Strategy.” Kabul: 1387-1391 (2008-2013).  
National Justice Sector Strategy. 2008.

“National Priority Program 5 Afghanistan’s Law & Justice for All Program Second Draft for Consultation November 2011.”

Afghanistan Supreme Court. *Special Bulletin*: 19, May 2012.

Afghanistan Supreme Court. “Activities and Achievements of Supreme Court from 1385 to 1389 on Rule of Law and Judicial Justice.” Kabul: 2011.

Administration reform and anti-corruption in Judiciary of Islamic Republic of Afghanistan 2010.

### UNODC

“Recommendations Implementation Plan.” Nov 2008 Thematic Evaluation of Technical Assistance Provided to Afghanistan by the UNODC.

“Thematic Evaluation of Technical Assistance Provided to Afghanistan by the UNODC, Volume 1 (Consolidated Evaluation Report). Vienna: IEU, May 2008

AFG/K62 Sub-Programme 3: Criminal Justice (Country Programme for Afghanistan 2012-2014). Project Document (through ProFi).

Impact of Security on UNODC Programme Implementation. Kabul, November 2012.

UNODC Afghanistan Counter Narcotics Program Annex “A” Program Framework\_(Version Nov. 14, 2007 – Letter of Information) Canadian Government.

Annex A Amended September 24<sup>th</sup> 2010 Canadian Government. Annex of above document.

T03 R86 R87 Project documentation (through ProFi):

- final project documents and all project revisions.
- all annual reports.
- semi annual reports for 2012.
- mid term evaluations for R87, R86 and T03, and final evaluation for R87.

“Afghanistan Female prisoners and their social reintegration”. Kabul: March 2007.

“Afghanistan: Implementing Alternatives to Imprisonment, in line with International Standards and National Legislation. Assessment Report UNODC Project: Prison System Reform in Afghanistan— Extension to Provinces (AFG/R87).” Vienna: UNODC 2008.

“Prison Drug Use Survey: A national survey of drug use and associated high-risk behaviours across the prison population in Afghanistan.” Vienna: September 2011.

### Donor Programme and Project Documents

Italy, Ministry of Foreign Affairs. 2011. “Italy and the Rebirth of the Rule of Law in Afghanistan The Italian contribution to justice reform over the decade 2001-2011.”

UNODC Semi Annual Report 2012 to Embassy of Japan in Afghanistan with tracked comments from the Embassy.

Follow up from COAFG. CJP Interim Progress Report, Criminal Justice Capacity Building in Balkh, Bamyan and Herat (CJCB 3) to Embassy Japan in Afghanistan.

Complementary Budget from Japanese Government for the assistance to Afghanistan and neighbouring countries (FY2011), 08 Sep. 2011.

E-mail correspondence between COAFG and Embassy of Japan Afghanistan 29<sup>th</sup> July 2012 and 8<sup>th</sup> August 2012.

### International Community Documents

UNAMA, UNDP. "Provincial Justice Coordination Mechanism."

Overview of Assistance to the Justice System in the Provinces of Afghanistan, December 2009.

Donor Consensus Points on the Draft NPP 5-Law and Justice for All November 2011.

Prisons of Afghanistan. Assessment and Recommendations, 2011 Update, 2011.

"Snapshot assessment of the implementation of the NJSS and NJP in the province of Bamyan." UNAMA Rule of Law, May 2011.

"Justice Audit Helmand Province, Governance and Justice Group." For the UK HMG Stabilisation Unit, 2011.

UNDP. 2008. "United Nations Assistance Mission in Afghanistan Support to Provincial Justice Coordination Mechanism (*1 January 2008–31 December 2008*)".

Community-Based Dispute Resolution Processes in Nangahar Province, Deborah Smith, AREU 2009.

"Models and Options for Legal Aid Delivery in Afghanistan, International Development Law Organization." 2007.

UNODC. 2011. "Criminal Justice Reform in post conflict states, a guide for practitioners." UNODC and United States Institute for Peace." New York: United Nations.

## ANNEX III. TRAINING AND POST TRAINING EVALUATION

To understand and establish the impact of training, it is critical to ensure

the trainees are clear that the training is supposed to change the things that do or the way that they do things; and

the trainees are aware that they will be required to communicate with the trainers/organisers at a certain time in an agreed way (it can be through a meeting, by phone, by e-mail)

Below are some issues that the CJ evaluator proposes are necessary to understand and to reveal impact or otherwise of the training. These are not proposed as specific questions, which require appropriate stylistic and linguistic work for COAFG CJP projects. These are not to replace questions already used e.g. quality of venue and quality of trainer etc, but are to be used in addition:

### **At the end of the training**

To what extent do you feel you have learned from the programme?

To what extent do you feel you have had previous learning (perhaps some you have forgotten) confirmed?

What have you NOT learned that you needed to and /or expected to learn during the programme?

### **Six months after the training**

Has your job changed since the training? If it has what is now different?

What is/are the item(s) of learning you have implemented?

By which targets have you measured progress?

What barriers have impeded your implementation?

How did you try and avoid or negate these barriers?

What resources (people, equipment, extra skills, etc.) did you need to complete the implementation of the learning?

What benefits do you observe resulting from your actions?

Have you and your manager meet a) to discuss the implementation of your learning and b) to review the progress of this?

UNITED NATIONS OFFICE ON DRUGS AND CRIME  
Vienna

Independent Project Evaluation of the  
**Strengthening Anti-Corruption Measures in  
Afghanistan**

AFG/R86  
Afghanistan

July 2013



UNITED NATIONS  
New York, 2013

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# EXECUTIVE SUMMARY

## **Project Framework**

The Overall Objective of AFG R86 – (Strengthening Anti-Corruption Measures in Afghanistan) is to support the development of a sustainable broad-based National Anti-Corruption Strategy in line with the requirements of the United Nations Convention against Corruption (UNCAC). There are four immediate objectives, to

- (a) support the development of a sustainable broad-based National Anti-Corruption Strategy in line with the requirements of the UNCAC, including the establishment of a Secretariat responsible for guiding and monitoring its effective implementation;
- (b) support the review and drafting of key legislation in accordance with the requirements of the UNCAC;
- (c) strengthen the basic capacity, professionalism, accountability and integrity of the Attorney General's Office (AGO), in particular the anticorruption unit, in accordance with the relevant provisions of the UNCAC; and
- (d) enhance the skills and professional knowledge of judges and prosecutors in handling corruption cases.

This Project works with the AGO and the Supreme Court in support of a sustainable National Anti-Corruption Strategy. The Project is integral to the Operational Targets as per the Country Office Afghanistan (COAFG) Strategic Programme Framework 2006-2010 and these are in turn linked to benchmarks in the ANDS. The Project is also linked to national priorities that are now reformulated under National Priority Programmes (NPPs) funded by the Government (Economic and Financial Reform, transparency and Accountability, Efficient and Effective Government, Local Governance, Justice for ALL, Human Rights).

UNODC was requested by the Government to lead the Anti-Corruption Working Group (WG) and the Anti-Corruption Cross Cutting Thematic Group (CCTG), both established within the framework of the Afghanistan Compact to “serve as the forum through which Government will establish and articulate national policies and through which donors will coordinate their activities and align with those policies.” This Project supports the work of these groups.

UNODC's government counterpart agency is the Attorney General's Office. The Project uses a range of activities including legislative reform, infrastructure development and refurbishment, professional training, improving IT capacity, and providing equipment to deliver outputs. The Project was implemented in Kabul.

The Project commenced in 2007 and ended in December 2012. The Project underwent six revisions and was also extended from the original duration by 41 months for a total of 65 months. The original Project budget was US\$3,167,200 but with US\$5,776,747 additional funding, the overall approved budget was US\$8,943,947.

The donor countries were Austria, Canada, Germany, Japan, Poland, and the United States.

## **Evaluation Methodology**

The mission schedule was drafted by the COAFG Criminal Justice Programme (CJP) team, and then finalized with the evaluator to include additional meetings. Field missions were agreed in an effort to include visits to project sites that covered as many examples of activities. The final schedule is in Annex 1.

During meetings with Core Learning Partners (CLP) where English was not the lingua franca the evaluator was accompanied by a COAFG translator. For other meetings, COAFG or Vienna Headquarters personnel attended, most usually only to make an introduction.

The evaluation included site visits, CLP interviews, document reviews and interviews and group meetings with COAFG staff. In the inception report, core evaluation questions on relevance, effectiveness, appropriateness, efficiency, partnerships, sustainability and lessons learned were agreed as were proposed supplementary questions that would provide analysis to answer the core evaluation questions. A questionnaire was developed using open ended questions to facilitate and guide semi-structured individual and group discussions. The overall evaluation questions were developed to provide discussions points to enable the evaluator to provide well founded answers to contribute to successfully evaluating the projects. These questions were designed to link up with the indicators in the project

The sampling strategy was agreed to include interviews and discussions with targeted key Government counterparts and CLPs. Site visits were planned to cover a variety of government counterparts, a range of activities and varied locations. Key contextual information was provided from interaction with COAFG staff and other international agencies including donors in Kabul.

Likely limitations (more details below) were documented and agreed, though by far the biggest obstacles were security and operational obstacles, the vast volume of material to be assessed (nearly twenty years of documentation), the absence of accessible data in particular from government counterparts and the weakness of project indicators making it extremely difficult to assess change.

To allow triangulation of findings, a varied range of sources of data was agreed in the inception report. Towards the end of the period in Afghanistan it became clear in the ToR there was insufficient levels of engagement with Vienna HQ.

### Challenges to the Evaluation

An obstacle to project implementation as well as to timely evaluation is the poor infrastructure of the country. Project sites are located in sometimes remote areas accessed by poor roads. There were sites of interest to the Evaluation that could not be visited due to the time constraints of the Evaluation schedule.

The security situation in Afghanistan has been deteriorating which interfered with the Evaluation schedule. UNODC follows the UN in placing strict controls on the movement of staff, both national and expatriate, to minimize risks. A number of visits and meetings had to be cancelled or postponed for security reasons.

Nevertheless, the Evaluation Team is convinced that the team members managed to visit enough places, meet a sufficient number of stakeholders and beneficiaries, and study a satisfactory number of documents and reports that it obtained a reliable understanding of the strong points and deficiencies of this Project and that the findings in this report are valid.

## Key findings and conclusions

### **Background**

The rule of law in Afghanistan is an area of governance which requires significant investment and support by national and international stakeholders. Although in the last ten years much have been accomplished and the justice system has been partially reanimated, specific areas of the justice system - such as prisons, juvenile justice, anti-corruption, and the overall capacity of criminal justice sector need improvement and sustainability. It is impossible to overstate the importance of rule of law to the transition/peace-building effort in Afghanistan. One of the greatest threats to peace in Afghanistan has been the perception by a large proportion of the population that the central government cannot enforce the rule of law and, in some cases, does not abide by the rule of law. This lack of trust has played a crucial role in strengthening the insurgency and in undermining the government's ability to successfully prosecute its own anti-insurgency strategy. The absence of rule of law actors in many parts of the country, the relative powerlessness of some of these actors even when they are present, and the perception – and reality – that rule of law actors are frequently engaged in corrupt behaviour are all factors that encourage self-help, willingness to accept anti-government sentiments, cynicism regarding the role of the international community, and resignation regarding corruption. Corruption and perceived corruption deplete the formal economy and erode the ability of government to extend justice services to the population. Corruption in the very agencies that are supposed to uphold the rule of law, protect the right of individuals and combat corruption is vast obstacle to growth, security and governance. In 2012 according to UNODC and HoO corruption and insecurity continue to rate as the joint highest concerns of the Afghan population. The same report shows the percentage of bribes paid to police, judges and prosecutors compared to other government officials has dropped between 2009 and 2012 but they still represent, as a percentage of the volume of bribes paid to public officials, three of the four highest recipients of bribes. In addition the average value of individual bribes to judges and prosecutors is significantly higher than the other governmental officers included in the report. It is hard for the Afghan population to have a belief in the government anti-corruption efforts when there remains such levels of corruption in the criminal justice agencies. Combatting corruption requires those government agencies responsible for investigating, prosecuting and make judgment on corruption cases to have significant capacity but they must also be backed by political will. Such political will is stated at all levels of Afghan government, though is not always apparent in practice and where it is does seem apparent has been implemented in way that lacks coherence or possibly undermines some initiatives. During the evaluation mission, the HoO expressed some concern that the Independent Joint Anti-Corruption Monitoring and Evaluation Committee infringed and weakened their own mandate.

### **Project challenges**

The project faced a number of distinct though interlinked challenges: international, regional, capacity of national institutions, Kabul centric development, insecurity, prioritization of location and nature of intervention, corruption and limited practice of documentation of analysis. COAFG and the CJP team have demonstrated a serious degree of analysis and strategically sound response to these challenges that are in the main beyond their direct control.

### **Conclusions**

The project has run from 2007, and the activities designed from that time are closely linked to the early initiatives of UNODC, the urgent needs as identified by the Afghan national authorities, and the nature of the international community involvements.

The project has demonstrated some good practice and has been influential particularly when focusing on key areas where UNODC has added value of significant experience. The corruption surveys are highly

valuable outputs of the project and offer very good value for money when used for multiple purposes such as; advocacy and assisting programme and national authority planning.

A major influence on the future of COAFGs anti-corruption work will be the functionality of HoO. This may well depend upon the leadership and their relationship with other bodies of the government. If the current impasse remains, whereby HoO is unable to perform fulfill its mandate, COAFG will have to analyze the nature and approach of its support.

The operational environment has been extremely challenging and COAFG has faced major difficulties in implementation in the fluid and deteriorating security situation. This will remain a major and increasing determinant to the transitions over the next 36 months: the exit of international forces, a reduction in donor funding and the approaching Presidential and parliamentary elections. This is likely to prompt further need for UNODC to be active in the field of Rule of Law and require significant budgetary increases, as well as changes to security plans and practices.

The needs and priorities of the Afghan national authorities and the nature of international involvement have evolved significantly in the intervening period during which time UNODC has demonstrated a commitment to learning and adaptation, based on contextual changes and experiences from earlier interventions.

The move from project approach to a programme framework is a very positive step which has the potential to reduce inefficiency, provide a more enabling framework for results based management and implement the documented commitment to programme governance and oversight.

The increased commitment to research and advocacy in the new CP is a significantly positive step and should be used to reinforce UNODC very specific expertise and demonstrate added value in all areas of the CP that is steeped in analysis and practice that fundamentally responds to the Afghanisation of development. Core to the increasing impact of the CJP in this environment are COAFG personnel: their safety, welfare and performance. Security upgrades at the COAFG compound were taking place at the time of the evaluation, but these are significant expenses not easily met from project funding.

All activities of the Project were necessary and relevant and the progress made and lessons learnt provide a highly valuable platform for the future work of COAFG.

# SUMMARY MATRIX OF FINDINGS

Findings: <sup>5</sup> problems and issues identified	Evidence (sources that substantiate findings)	Recommendations <sup>6</sup>
<b>Critical</b>		
<p>The Project was highly relevant, but over-ambitious in scope; however it attracted additional resources to deliver a broader range of outputs</p> <p>The original Project Document is very limited with regard to indicators and means of verification; however, more recent similar Project documents have shown a marked improvement.</p>	<p>Project documentation and interviews with CLPs.</p>	<p>COAFG and Vienna must ensure staff responsible for project documentation preparation and well versed in results-based management.</p> <p>COAFG and Vienna need to ensure systematic oversight of project document development.</p> <p>CJP needs to draw upon monitoring and evaluation expertise in COAFG to integrate robust evaluation tools and procedures in project documentation.</p>
<p>The Project made a key achievement in helping establish HoO.</p> <p>The HoO is technically and legislatively fit to function consistent with UNCAC obligations.</p> <p>However, in the absence of an enabling political environment and prosecuting authority, and strained relationships with existing prosecuting authorities, the HoO cannot deliver its mandate.</p>	<p>International reports, national media and interviews with CLPs.</p>	<p>To further promote the likelihood of an enabling environment within which HoO may deliver its mandate, further activities could include:</p> <p>COAFG support for development of whistle blowing mechanisms in line ministries.</p> <p>CLRWG responding to opportunities to witness protection legislation.</p> <p>COAFG using research outputs to foster effectiveness and networking with non state</p>

<sup>5</sup> A finding uses evidence from data collection to allow for a factual statement.

<sup>6</sup> Recommendations are proposals aimed at enhancing the effectiveness, quality, or efficiency of a project/programme; at redesigning the objectives; and/or at the reallocation of resources. For accuracy and credibility, recommendations should be the logical implications of the findings and conclusions.

		actors, media, and faith groups. <sup>7</sup>
The work of the CLRWG is highly relevant, has been highly effective, and has a sustained impact.	Project documentation and interviews with CLPs.	CLRWG needs to maintain the core element of the CJ Programme.  COAFG and Vienna should ensure sufficient donor understanding of its value.
<b>Important</b>		
HoO can only refer cases to AGO offices which are responsible for prosecuting cases of internal alleged misconduct.	Project documentation and interviews with CLPs.	COAFG needs to maintain support to AGO in its work to prosecute corruption charges  COAFG needs to maintain support to Anti Corruption Units (ACUs) of other Ministries.
The corruption research perception survey contributes to evidence based advocacy and planning and Project activities.	Project documentation and interviews with CLPs.	COAFG should use research findings for seminars and training and public information events.  COAFG should use research findings for focused workshops using pool of trained media professionals.
The development and agreement of a code of conduct for police and prosecutors is an important element of UNCAC obligations. The roll out training, monitoring, and implementation remain key steps.  The development and training on the police code of conduct is mutually reinforcing e.g. United Nations Assistance Mission to Afghanistan (UNAMA) police advisors, United Nations Educational,	Project documentation and interviews with CLPs.	COAFG should secure resources for ongoing roll out of Code of Conduct (CoC) training, including proactively seeking other agencies to facilitate or support the roll out of the training on CoC.  COAFG needs to prioritise the provision of a CoC and training resources for police training institutions.

<sup>7</sup> Recommendations regarding prosecuting authority are addressed below.

Scientific and Cultural Organization (UNESCO) literacy programme in regional police training centres and leveraged more funding e.g. European Police Mission in Afghanistan EUPOL to cover some training costs.		
The impact of the training is little understood.	Project documentation, interviews with COAFG personnel and interviews with CLPs.	COAFG needs to develop systems and tools to ensure impact of training is monitored, understood and feeds into programme planning and implementation. <sup>8</sup>
No stories on corruption that were supported by the Project were published in local media.	UNODC officials.	COAFG ensures that in future, following work with journalists, stories are published in print media and aired on local TV stations.

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<sup>8</sup> To assist the evaluation of future training activities the CJP evaluator proposes the following approach in Annex 5.

# I. INTRODUCTION

The duration of the Project AFG/R86–Strengthening Anti-corruption Measures in Afghanistan was approximately 5½ years (2007-2012). The Project’s main objectives are: a) to support the development of a sustainable broad-based National Anti-Corruption Strategy in line with the requirements of the UNCAC, including the establishment of a Secretariat responsible for guiding and monitoring its effective implementation; b) to support the review and drafting of key legislation in accordance with the requirements of the UNCAC; and c) to strengthen the basic capacity, professionalism, accountability and integrity of the AGO, in particular the anticorruption unit, in accordance with the relevant provisions of the UNCAC; and d) to enhance the skills and professional knowledge of judges and prosecutors in handling corruption cases.

- (a) Provinces: Kabul
- (b) Donors: Austria, Canada, Germany, Japan, Poland, United States
- (c) The Project has been revised 6 times (see annex project revision summaries) and also extended.<sup>9</sup>
- (d) R86 original duration 24 months, final duration 65 months – 41 months extension
- (e) Project budget (all figures US\$)
- (f) R86 original budget 3,167,200, final budget 8,943,947, a budget increase of 5,776,747.

## Project design

UNODC was requested by the Government to lead the Anti-Corruption Working Group (WG) and the Anti-Corruption Cross Cutting Thematic Group (CCTG), both established within the framework of the Afghanistan Compact to “serve as the forum through which Government will establish and articulate national policies and through which donors will coordinate their activities and align with those policies.”

The Project promotes conventions and standards of which UNODC is the custodian, e.g. UNCAC and Standard Minimum Rules for the Treatment of Prisoners (SMR) and is integral to the Operational Targets as per the COAFG Strategic Programme Framework 2006-2010 and these are in turn linked to Afghan National Development Strategy (ANDS).

National priorities are now reformulated under the NPPs. The project is still strongly characterized by relevance to that new framework under Governance: (Economic and Financial Reform, Transparency and Accountability, Efficient and Effective Government, Local Governance, Justice for ALL, Human Rights).

The Project counterparts are the Supreme Court, the HoO and the AGO. The project uses various activities including: legislative reform; infrastructure development and refurbishment; professional training, improving IT capacity and providing equipment to deliver the expected outputs.

The project is made up of four interlinked immediate objectives, which are also clearly linked and supportive of the other work of the CJP. The use of training as an activity to bring about change is reasonable, but there was little in the design of the project to measure change as a result of training, in fact

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<sup>9</sup> The history and details of the project revisions were taken from ProFi.

the project design would have benefitted from more precise or meaningful indicators and means of verification. The design was sufficiently flexible to respond to the environment of implementation for example adapting to the governments prioritization of anti-corruption legislation over anti-corruption strategy. The investment in and support to legislative development was mutually supportive of activities in the other projects of CJP. The support of the establishment of an anti-corruption Secretariat was entirely consistent with stated needs and delivered essential inputs that encompassed basic institutional building support. This became more sophisticated technical support at later stages. The original duration of the project was quite short, and perhaps too short for the extensive work required in such a complex political and operational environment.

## Evaluation Methodology

The field mission in Afghanistan section by the Criminal Justice evaluator was from 1st – 23rd September (including travel to and from the UK). The CJ evaluator notes that logistical preparation and support during the field mission was exemplary. Contracts were finalized and transport arranged in good time, project documents were made available and pre-mission guidance was provided by the Independent Evaluation Unit (IEU) through an individual call. During the mission, a very high standard of support was provided in terms of translation, IT, transportation and security briefing. All these contributed to the necessary enabling environment for the mission.

The mission schedule was drafted by the CJP team, and then finalized with the evaluator to include additional meetings. Field missions were agreed in an effort to include visits to project sites that covered as many examples of activities. The final schedule is in Annex 1.

During meetings with CLPs where English was not the lingua franca the evaluator was accompanied by a COAFG translator. For other meetings, COAFG or Vienna Headquarters personnel attended, most usually only to make an introduction.

### Challenges to the Evaluation

During the evaluators visit to Afghanistan, security concerns had a major influence on the completion of the mission schedule, with the following impact:

In Bamyán the CJ evaluator had to remain in the United Nations Assistance Mission to Afghanistan (UNAMA) compound and could not return to accommodation due to protests (unrelated to UNODC).

In Kunduz, the evaluator was part of a precautionary evacuation from the UNAMA compound to the Provincial Reconstruction Team<sup>10</sup> (PRT) due to protests (unrelated to UNODC).

The mission to Jalalabad by the CJ Evaluator was not possible due to a cancelled flight<sup>11</sup>. However, the team leader and international staff member of UNODC based in Kabul did go to Jalalabad and visited the Appellate Court, the provincial prison (including the women's detention centre), the Ministry of Justice office, the Attorney General's Office, and the Deputy Provincial Governor. While not experts in this sector, a considerable amount of information that is included in the evaluation report, was collected.

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<sup>10</sup> Militarized bases.

<sup>11</sup> Project sites are located in sometimes remote areas accessed by poor roads. Within the timeframe of the evaluation there were sites of interest that could not be visited due to time constraints. Related somewhat is the unreliability of air services. Due to poor security records of domestic airlines, UN staff is required to travel by UNHAS, the UN air service. However, for multiple reasons, this service is also not reliable and in one case prevented the CJ evaluator from visiting Jalalabad. Although the Team Leader did visit here, this detracted from the time he could have used places elsewhere of use to the evaluation.

Another obstacle to timely evaluation is the poor infrastructure of the country. Project sites are located in sometimes remote areas accessed by poor roads. Within the timeframe of the evaluation there were sites of interest that could not be visited due to time constraints. Related somewhat is the unreliability of air services. Due to poor security records of domestic airlines, UN staff is required to travel by United Nations Humanitarian Air Services (UNHAS), the UN air service. However, for multiple reasons, this service is also not reliable and in one case prevented the CJ evaluator from visiting Jalalabad. Although the Team Leader did visit here, this detracted from the time he could have used places elsewhere of use to the evaluation.

The CJ evaluator could not visit Juvenile Rehabilitation Centre<sup>12</sup> (JRC) facility in Bamyan because of security status.

The visit to the Kunduz prison was interrupted and incomplete due to NATO presence concerning insurgent detainees/prisoners.

In Kunduz the CJ evaluator could not meet with local government nor The Governors office due to protests.

The CJ evaluator could not visit Pol-e-Charkhi prison because of prisoner disturbances.

The CJ evaluator could not visit Kabul Male Detention Centre because of security status. However, the Team Leader did make the visit along a senior local staff member.

The CJ evaluator arranged meetings in London and made follow up calls, including through Skype after the visit to Afghanistan to fill gaps as much as possible.

Other impediments to the mission included:

Government officials neither had nor did not want to release information that they considered sensitive (such as regarding influential individuals or specific data on drug use). It was hard to identify the exact reasons for this even with the assistance of COAFG personnel.

A tight schedule prevented a meaningful visit to the JRC in Kabul where traffic is unpredictable and vulnerable to rapidly changing security status, sometimes with astonishing delays to short journeys.

Some planned meetings with CLP government officials<sup>13</sup> were with their subordinates this meant little relevant information or informed opinion was available

Some Government officials had not been in post for long and only had limited information about activities.

Donors newly in post lacked immediate familiarity with the long projects.

The inception report (see annex of the overall cluster report) describes the predicted limitations, sampling strategy, data collection instruments, ethical considerations and specific questionnaire framework. The evaluator drew upon the agreed Inception Report to guide the mission. There were however times when it was not possible or practical to follow the specific questionnaire framework due to the nature of the meeting. Most usually the representative of the CLP was not in a position to share information or the

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<sup>12</sup> Places of detention under the Ministry of Justice for persons under the age of 18 convicted to a custodial sentence.

<sup>13</sup> Some officials were called away to attend to urgent or higher priority issues.

circumstances of the meeting e.g. visiting a prison meant that conversation was held walking around premises and it was important to react to and enquire about what was presented and observed.

By far the biggest challenge was the sheer volume of information, written and verbal, associated with the three projects covering nearly 20 years of activity. The CJ evaluator sought guidance from COAFG and the CJP team on the documents to prioritize. Even by doing this, it was difficult to cover all aspects of the programme, particularly with what turned out to be, as a result of unavoidable schedule interruptions, somewhat limited opportunity to meet with all CLP during the mission.

A key feature of virtually all meetings with Government CLPs is the reliance of measuring progress through recording input and activities. Various approaches during individual meetings to prompt reflection on, or opinion about, outcomes and the use of indicators, revealed little. This was mirrored to some, but a much lesser, extent in the CJP team.

The CJ evaluator had the opportunity after meetings to clarify points with CJP and other COAFG personnel and, where the schedule allowed, to review experiences and progress with the other Evaluation Team members.

The Evaluation Team is of the opinion that the team members managed to visit enough places, meet a sufficient number of stakeholders and beneficiaries, and study a satisfactory number of documents and reports that it obtained a reliable understanding of the strong points and deficiencies of this Project and that the findings in this report are valid.

### Challenges/Limitations to Project Implementation

The above implementation took place amid a variety of challenges and limitations that must be recognized (some of which also affected the Evaluation itself, as noted above). COAFG and the CJP team have demonstrated a serious degree of analysis and strategically sound response to these challenges that are in the main beyond their direct control. Here are the major constraints of the Project's work.

#### **International**

The international community is heterogeneous and represents, albeit in quasi-coordinated entities, many interests, and a broad range of approaches. This diversity places pressure on national authorities, pulling them in differing directions. That some members of the international community are backed by vast budgets further distorts the coherence of national planning and prioritization. This occasionally disjointed national planning environment makes it harder to focus programme support. Domestic pressures on members of the international community also have a significant impact on the programme as donor governments swiftly, dramatically and sometimes injudiciously reduce the nature of their commitment, with little apparent regard for needs in Afghanistan.

#### **Regional**

Afghanistan is vulnerable to events in Iran and Pakistan in some very practical ways. For instance, border closures can have dramatic consequences for implementation with spiraling costs of raw materials needed for construction and refurbishment work.

#### **Capacity of National Institutions**

The HoO as a new institution lacked premises and project time and resources were used during this period for the establishment of premises. It was an almost constant refrain from national partners that there was a shortage of important documentation e.g. national laws and important training manuals. While the

projects and programme have increased capacity and still aim to do so, such fundamental gaps remain an impediment to the impact of legislative development.

### **Kabul Centric Development**

The reach of government initiatives is limited, meaning that project work, which is correctly based on agreements with high government authorities based in Kabul are sometimes impeded in locations outside the Capital. In Bamyan for instance, the draft National Priority Programmes (NPPS) could not be discussed as there were no versions in Dari, and the National Justice Sector Strategy (NJSS), finalized in 2008 had not, as of May 2011, been made available to judicial officers in the Province.

### **Insecurity**

The changing and deteriorating security context with in which the CJP is implemented has a dramatic impact.

Of foremost concern is the toll on, and welfare of, COAFG personnel. The CJP is not unique in that the national counterparts are particularly vulnerable (security and justice institutions). The Ministry of Interior, Prisons and the Ministry of Justice and Courts are key national counterparts; programme implementation requires visits to locations that pose peculiar risks. At some points during the project COAFG experts could not work from the HoO premises as they were not secure.

In addition the provision for international staff to take periodic “R&R” breaks means that a full staff team in country is a rarity. Other pressures, intimidation for instance, exist for national staff, though the CJ evaluator is not aware of what provisions have been made to accommodate this.

The necessary vigilance, precautions and procedures established by DSS mean that implementation is frequently interrupted. This can be through the inability to travel in Kabul due to security status, road missions to project sites not being possible, flights cancelled at the discretion of UNHAS as a result of insecurity, and government counterparts having their priorities distracted due to insecurity so meetings cannot always take place as planned.

The changing nature of threats and risks demands changing security arrangements, travel, office, accommodation, personnel terms and conditions results in escalating costs for COAFG.

### **Prioritization of Location and Nature of Intervention**

There are two challenges here, both partially linked to the project funding model that characterizes the CJP, though this is not unique to the CJP in COAFG. This funding model is not unique to COAFG in UNODC.

First, the CJP and national partners are subject to the influence of the donor community in deciding where to implement activities. The choice of location by donors may well be politically driven to locations where it is important for the government to have demonstrable indicators of its reach and authority. This political decision may not at all times be aligned with CJP analysis that identifies most pressing need and comparative advantage of an intervention.

Second, the nature of an intervention is in part to do with timing and this is linked to the project funding model of the CJP. Donors may make available funds to be used in a time frame ill-suited to UNODC systems for project revisions, procurement. The time frame of funding agreements may not take fully into account the environment in which an activity is supposed to take place. However with COAFG having legitimate commitments to the added value of staff and programme continuity, the risk is that funds

project funds are accepted for activities that are hard to implement to the highest standards in the required time frame.

### **Corruption**

The perceived high level of corruption is a major roadblock to development and better governance and, thus, to effective project implementation. The ultimate objective of the Government's draft anti-corruption strategy is a public administration that operates with integrity and accountability to provide an enabling environment for economic and social development, based upon the rule of law, impartiality in political decision making, the proper management of public resources, the provision of efficient services and the active engagement of civil society and the private sector. The Government's draft anti-corruption strategy and roadmap are focused on achieving clear progress in reforming public administration and judicial systems as well as implementing measures in the counter narcotics strategy. In Afghanistan a sense of corruption is pervasive, and actual corruption is widely reported.<sup>14</sup> These are not only an implementation concern, requiring extensive and robust systems to ensure value for money, but has an impact on practice in the criminal justice system e.g. access to defense lawyers was often reported to the evaluator as subject to ability to pay<sup>15</sup>. Concerns about corruption is also an obstacle to the potential of progressive reform in the criminal justice system e.g. reluctance of judges to use non-custodial sanction for fear of accusations of corruption.

The project's corruption theme in theory attracts major political support, as it is a stated high priority. In reality, there are many in positions of influence who benefit from corrupt practices and therefore may seek to undermine the goals of the project. Publicized personal differences, often accompanied by claims of corruption, between senior official of agencies that should work together to combat corruption impede the work of the HoO.

### **Limited Practice of Documentation of Analysis**

The requirement for programme planning based on robust evidence based analysis is undermined by significant gaps in national capacity and national and international practice. Although the Project collected baseline data, what was collected was not always sufficient for plugging these gaps. As the Supreme Court bulletin notes:<sup>16</sup>

“Another challenge facing these statistics is that we do not receive the statistics from each and every court that is active in the area of corruption”.

During the evaluation there was more demonstrable practice of evidence based analysis from the international community but it remains patchy.

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<sup>14</sup> Corruption Perception Index, Transparency International, 2011.

<sup>15</sup> One women in prison for ‘moral crimes’ in Kunduz was asked why she had not consulted a lawyer. She explained she did not have the funds to pay, despite there being free legal aid provision in Kunduz.

<sup>16</sup> Afghanistan Supreme Court Special Bulletin No 19 May 2012.

## II. EVALUATION FINDINGS

### Effectiveness

The Overall Objective is to support the development of a sustainable broad-based National Anti-Corruption Strategy in line with the requirements of the United Nations Convention against Corruption (UNCAC), including the establishment of a Secretariat responsible for guiding and monitoring its effective implementation;

The immediate objectives are as follows:

(a) To support the development of a sustainable broad-based National Anti-Corruption Strategy in line with the requirements of the UNCAC, including the establishment of a Secretariat responsible for guiding and monitoring its effective implementation.

(b) Although the High Office of Oversight (HoO) was not mentioned in the original Project Document, as soon as it became operational it constituted the main reason for the Project's first revision.

(c) To support the review and drafting of key legislation in accordance with the requirements of the UNCAC to make it more effective to tackle corruption.

(d) To strengthen the basic capacity, professionalism, accountability and integrity of the AGO.

(e) To enhance the skill and professional knowledge of judges and prosecutors in handling corruption cases.

### **Immediate Objective 1: Support National Anti-Corruption Strategy**

The High Office of Oversight (HoO) is the Secretariat established with the responsibility for implementing and monitoring the Afghan Government's Anti-Corruption Strategy.

Unfortunately for the effectiveness of the overall Project, the HoO is only one of the discreet necessary elements in the fight against corruption. In the absence of the other necessary elements, most significantly and identified in the Project Document—political will, even the most sophisticated and well resourced Secretariat would prove ineffective. However, alongside support to the HoO, the Project has also worked towards fostering an enabling environment through other targeted activities.

During the course of the Project, the focus of the Afghan national authorities shifted from reviewing national strategy to establishing a legislative framework. The Project accordingly modified its support, while remaining available to HoO to provide input into their overall strategy and the sub-strategies.

The inputs provided by UNODC for setting up the HoO shifted from material support to technical assistance as the functional capacity of the HoO grew and stabilized. The Project conducted a security and an IT assessment of the office, and provided IT communication facilities and equipment for the HoO to enable internet communication.

Afghanistan is undergoing a Country Review in accordance with the UNCAC. China and Brunei will have the task of reviewing Afghanistan in a schedule that includes 2012 and 2013. At the time of the

evaluation, the HoO is completing its self-assessment for the two reviewing countries. UNODC is providing the HoO with support for this self-assessment in the form of Internet, some translation service, and technical advice in the form of data retrieval from the HoO's data base. This too is being carried forward effectively.

To enhance the HoO effectiveness the Project has taken positive steps to promote a more enabling environment through improving coordination between HoO, MoI, and AGO in dealing with corruption offences cases. Also in this workshop, all staff from the Case Tracking department of the HoO two representatives of the Major Crimes Task Force from Ministry of Interior Affairs and two representatives from the Anti-Corruption Unit of Attorney General's Office participated. This also included the development of Memorandum of Understanding (MOUs) between the agencies.

As the HoO was becoming established, COAFG (along with other donors to the HoO including USAID and UNDP) began providing a broad array of inputs and assistance to ensure it could function as an organization. These commenced with organizational establishment and operational inputs, including, but not limited to, rent, furniture, equipment, organizational needs assessments, terms of reference for working arrangements and for job descriptions and direct technical assistance through providing staff.

The HoO is an independent budgetary unit directly under the President. Below is the organizational chart of the HoO as taken from its website. Complaints are received in several ways leading, if the evidence is sound, to case tracking. UNODC supported the establishment of the database used in recording cases as well as asset registration. The database is refreshed daily. The Evaluation Team saw operators receiving cases and also saw letters (one from the United States) reporting corruption. Online complaints can also be made.



Source: <http://anti-corruption.gov.af/en/page/1733>



Source: <http://anti-corruption.gov.af/en/page/1733>

The Project provided databases and training for HoO staff, as follows:

- (a) Asset registration declaration and verification
- (b) Complaints management
- (c) Case tracking
- (d) Contract screening database
- (e) Database for HoO planning department

The databases were widely described as effective tools with the HoO reporting they now have Asset declaration and registration and have so far reached 5,000 high ranking officials; however the verification still needs to be finalized.

It cannot be fully ascertained to what degree UNODC contributed to the HoO and its internal workings which appear sound. However, the HoO officials all stated very clearly that they appreciated UNODC's sustained support and it is clear that UNODC was a major supporter both monetarily and programmatically. The UNODC local staff member who accompanied the Team Leader on the visit was the person responsible for giving the technical assistance needed to set up the data base (which was still very obviously being used daily). This UNODC staff member was welcomed everywhere. This was one sign that the HoO was grateful for UNODC help and the approach it took in dealing with the organization.

### Public Awareness

The Project has implemented activities aimed at increasing awareness including the following research activities:

- (a) Pilot Justice Sector Assessment Survey (2008).
- (b) Bribery as Reported by the Victims (Survey, Jan. 2010).
- (c) Corruption Perception Survey Education, Police, Justice and Provincial Municipality, 2011.

It is noted that the 2008 Pilot Justice Survey was never published and still remains embargoed as a result of HoO objections.

Through a contract with Internews, a specialist INGO, the Project trained 28 experienced reporters and editors representing more than 20 media outlets in Investigative Reporting in Kabul. From this initial group, the 15 best students advanced to the next stages of the program. Those 15 journalists and editors participated in further trainings, including a primer on legal affairs as well as an intensive workshop on advanced concepts of investigative reporting. The Legal Affairs course provided a general survey of media laws and right to information legislation from around the world and region, including a review of international principles of right to information press laws. Program participants also closely examined Afghanistan's Draft Media Law and discussed legal issues affecting their everyday work. The advanced investigative reporting course centred on a practical approach to investigative journalism with in-class exercises, field visits and guest speakers covering a range of issues including "lifestyle checks" of government officials and tips and techniques for following the money trail of corruption.

To further cement concepts of investigative journalism, the 15 journalists received additional support from the trainer in the form of mentoring sessions to facilitate their work in turning a story idea into a compelling, fair, balanced and accurate story. The trainer helped troubleshoot difficult interviews as well as provided detailed assistance to help develop and hone writing skills, among other forms of assistance. Technical support was further provided in the form of mini-grants that defrayed the costs of research and travel related to the participant's work on his/her investigative story. It is a matter of regret the CJ evaluator was unable to identify any stories or articles published or broadcast as a result of the training. The current CJP team further advised that there were none that any of the members knew about.

### **Immediate Objective 2: Support Key Legislation to Tackle Corruption**

UNODC has played an effective coordination role from the inception of the Criminal Law Reform Working Group (CLRWG) and has also worked appropriately with Parliament when possible and required. The key role of COAFG in the CLRWG has promoted a culture and practice of harmonization and coordination of international support and national engagement with law reform.

Through the CLRWG, the project has contributed to 18 pieces of criminal justice legislation. Most notably, according to Core Learning Partners, the thorough work on the Criminal Procedure Code 2009 with its 382 articles. By helping draft a considerable body of legislation the Project effectively and appropriately responded to Afghan needs and provided high quality resources through work with the CLRWG.

COAFG has correctly played a facilitative and catalytic role in that the appropriate national authorities are increasingly leading the law reform process, COAFG in part enables this process as well as making a vital contribution through its broad portfolio of national, Sharia and international legal expertise.

In annex is a list of laws that UNODC has supported and helped draft. This follows the work of the national and international legal consultants provided by UNODC to help the Ministry of Justice relevant national legislation (and then translate them into Dari).

The approach towards the new Penal Code: a planned temporary relocation to Kuala Lumpur will allow unfettered attention to make real progress and will draw upon expertise from constituencies that have found practical approaches to combining Sharia, international and national laws.

**Immediate Objective 3: Strengthen the basic capacity, professionalism, accountability and integrity of the Attorney General's Office**

The Project provided for the Kandahar AGO equipment for this office including a large generator. In addition, the Project supported partners with the provision of 17 office equipped (including EC, PVC windows, foundations) containers, IT equipment and furniture for the Ministry of Interior (MoI) Inspector General's office mobile anti-corruption team. Material support was provided to the Control and Surveillance department of the Supreme Court.

**Code of Conduct for Prosecutors**

COAFG worked closely with the AGO in the development and implementation of a Code of Conduct for prosecutors. The Code was developed in an Afghan-led process of over three years which was intensively supported by UNODC and included consultations, ethics seminars and roundtables for prosecutor in Kandahar, Kabul, Herat, Mazar and Jalalabad.

When the Code was launched in 2009, UNODC initiated a program of ethics training for AGO prosecutors based on the Code. The training was for all members of the AGO Anti Corruption Unit and some Kabul-based prosecutors. This training was then extended to some provinces reaching some 1,600 prosecutors from all over Afghanistan.

Alongside the development and training on Code of Conduct there were considerable efforts to engage AGO leadership and managers at every stage of the Code of Conduct implementation process which should have a positive effect on capacity building of these counterparts. The collaboration with UNODC on implementation of a large scale national training program for prosecutors will have also had a positive effect on capacity.

The AGO Coordinating Group, which coordinates the activities of international organizations and attempts to form consensus on reform for the AGO. Through this group COAFG has contributed to issues that have been discussed and upon which the Group reached consensus. Such issues include: the structure and organization (Tashkeel), competencies, job ToRs, jurisdiction (subject matter and territorial) and vetting process for the Anti-Corruption Unit of the AGO.

With the high number of prosecutors trained the Project has worked effectively to reach many beneficiaries. Limits to existing funding e.g. donor focus on certain provinces, security issues preventing reaching some provinces and simply not enough funds, have all been restrictions.

**Code of Conduct for Police**

This is a necessary step and one that has in a short time produced a sound platform through: a good standard of consultative process; a training of trainers approach, and securing a ministerial order that the Code will form part of the curricula at the police training institutions. There are also early indications from senior MoI officials of a commitment to a Code monitoring mechanism.

It is difficult, due to the relatively new introduction and so far limited training that UNODC was able to provide on the Code, to comment in detail on its effectiveness. There were, though, enthusiastic responses from trainees requesting the course teaching aides so they can in turn train other police, which is a positive sign. In terms of numbers, the effectiveness of the training is always going to be difficult to champion, with 157,000 national police. However, the project has taken the very sensible steps of feeding

the Code into the work of other agencies providing support to the police such as the European Police Mission Afghanistan (EUPOL) and is highly consistent with other police reform work such as UNAMA/United Nations Development Programme (UNDP) community policing initiatives. For police with inadequate literacy levels, the project is working with other agencies for the production of audio versions of the Code.

#### **Immediate Objective 4: Enhance the skill and professional knowledge of judges and prosecutors in handling corruption cases**

##### Training

A review of training is included in annex.

New curricula and manuals have been developed to cover many subjects for a wide range of beneficiaries. New regulations and laws have required publication and distribution and training on these new laws (and this also is required by officials and civil society). It is not possible to comment on the effectiveness of the training as there has been no follow up with those trained or justice system users, to observe and measure changed practice. At the end of most training workshops, immediate feedback from trainees was provided that most usually reported their satisfaction.

Several texts and manuals were prepared in Dari and Pashtu for use in the training and were reportedly useful additions to the programme. The Project has produced bespoke and adapted existing material for training including:

- (a) Code of Conduct for Afghan National Army
- (b) Afghanistan Corruption Survey
- (c) Asset Verification Manual
- (d) UN Afghanistan Anti-Corruption Manual
- (e) Strengthening the Role of Investigation Journalism in Afghanistan's Fight against Corruption
- (f) Code of Conduct and Professional Standards for Prosecutors of the Attorney General's Office for the Islamic Republic of Afghanistan
- (g) Assessment Report Justice Sector
- (h) Evaluation Report on the HoO Islamic Republic of Afghanistan

The Project has supported training of judges and prosecutors from provinces as well as Kabul. Training materials have been prepared and national civil society has been promoted. However, due to a lack of monitoring and follow-up regarding the effectiveness of the training is impossible to assess properly. According to Project records 301 (300 called for in the Project Document) have been trained which is more or less than the indicator in the Project Document.

##### Efficiency

Efficiency of activities is discussed above under the Assessment of Project Objectives and Effectiveness of Implementation section. Efficiency of other aspects of the Project is discussed here:

The Project was extended by 41 months, but this was matched by a commensurate increase in budget reducing risks of budgetary inefficiencies. The project administration was of a good standard e.g. all

Project documentation was easily accessible. Donors were positive about the rate and manner of implementation and the timeliness of communication with the project team. The inadequate level of project governance in the absence of regular Project Review Committee and Tripartite Review Mechanism is a cause for concern.

Alongside the development and training on Code of Conduct there were considerable efforts to engage AGO leadership and managers at every stage of the Code of Conduct implementation process which should have a positive effect on capacity building of these counterparts, as they have collaborated with UNODC on implementation of a large scale national training program for prosecutors. The project has worked with and through the AGO Coordinating Group, which is an efficient mechanism for minimizing duplication of support and engaging in forum with key stakeholders.

HoO personnel noted that the outcomes of the research influence their priorities. It provides the raw material for evidence based advocacy work, allows sound programme planning for UNODC and other agencies. This multiple utility of the research work is highly efficient use of resources. Delays with production of the 2011/2012 research has not been ideal, however, the value of a high quality report was noted as reasonable trade off for the delays. All delays prompt some risk of inefficiency through recurring costs, however this needs to be balanced with effectiveness and impact.

The training for prosecutors was developed by an international advisor from the British Crown Prosecution Service, but was handed to two COAFG national lawyers who are both former prosecutors who delivered much of the training. Using COAFG staff to organize and run the training was extremely demanding on the project time and resources, but the credibility of the trainers is of crucial importance for the Code of Conduct and on balance seems to have been an efficient mechanism for delivery.

The Project tried to reach as many provinces as possible but could not reach as many as it desired due to funding shortages and/or security problems. In these cases the Project invited participants from hard to reach provinces to training in other locations, ensuring reach and effectiveness through the efficient use of resources.

## Relevance

During the course of the evaluation, there was consistent endorsement from national CLPs of the relevance of the Project activities and objectives. In addition, the relevance to the Government's needs and goals is clearly observed through the Afghan National Development Strategy, A strategy for Security, Governance and Economic Growth 2008--2013 and the National Priority Programmes.

In particular, the Project contributed to Pillar 2 and the cross cutting issues of Anti Corruption and Counter Narcotics. The Government's strategy calls for it to "focus on reducing administrative corruption at all levels of government and the judiciary, by increasing corruption monitoring, introducing additional programs to further limit potential corruption risks, and strengthening public complaints mechanisms."

The main priorities under this for the Justice Sector are:

Improved institutional capacity to deliver sustainable justice services: The Government will reform and restructure judicial institutions; strengthen legal education; develop a judicial records system; enhance administrative capacity; reduce corruption; promulgate codes of ethics; develop a public complaints

system; expand judicial services through infrastructure development and procure necessary transportation and equipment.

The perceived high level of corruption is a major roadblock to development and better governance. The ultimate objective of the Government of Afghanistan's anti-corruption strategy is a public administration that operates with integrity and accountability to provide an enabling environment for economic and social development, based upon the rule of law, impartiality in political decision making, the proper management of public resources, the provision of efficient services and the active engagement of civil society and the private sector. The Government's anti-corruption strategy and roadmap are focused on achieving clear progress in reforming public administration and judicial systems as well as implementing measures in the counter narcotics strategy.

Specifically, the Government strives to: (i) amend and adapt legislation and procedures to prevent opportunities for corruption; (ii) reform complex organizational structures which lead to opportunities for corruption; (iii) simplify and streamline government functions and procedures; (iv) remove corrupt officials and implement merit based recruitments; (v) reform and strengthen audit procedures and increase control of financial and administrative transactions; and (vi) ensure adequate salaries and incentives for civil servants.

Measures to increase the transparency and accountability of government operations to external bodies such as the National Assembly, media and civil society are also core to the Government's goals.

#### Relevance according to National Priority Programmes

The Project directly contributes to National Priority Programmes, through Governance National Priority Programme, which includes Economic and Financial Reform, Transparency and Accountability, Efficient and Effective Government, Local Governance, Justice for ALL, and Human Rights and Civic Responsibilities. The key cluster for the Project is the Justice for All (Nov 2011 draft version seen by evaluator).

#### Impact

The CJ evaluator was often informed there was increasing level of culture of accountability e.g. internal oversight within ministries, codes of conduct etc and it is reasonable to associate the project investment having a role in contributing to that change in awareness and promotion of a changing culture.

The impact made by this Project is challenging to assess in particular for the HoO. The HoO is now established and functions as an organization e.g. has legislation that backs it, has professionally competent staff, as well as an office, furniture, equipment, IT capacity, and some coverage and representation in Afghanistan's provinces. The HoO is receiving complaints by phone, mail, and in person. The database is being maintained.

The biggest problem is that it finds it difficult to fulfill its mandate due to the political environment and its lack of prosecuting authority. In this sense, the actual impact in terms of successful prosecutions and sanctions has been minimal. However, should the political environment become more enabling and that is far beyond the control of COAFG, or if the HoO is given prosecuting authority, it is poised to deliver important results. In this sense, there was a positive impact in terms of preparations of the potential for reducing corruption.

An indication of its potential is that 2,685 asset registration forms have been entered in the asset registration database, 93 government officials' assets have been published, and 236 forms have been verified. Additionally, more than 1,370 complaints have been registered and 230 cases have been selected for further "administration process" or review with the Attorney General's office.

While HoO on its own has a limited impact, the Project's activities feed into a culture of awareness and accountability, though its research and strengthening of Ministries' positions, codes of conduct, and capacity–oversight committees.

The skills in combating corruption and the material support such as data bases will remain beyond the duration of the project. The policies, practices, regulations and organizational development activities for government agencies and staff of those agencies, will be sustained after the duration of the project. The utilization of these changes is not assured.

The Project has contributed to a new body of enabling legislation. Laws need to be implemented for their fullest impact to be realized. The project seeks through other activities to ensure the implementation of laws. Furthermore the legislative framework including anti-corruption legislation provides traction in working towards reform and accountability framework.

## Sustainability

The legal framework will exist after the Project has finished and indicates irrefutable change (assuming there is no major political change) that will be sustained beyond the duration of the Project.

The policies, practices, regulations and organisational development activities for government agencies and staff of those agencies, will be sustained after the duration of the project.

The training materials, training capacity and new knowledge gained through the project will be sustained beyond the duration of the project.

The research publications provide useful reference points and benchmarks that offer utility that will be sustained beyond the duration of the Project.

## Findings

### **Critical**

The Project was highly relevant, but over-ambitious in scope; in particular with the aim of HoO being able to fulfil its mandate, however it attracted additional resources to deliver a broader range of outputs to support the context within which anti-corruption measures are possible.

The Project has a key achievement in helping establish the HoO with appropriate, timely and consistent support that was highly regarded. Even though, at the time of the evaluation a final anti-corruption strategy was not finalised, the HoO is technically and legislatively fit to function consistent with UNCAC obligations. However, in the absence of an enabling political environment, lacking prosecuting authority and with the strained relationships between the HoO and existing prosecuting authorities, the HoO cannot deliver its mandate.

The original Project Document is very limited with regard to indicators and means of verification, however, this is a limitation on project governance, management and learning. However, there are signs in more recent project and programme documents of improved capacity in the development of such documentation that contain more meaningful indicators.

The work of the CLRWG is highly relevant, has been highly effective, and has a sustained impact. The approach, blend and caliber of expertise provided by UNODC has clearly allowed a significant contribution of UNODC to the CLRWG

### **Important**

HoO can only refer cases to AGO offices which are responsible for prosecuting cases of internal alleged misconduct. Prosecution depends upon a good working relationship between HoO and AGO, there was no evidence of such a relationship.

The corruption survey contributes to evidence based advocacy and planning and Project activities. It was deemed by CLPs as document of high use and good quality and demonstrative of added value of UNODC and the trusted relationship UNODC has with national authorities

The development and agreement of a code of conduct for police and prosecutors is an important element of UNCAC obligations. The roll out training and the CoC monitoring and implementation remain key steps and it was at the time of the evaluation too early to gauge any changes as a result of the CoC, development and training.

The development and training on the police code of conduct is mutually reinforcing e.g. UNAMA police advisors, UNESCO literacy programme in regional police training centres and leveraged more funding e.g. EUPOL to cover some training costs. The project in this regard has been influential in securing commitment and support for an important and specific activity indicating added value and appropriate identification of activities.

The work with the media to contribute to enabling environment for ant-corruption measures was innovative and according to CLPs conducted to a high standard, it is unfortunate however that no. There was no evidence that the training had lead to increased media reporting on the issue of corruption. It is not possible to find that it had no effect, simply that follow up was not done in such a way to lead to a finding. In general, the impact of training is little understood and is limited to measuring outputs.

### III. CONCLUSIONS

The R86 Project has run from 2007, and the activities from that time are closely linked to the early initiatives of UNODC, the urgent needs as identified by the Afghan national authorities, and the nature of the international community involvements.

The operational environment has been extremely challenging and COAFG has faced major difficulties in implementation in the fluid and deteriorating security situation. This will remain a major and increasing determinant to the transitions over the next 36 months: the exit of international forces, a reduction in donor funding and the approaching Presidential and parliamentary elections. This is likely to prompt further need for UNODC to be active in the field of Rule of Law and require significant budgetary increases, as well as changes to security plans and practices. Core to the increasing impact of the CJP in this environment are COAFG personnel: their safety, welfare and performance.

A major influence on the future of COAFGs anti-corruption work will be the functionality of HoO. This may well depend upon the leadership and their relationship with other bodies of the government. If the current impasse remains, whereby HoO is unable to perform fulfill its mandate, COAFG will have to analyse the nature and approach of its support.

The needs and priorities of the Afghan national authorities and the nature of international involvement have evolved significantly in the intervening period during which time UNODC has demonstrated a commitment to learning and adaptation, based on contextual changes and experiences from earlier interventions.

The move from project approach to a programme framework is a very positive step which has the potential to reduce inefficiency, provide a more enabling framework for results based management and implement the documented commitment to programme governance and oversight.

The increased commitment to research and advocacy in the new CP is a significant and positive step and should be used to reinforce UNODC very specific expertise and demonstrate added value in all areas of the CP that is steeped in analysis and practice that fundamentally responds to the Afghanisation of development..

All activities of the project were necessary and relevant and the progress made and lessons learnt provide a highly valuable platform for the future work of COAFG.

## IV. RECOMMENDATIONS

### **Critical**

#### Project design and documentation

COAFG and Vienna must ensure that the staff responsible for project documentation preparation are well versed in results based management.

COAFG and Vienna needs to ensure systematic oversight of project document development.

CJP needs to draws upon monitoring and evaluation expertise in COAFG to integrate robust evaluation tools and procedures in project documentation.

#### Effectiveness of the HoO.

To further promote the likelihood of an enabling environment within which HoO may deliver its mandate, further activities could include:

COAFG support for development of whistle blowing mechanisms in line ministries.

CLRWG responding to opportunities to promote and develop witness protection legislation.

COAFG using research outputs, particularly the corruption survey to enhance capacity and foster effectiveness of networking with non-state actors, media, and faith groups.

Recommendations regarding prosecuting authority are addressed below

#### CLRWG

CLRWG needs to be maintained as a core element of CJ Programme with COAFG and Vienna using the outcomes of the CLRWG to ensure sufficient donor understanding of its value to enable the continued recruitment of high caliber and experienced expertise.

### **Important**

#### Prosecuting authority

COAFG should maintain support to AGO in its work to prosecute corruption charges.

COAFG should maintain support to ACUs of other Ministries.

#### Corruption survey

COAFG should use research findings for seminars and training and public information events.

COAFG should use research findings for focused workshops using pool of trained media professionals and to promote use the findings through media channels through targeted press releases to those in receipt of training.

#### Police Code of Conduct

COAFG needs to secure resources for ongoing roll out of training, including proactively seeking other agencies to facilitate or support the roll out of the training of CoC.

COAFG should prioritise provision of Code and training resources for police training institutions to promote it forming part of the regular training curriculum for all police recruits.

#### Training activities

COAFG should develop systems and tools to ensure impact of training is monitored, understood and feeds into programme planning and implementation.

To assist the evaluation of future training activities the CJP evaluator proposes this approach in Annex 5.

## ANNEX I. REVIEWED AND REVISED DRAFT LAWS

### Reviewed and Revised Draft Laws by Criminal Law Committee

<b>Legislation</b>	<b>Date of review</b>	<b>Status</b>	<b>Number of Chapters and Article</b>	<b>Official Gazette No. &amp; Date</b>
Forensic Law	2006	In effect and published in the Official Gazette		947 2008
Anti-Terrorism Law	2007	In effect by Legislative Decree, but still pending in National Assembly),	4 Chapters 26 Articles	952 2008
Extradition and Mutual Legal	2007	Extradition and Mutual Legal Cooperation Law (pending in the President office for endorsement	4 Chapters 51 Articles	
Abduction and Human Trafficking Law	2007 & 2008	In effect by Legislative Decree, but still pending in National Assembly),	4 Chapters 23 Articles	952 2008
Law on Juvenile Rehabilitation Centres	2008	In effect by Legislative Decree, but still pending in National Assembly	6 Chapters 42 Articles	969 2008
Criminal Procedure Code 2009	2008 & 2009	In effect by Legislative Decree, but still pending in National Assembly),	382 Articles	
Elimination of Violence Against Women Law	2009	In effect by Legislative Decree, but still pending in National Assembly	4 Chapters 44 Articles	989 2009
Counter Narcotics Law	2009	Approved by National Assembly and Endorsed by the President and published in the Official Gazette	5 Chapters 67 Articles	1025 2010
Audit Law	2009	Pending in National Assembly	10 Chapters 40 Articles	
Law on the Structure and Jurisdiction of Special Courts	2010	In effect by Legislative Decree and published in OG, but pending in National Assembly	4 Chapters 22 Articles	1033 1010
Law on the Structure and Authority of Attorney General Office	2010	Pending in National Assembly	8 Chapters 43 Articles	
Anti-corruption Law	2010	Pending in National Assembly	4 Chapters 26 Articles	
Amendments to	2010	Approved by Council of	13 Articles	

the Penal Code		Ministers, Pending in National Assembly		
Law on Dispute Resolution	2010	The process has been stopped and is omitted from the list of legislative working plan of this year 1391 by CoMs		
Regulation on Women's Protection Centres	2011	Approved by CoMs and in effect	5 Chapters 33 Articles	1058 2011
Law on the Campaign against Major Crimes	2011	Pending in Taqin/MoJ <sup>17</sup> .	3 Chapters 21 Articles	
Law on the Prohibition of the Development, Production and Stockpiling of Biological and Toxin Weapons and on Their Destruction	2012	Pending in Taqin	5 Chapters 34 Articles	
Penal Code	2012	Under review by CLRWG	2 Books and 524 Articles	

<sup>17</sup>Due to the weakness of the draft, ambiguity defining major crimes and creation of friction with the responsibilities of other justice institutions by the provisions of this draft as well as by the establishment of Major Crimes Task Force (MCTF), it was decided that the draft should be re-reviewed by the stakeholders to find a clear definition of major crimes and justification for the establishment of MCTF in order to avoid frictions and overlaps.

UNITED NATIONS OFFICE ON DRUGS AND CRIME  
Vienna

Independent Project Evaluation of the  
**Prison System Reform in Afghanistan—Extension  
to the provinces**

AFG/R87  
Afghanistan

July 2013



UNITED NATIONS  
New York, 2013

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# EXECUTIVE SUMMARY

## **Project framework**

The Overall Objective was “to reform and upgrade the functioning of penitentiary system, including the promotion of rehabilitation of the prisoners, as a contribution toward peace building in Afghanistan.”

The immediate objectives were as follows:

(a) Application of the national legislation, rules and regulations in the corrections’ field at provincial and district level and implementation of the Central Prison Department new operational and managerial structure and policy across the country.;

(b) Rehabilitation of target prison facilities throughout Afghanistan;

(c) Enhancement of the operational capacities and professionalism of penitentiary staff working in selected correctional facilities and improvement of coordination within criminal justice system;

(d) Establishment of training programmes for correction officers and for social workers as well as development of vocational and educational programmes for prisoners, including alternatives to imprisonment programmes

The Project commenced in January 2005 and ended in December 2012 and underwent 7 revisions.<sup>18</sup> The original duration was 30 months. There were 53 months of extension for a final duration of 84 months.

The original budget was US\$10,500,000, final budget. This was decreased by US\$171,363 to a final budget of US\$10,328,637.

The donors were Canada, Italy, Japan, and the United States.

## **Introduction to the Evaluation**

This Evaluation Report assesses AFGR87 but also considers its contribution to the COAFG Sub-Programme on Criminal Justice (CJP).

The mission schedule was drafted by the CJP team, and then finalized with the evaluator to include additional meetings. Field missions were agreed in an effort to include visits to project sites that covered as many examples of activities. The final schedule is in Annex 1.

During meetings with Core Learning Partners (CLP) where English was not the lingua franca, the evaluator was accompanied by a Country Office Afghanistan (COAFG) translator. For other meetings, COAFG or Vienna Headquarters personnel attended, most usually only to make an introduction.

The evaluation included site visits, CLP interviews, document reviews and interviews and group meetings with COAFG staff. In the inception report, core evaluation questions on relevance, effectiveness, appropriateness, efficiency, partnerships, sustainability and lessons learned were agreed as were proposed supplementary questions that would provide analysis to answer the core evaluation questions. A

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<sup>18</sup> Details of the Project from ProFi.

questionnaire was developed using open ended questions to facilitate and guide semi-structured individual and group discussions.

The overall evaluation questions were developed to provide discussions points to enable the evaluator to provide well founded answers to contribute to successfully evaluating the projects. These questions were designed to link up with the indicators in the project

The sampling strategy was agreed to include interviews and discussions with targeted key Government counterparts and CLPs and site visits were planned to cover a variety of government counterparts, a range of activities and varied locations. Key contextual information was provided from interaction with COAFG staff and other international agencies including donors in Kabul.

Likely limitations (more detail below) were documented and agreed, though by far the biggest obstacles were security and operational obstacles, the vast volume of material to be assessed (nearly twenty years of documentation), the absence of accessible data in particular from government counterparts and the weakness of project indicators making it extremely difficult to assess change.

To allow triangulation of findings, a varied range of sources of data was agreed in the inception report, though it became clear, as findings emerged towards the end of the period in Afghanistan, that in evaluation that there was a significant gap in the levels of engagement with Vienna.

### **Challenges to the Evaluation**

An obstacle to project implementation as well as to timely evaluation is the poor infrastructure of the country. Project sites are located in sometimes remote areas accessed by poor roads. There were sites of interest to the Evaluation that could not be visited due to the time constraints of the Evaluation schedule.

The security situation in Afghanistan has been deteriorating which interfered with the Evaluation schedule. UNODC follows the UN in placing strict controls on the movement of staff, both national and expatriate, to minimize risks. A number of visits and meetings had to be cancelled or postponed for security reasons.

Nevertheless, the Evaluation Team is convinced that the team members managed to visit enough places, meet a sufficient number of stakeholders and beneficiaries, and study a satisfactory number of documents and reports that it obtained a reliable understanding of the strong points and deficiencies of this Project and that the findings in this report are valid.

### **Background and context**

The rule of law in Afghanistan is an area of governance, which requires significant investment and support by national and international stakeholders. Although in the last ten years much have been accomplished and parts of the justice system has been reanimated, specific areas of the justice system - such as prisons, juvenile justice, anti-corruption, and the overall capacity of criminal justice sector need improvement and sustainability. It is impossible to overstate the importance of rule of law to the transition/peace-building effort in Afghanistan. One of the greatest threats to peace in Afghanistan has been the perception by a large proportion of the population that the central government cannot enforce the rule of law and, in some cases, does not abide by the rule of law. This lack of trust has played a crucial role in strengthening the insurgency and in undermining the government's ability to successfully prosecute its own anti-insurgency strategy. The absence of rule of law actors in many parts of the country, the relative powerlessness of some of these actors even when they are present, and the perception – and reality – that rule of law actors are frequently engaged in corrupt behavior are all factors that

encourage self-help, willingness to accept anti-government sentiments, cynicism regarding the role of the international community, and resignation regarding corruption

At the time the project was designed Afghanistan's prison system was desperately in need of repair. Many prison facilities outside Kabul had been severely damaged and lacked basic facilities such as electricity and running water. Detention centers and prisons were and remain severely overcrowded. There were approximately 4,500 detainees across the country in 2011 there were approximately 22,000. All prisoners, including women and minors, were detained under appalling conditions and subjected to violations of human rights. The lack of prison infrastructure was exacerbated by insufficient human resource and further by the lack of training facilities. The administration of criminal justice was hampered by the serious lack of communication with, and flow of information to, the regions where many prison and detention facilities are not in government buildings. Prison reform had lagged behind the reforms of other criminal justice agencies. With an inadequate legislative and policy framework and transfers of CPD between ministries, the need for institution building including legislative reform was essential.

## **Conclusions**

The programme has run from 2005, and the activities from that time are closely linked to the early initiatives of UNODC, previous projects, the urgent needs as identified by the Afghan national authorities, and the nature of the international community involvements.

The operational environment has been extremely challenging and COAFG has faced major difficulties in implementation in the fluid and deteriorating security situation. This will remain a major and increasing determinant to the transitions over the next 36 months: the exit of international forces, changes, possibly a reduction, in donor funding and the approaching Presidential and parliamentary elections. This is likely to prompt further need for UNODC to be active in the field of Rule of Law and require significant budgetary increases, as well as changes to security plans and practices. The operational environment can in part explain the many extensions and the final total duration of the project, however, the extent of the extensions, in particular with a reduced TAB should be avoided in future work.

The needs and priorities of the Afghan national authorities and the nature of international involvement have evolved significantly in the intervening period during which time UNODC has demonstrated a commitment to learning and adaptation, based on contextual changes and experiences from earlier interventions.

All activities were necessary and relevant, most were highly effective though some construction activities were implemented with a deeply concerning level of inefficiency. There is very clear evidence of impact and much that should be sustained beyond the duration of the Project. The activities that demonstrated most success drew upon specific expertise in UNODC linked to its specialist mandate.

# SUMMARY MATRIX OF FINDINGS, EVIDENCE AND RECOMMENDATIONS

Findings: <sup>19</sup> problems and issues identified	Evidence (sources that substantiate findings)	Recommendations <sup>20</sup>
<b>Critical</b>		
The Project and activities were highly relevant though there are significant examples of inefficient implementation.	Interviews with CJP personnel, CLPs, Project documentation, national and international reports.	COAFG and Vienna need to continue to review and develop measures for minimizing inefficiency. Of particular concern are lengthy extensions without an increase in overall budget, resulting in unfavorable balance between activities and recurring costs.
Revisions that require extension, but no change in TAB, are marked by inefficiency when the project overheads remain unchanged for duration, resulting in increasing percentage of costs for staffing.	Project documentation and ProFi reports.	COAFG and Vienna needs to ensure that the balance between overheads and activity costs remains legitimate through duration of extended projects.
There is a significant need for evidence based planning for the Central Prison Department's (CPD) strategy, operations and budgeting to be applied comprehensively.  Data concerning prisoners and flow of prisoners is disaggregated, located in silos and recorded in dissimilar ways. This impedes CPD and programme planning.	Interviews with CLPs, CJP personnel, Project documentation.	COAFG needs to work with CPD on data management needs, and raise this as a priority matter with international partners and donors.  COAFG needs to work with other criminal justice agencies e.g. Appeal Courts and Attorney General Offices (AGOs) on to how build on their data.
International attention and funding for prison work is set to decrease.	Interviews with CLPs, national and international reports.	COAFG and Vienna Justice Unit should develop evidence based advocacy tools and

<sup>19</sup> A finding uses evidence from data collection to allow for a factual statement.

<sup>20</sup> Recommendations are proposals aimed at enhancing the effectiveness, quality, or efficiency of a project/programme; at redesigning the objectives; and/or at the reallocation of resources. For accuracy and credibility, recommendations should be the logical implications of the findings and conclusions.

		<p>promote pilots that focus on the relationships between public health and prison.<sup>21</sup></p> <p>COAFG should build on evidence from drug user survey to promote linkages between detention and drugs use.</p>
Donor management is weak.	Interviews with CLPs, Project documentation and correspondence records.	<p>COAFG should convene twice yearly roundtables for all CJP donors to include a presentation of challenges and progress and a Q and A opportunity.</p> <p>COAFG needs to work with Vienna to proactively ensure that donors (and new donor staff in Kabul) can either directly access ProFi or know that they can ask for ProFi reports from their headquarters.</p> <p>COAFG should offer an introduction to ProFi reports for Afghan based donors</p> <p>COAFG/CJP needs to implement a higher standard of quality control on semi-annual and annual reports, which should be prepared with explicit attention to the function they perform in donor reporting.</p>
The original Project Document is very limited with regard to indicators and means of verification	Project documentation and interviews with COAFG personnel.	<p>COAFG and Vienna should ensure staff responsible for project documentation preparation and well versed in results based management.</p> <p>COAFG and Vienna need to</p>

<sup>21</sup> The recommendations in this block are based on findings formed without consultation with the Justice Unit in Vienna; however, the evaluator’s view is that the Justice Unit has very high expertise in these issues, and with sufficient resources, should take a joint lead role with COAFG CJP and Research teams.

		<p>ensure systematic oversight of project document development.</p> <p>CJP needs to draw upon monitoring and evaluation expertise in COAFG to integrate robust evaluation tools and procedures in project documentation.</p>
<b>Important</b>		
<p>The construction of places of detention has some high profile errors in planning, design and implementation; however the Project has demonstrated a process of adaptation and learning to reduce mistakes and the new CP identifies limits to construction activities.</p>	<p>International reports, Project documentation, correspondence with donors, interviews with CLPs.</p>	<p>COAFG should ensure that lessons learned from prison construction activities are shared and understood and applied to other construction work.</p>
<p>Conditions for women in detention in Kabul have improved as a result of the Project.</p>	<p>Previous visits by CJ evaluator, baseline reports, visit by CJ evaluator to project site, interviews with CLPs.</p>	<p>COAFG should promote additional appreciation of Bangkok Rules, with its emphasis on the extra vulnerability of women in the criminal justice system.</p> <p>COAFG should seek and build on opportunities to remedy the use of criminal justice response to ‘moral’ crimes.</p>
<p>Conditions for released women prisoners through transition houses have improved as a result of the Project.</p>	<p>Previous visits by CJ evaluator, baseline reports, visit by CJ evaluator to project sites, interviews with CLPs.</p>	<p>COAFG needs to document and develops evidence based advocacy tools concerning lessons on post release work for women.</p> <p>COAFG needs to assist the development of a safe policy for women passing through the transition house system and into the community.</p>
<p>The Project has showed excellent practice through a process of research, development of baselines, evidence based advocacy, promoting collective action</p>	<p>Project documentation, international and national reports, interviews with CLPs.</p>	<p>UNODC needs to further apply the evidence based advocacy model throughout the CJP.</p> <p>COAFG Research Programme</p>

and leveraging fund.		should ensure that resources and expertise are available for the CJP.
There has been significant progress on building understanding and support for ATI, but further work on implementation is needed.	Previous visits by CJ evaluator, baseline reports, interviews with CLPs.	COAFG should focus Alternatives to Imprisonment (ATI) efforts on judiciary and community structures that would be responsible for sentencing and oversight of ATI.
Vocational training activities have an unclear purpose as they are mixed by CPD with institutional income generation and prison industries. This mixture of two separate activities hinders progress on vocational training.	Interviews with CLPs and CJP personnel, Project documentation	UNODC should consider lessons learnt from other activities in the region e.g. KGTZ90 which has invested heavily in distinguishing between income generation and vocational training activities.  COAFG should support CPD on development of protocol and guidelines for vocational training.
<b>General</b>		
The impact of the training is little understood.	Interviews with CLPs and COAFG personnel and Project documentation.	COAFG should develop systems and tools to ensure training impact is monitored, understood and feeds into programme planning and implementation. <sup>22</sup>

To assist the evaluation of future training activities, the CJP evaluator proposes the following approach in Annex 5.

# I. INTRODUCTION

## Project framework

The Overall Objective was “to reform and upgrade the functioning of penitentiary system, including the promotion of rehabilitation of the prisoners, as a contribution toward peace building in Afghanistan.”

The immediate objectives were as follows:

(a) Application of the national legislation, rules and regulations in the corrections’ field at provincial and district level and implementation of the Central Prison Department new operational and managerial structure and policy across the country.;

(b) Rehabilitation of target prison facilities throughout Afghanistan;

(c) Enhancement of the operational capacities and professionalism of penitentiary staff working in selected correctional facilities and improvement of coordination within criminal justice system;

(d) Establishment of training programmes for correction officers and for social workers as well as development of vocational and educational programmes for prisoners, including alternatives to imprisonment programmes

The Project commenced in January 2005 and ended in December 2012 and underwent 7 revisions.<sup>23</sup> The original duration was 30 months. There were 53 months of extension for a final duration of 84 months.

The original budget was US\$10,500,000, final budget. This was decreased by US\$171,363 to a final budget of US\$10,328,637.

The donors were Canada, Italy, Japan, and the United States.

## Project Design

The Project is integral to the Operational Targets as per the COAFG Strategic Programme Framework 2006-2010 and these are in turn linked to benchmarks in the ANDS. The Project is also linked to national priorities that are now reformulated under National Priority Programmes under the Governance (Economic and Financial Reform, transparency and Accountability, Efficient and Effective Government, Local Governance, Justice for ALL, Human Rights). The Project also promotes standards of which UNODC is the custodian, e.g. Standard Minimum Rules for the Treatment of Prisoners.

UNODC’s government counterpart agency is the Ministry of Justice (MoJ). The Project uses a range of activities including, legislative reform, infrastructure development and refurbishment, professional training, improving IT capacity, providing equipment to deliver expected outputs.

The project was designed at the latest in 2004. Appropriately the design very much reflects the context at that time. The most obvious features being the large commitments to reconstruction work and the need for

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<sup>23</sup> Details of the Project from ProFi.

institution building for CPD. The design of project is marked by very weak application of indicators and with little reference to result based management, in part these is understandable as the deliverables, often associated with infrastructure and equipment are themselves very simple to monitor. Projects designed at that time did not have the benefit of staff who have since received considerable support and training in results based management. However as the project has been extended and was implemented in the latter years in a very different environment, these design weaknesses became more obvious.

The design of the project included significant element on research to inform policy and practice and this has resulted in some of the more impressive results and provided the opportunity for UNODC to work on areas of much need where the agency has respected and discrete capacity. The legislative development activities were a clear necessity in respect to the institutional development of CPD and the legislative development work is mutually supportive of other project activities of the CJP.

The duration of the project seems to have been too short, in particular with planned construction and prison refurbishment work. This design flaw contributed to the excessive extension of the project that was not matched by increased funding.

## Introduction to the Evaluation

This Evaluation Report assesses AFGR87 but also considers its contribution to the COAFG Sub-Programme on Criminal Justice (CJP).

The field mission in Afghanistan by the Criminal Justice evaluator was from 1st–23rd September (including travel to and from the UK).

During the evaluators' visit to Afghanistan, security concerns had a major influence on the completion of the mission schedule. In Bamyan the CJ evaluator had to remain in the UNAMA compound and could not return to accommodation due to protests (unrelated to UNODC but nevertheless including stones being thrown at one of the United Nations Assistance Mission to Afghanistan (UNAMA) guest houses). This made it impossible to visit the Juvenile Rehabilitation Centre<sup>24</sup> (JRC) facility there. In Kunduz, the evaluator was part of a precautionary evacuation from the UNAMA compound to the Provincial Reconstruction Team<sup>25</sup> (PRT) due to protests (unrelated to UNODC). This kept him from meeting local government officials and the Governor's office. Then at the Kunduz Prison, his visit was interrupted and rendered incomplete due to a NATO presence concerning insurgent detainees/prisoners.

The CJ Evaluator's mission to Jalalabad was called off due to a cancelled flight<sup>26</sup>. However, the Team Leader and international staff member of UNODC based in Kabul did go and visited the Appellate Court, the provincial prison (including the women's detention centre), the Ministry of Justice office, the

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<sup>24</sup> Places of detention under the Ministry of Justice for persons under the age of 18 convicted to a custodial sentence.

<sup>25</sup> Militarized bases.

<sup>26</sup> Project sites are located in sometimes remote areas accessed by poor roads. Within the timeframe of the evaluation there were sites of interest that could not be visited due to time constraints. Related somewhat is the unreliability of air services. Due to poor security records of domestic airlines, UN staff is required to travel by UNHAS, the UN air service. However, for multiple reasons, this service is also not reliable and in one case prevented the CJ evaluator from visiting Jalalabad. Although the Team Leader did visit here, this detracted from the time he could have used places elsewhere of use to the evaluation.

Attorney General's Office, and the Deputy Provincial Governor. While not experts in this sector, they obtained information included in the Evaluation report.

Another obstacle to timely evaluation is the poor infrastructure of the country. Project sites are located in sometimes remote areas accessed by poor roads. Within the timeframe of the evaluation there were sites of interest that could not be visited due to time constraints. Related somewhat is the unreliability of air services. Due to poor security records of domestic airlines, UN staff is required to travel by UNHAS, the UN air service. However, for multiple reasons, this service can be unreliable (as noted above).

In Kunduz the CJ evaluator could not meet with local government nor the Governor's office due to protests. The CJ evaluator could not visit Pol-e-Charkhi prison because of prisoner disturbances. The CJ evaluator could not visit the Kabul Male Detention Centre because of security status. However, the Team Leader did make the visit along a senior local staff member.

The CJ evaluator arranged meetings in London and made follow up calls, including through Skype after the visit to Afghanistan to fill gaps as much as possible.

There were many other impediments to the mission. Government officials neither had nor did not want to release some information that they considered sensitive. It was hard to identify the exact reasons for this even with the assistance of COAFG personnel. A tight schedule prevented a meaningful visit to the JRC in Kabul. Scheduling difficulties were exacerbated by a rapidly changing security status, sometimes causing extraordinary delays even to short journeys. Some planned meetings with CLP government officials<sup>27</sup> had to be held with subordinates resulting in that little relevant information or informed opinion was obtained. Some Government officials had not been in post for long and only had a fleeting understanding of activities. Some donor personnel newly in post lacked immediate familiarity with the projects of many years duration.

The Inception Report (see annex in the overall cluster report) describes the predicted limitations, sampling strategy, data collection instruments, ethical considerations and specific questionnaire framework. The evaluator drew upon the agreed Inception Report to guide the mission. There were, however, times when it was not possible or practical to follow the specific questionnaire framework due to the nature of the meeting. Often the representative of the CLP was not in a position to share information or the circumstances of the meeting e.g. visiting a prison meant that conversation was held walking around premises and it was important to react to and enquire about what was presented and observed.

By far the biggest challenge was the sheer volume of information, written and verbal, associated with the project. The CJ evaluator sought guidance from COAFG and the CJP team on the documents to prioritize. Even by doing this, it was difficult to cover all aspects of the programme, particularly with what turned out to be, as a result of unavoidable schedule interruptions, somewhat limited opportunity to meet with all CLP during the mission.

A key feature of virtually all meetings with Government CLPs is the reliance of measuring progress through recording input and activities. Various approaches during individual meetings to prompt reflection on, or opinion about, outcomes and the use of indicators, revealed little. This was mirrored to some, but a much lesser, extent in the CJP team.

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<sup>27</sup> Some officials were called away to attend to urgent or higher priority issues.

The CJ evaluator had the opportunity after meetings to clarify points with CJP and other COAFG personnel and, where the schedule allowed, to review experiences and progress, with the other Evaluation Team members.

Despite these challenges, the Evaluation Team is of the opinion that the team members managed to visit enough places, meet a sufficient number of stakeholders and beneficiaries, and study a satisfactory number of documents and reports that it obtained a reliable understanding of the strong points and deficiencies of this Project and that the findings in this report are valid.

### Challenges/Limitations to Project Implementation

The implementation took place amid a variety of challenges and limitations that must be recognized (some of which also affected the Evaluation itself, as noted above). COAFG and the CJP team have demonstrated a serious degree of analysis and strategically sound response to these challenges that are in the main beyond their direct control. Here are the major constraints of the Project's work.

#### **International**

The international community is heterogeneous and represents, albeit in quasi-coordinated entities, many interests, and a broad range of approaches. This diversity places pressure on national authorities, pulling them in differing directions. That some members of the international community are backed by vast budgets further distorts the coherence of national planning and prioritization. This occasionally disjointed national planning environment makes it hard to focus programme support. Domestic pressures on members of the international community also have a significant impact on the programme as donor governments swiftly, dramatically and injudiciously reduce the nature of their commitment, with little regard for needs in Afghanistan. Prisons and detention are particularly vulnerable to the vagaries of the international community as they are intrinsic to the international community response to the conflict in Afghanistan. It seems that international standards in criminal justice have to compete with military imperatives which do not always match in detention settings nor judicial processes.

#### **Regional**

Afghanistan is vulnerable to events in Iran and Pakistan in some very practical ways. For instance, border closures can have dramatic consequences for implementation with spiraling costs of raw materials. Movement of Afghan citizens to and from Iran poses some isolated but telling challenges for the criminal justice programme with (often involuntary) returnees being drug users and in some cases ending up in Afghan prisons.

#### **Capacity of National Institutions**

It was an almost constant refrain from national partners that there was a shortage of important documentation e.g. national laws and important training manuals. While the projects and programmes have increased capacity and still aim to do so, such fundamental gaps remain an impediment to the impact of legislative development. CPD has not benefitted from the same levels of recruitment as police and remain understaffed that seriously limits their capacity to implement change.

#### **Kabul Centric Development**

The reach of government initiatives is limited, meaning that CJP work, which is correctly based on agreements with high government authorities based in Kabul are sometimes impeded. In Bamyan for instance, the draft National Priority Programmes (NPPS) could not be discussed as there were no versions

in Dari, and the National Justice Sector Strategy (NJSS), finalized in 2008 had not, as of May 2011, been made available to judicial officers in the Province.

### **Insecurity**

The changing and deteriorating security context with in which the CJP is implemented has a dramatic impact.

Of foremost concern is the toll on, and welfare of, COAFG personnel. The CJP is not unique in that the national counterparts are particularly vulnerable (security and justice institutions). The Ministry of Interior, Prisons and the Ministry of Justice and Courts are key national counterparts; programme implementation requires visits to locations that pose peculiar risks.

In addition the provision for international staff to take periodic “R&R” breaks means that a full staff team in country is a rarity. Other pressures, intimidation for instance, exist for national staff, though the CJ evaluator is not aware of what provisions have been made to accommodate this.

The necessary vigilance, precautions and procedures established by the United Nations Department for Safety and Security (UNDSS) mean that implementation is frequently interrupted. This can be through the inability to travel in Kabul due to security status, road missions to project sites not being possible, flights cancelled at the discretion of United Nations Humanitarian Air Services (UNHAS) as a result of insecurity, and government counterparts having their priorities distracted due to insecurity so meetings cannot always take place as planned.

The changing nature of threats and risks demands changing security arrangements, travel, office, accommodation, personnel terms and conditions results in escalating costs for COAFG.

### **Prioritization of Location and Nature of Intervention**

There are two challenges here, both partially linked to the project funding model that characterizes the CJP. This is not unique to the CJP in COAFG and this is not unique to COAFG in UNODC.

First, the CJP and national partners are subject to the influence of the donor community in deciding where to implement activities. The choice of location by donors may well be politically driven, e.g. to locations where it is important for the government to have demonstrable indicators of its reach and authority. This political decision may not at all times be aligned with CJP analysis that identifies most pressing need and comparative advantage of an intervention.

Second, the nature of an intervention is in part to do with timing and this is linked to the project funding model of the CJP. Donors may make available funds to be used in a time frame ill-suited to UNODC systems--project revisions, procurement nor may not take fully into account the environment in which an activity is supposed to take place. However with COAFG having legitimate commitments to the added value of staff and programme continuity, the risk is that funds are accepted for activities that are hard to implement to the highest standards in the required time frame.

### **Corruption**

The perceived high level of corruption has been a major roadblock to development and better governance and, thus, to effective project implementation. The ultimate objective of the Government’s anti-corruption strategy is a public administration that operates with integrity and accountability to provide an enabling environment for economic and social development, based upon the rule of law, impartiality in political decision making, the proper management of public resources, the provision of efficient services

and the active engagement of civil society and the private sector. The Government’s anti-corruption strategy and roadmap are focused on achieving clear progress in reforming public administration and judicial systems as well as implementing measures in the counter narcotics strategy.

In Afghanistan a sense of corruption is pervasive, and actual corruption is widely reported.<sup>28</sup> These are not only an implementation concern, requiring extensive and robust systems to ensure value for money, but has an impact on practice in the criminal justice system e.g. access to defense lawyers was often reported to the evaluator as subject to ability to pay<sup>29</sup>. Concerns about corruptions is also an obstacle to the potential of progressive reform in the criminal justice system e.g. reluctance of judges to use non-custodial sanction for fear of accusations of corruption.

### **Limited Practice of Documentation of Analysis**

The requirement for programme planning based on robust evidence based analysis is undermined by significant gaps in national capacity and national and international practice. Although the Project collected baseline data, it was not always sufficient to plug these gaps. As the Supreme Court bulletin notes<sup>30</sup>

*“Another challenge facing these statistics is that we do not receive the statistics from each and every court that is active in the area of corruption”.*

During the evaluation there was from the international community more demonstrable practice but it remains patchy.

Analysis of the prison population is usually quite problematic with it requiring interaction with prisoners, who are by definition hard to reach. This was further compounded in the project as many prisons contain a cohort of prisoners who are judged extremely high risk. The capacity of the CPD to assist with such analysis is very limited and support from other agencies for such analysis was not always well matched to the systems and practice of CPD. The result is interventions are made from a very limited basis of analysis.

### **Penal Policy in Afghanistan**

Since the project commenced the prison population has increased in number dramatically. Law enforcement capacity has increased and while the prison estate has increased and improved it simply cannot keep abreast of rising number of detainees and convicted prisoners and the challenges of meeting standards in prisons remains unabated. Amidst this change, the Central Prison Department (CPD) has transferred from the Ministry of Interior (MoI), to the MoJ and back to the MoI. COAFG has sought to work meaningfully within this context and taken opportunity to exert a sound influence.

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<sup>28</sup> Corruption Perception Index, Transparency International, 2011.

<sup>29</sup> One woman in prison for ‘moral crimes’ in Kunduz was asked why she had not consulted a lawyer. She explained she did not have the funds to pay, despite there being free legal aid provision in Kunduz.

<sup>30</sup> Afghanistan Supreme Court Special Bulletin No 19 May 2012.

## II. EVALUATION FINDINGS

### Effectiveness

The Overall Objective of the project was “to reform and upgrade the functioning of penitentiary system, including the promotion of rehabilitation of the prisoners, as a contribution toward peace building in Afghanistan.”

The Project Document refers to the Justice Public Investment Programme elaborated by the Afghanistan Ministry of Finance in cooperation with donor countries, UNAMA and UN implementing agencies. The Project Document goes on to say that a three-phase strategy was developed to reform the penitentiary system and that sixteen out of thirty-two provinces were identified as priority areas.

Facilities to be rehabilitated were to be selected according to the Justice Public Investment programme and that approximately five prisons would be supported.

It should be noted that there were limitations of applicability of indicators and means of verification in the log frame. In the R87 Project Document, all outputs have the same sources and means of verification: ‘Tripartite Review assessment and reports’. All Immediate Objectives have the same source and means of verification: ‘Reports from Central Prison System and other reports’.

These are too vague or rely upon reports that do not exist, e.g. tripartite reviews, which from the documentation available to the CJ evaluator, have not taken place. The indicators for objectives and outputs all lack quantifiable time bound features and many are simply a record of activities. This shows weak planning and makes it difficult both for Project managers to show that they are achieving project goals and for the evaluators to assess progress.

The CJ evaluator is not asked to comment on the effectiveness per se of the logical framework approach, however, it is a widely used tool and it is supportive of an increasing commitment to result based management. It is also noted that the new CP shows a much improved standard compared to the project documents.

### **The immediate objectives are as follows:**

(a) 1. Objective: Application of the national legislation, rules and regulations in the corrections’ field at provincial and district level and implementation of the Central Prison Department new operational and managerial structure and policy across the country;

(b) 2. Objective: Rehabilitation of target prison facilities throughout Afghanistan;

(c) 3. Objective: Enhancement of the operational capacities and professionalism of penitentiary staff working in selected correctional facilities and improvement of coordination within criminal justice system;

(d) 4. Objective: Establishment of training programmes for correction officers and for social workers as well as development of vocational and educational programmes for prisoners, including alternatives to imprisonment programmes

(e) 5. Objective: Development of programmes addressing the needs of detained women, especially those with children, and drug users.

**Immediate Objective 1: Application of national legislation and implementation of Central Prison Department operational structure across the country.**

The project was effective in delivering progress in objective 1 in particular institutional development for the CPD, though the extent to which country coverage was possible throughout the long duration of the project changed as security deteriorated and other contextual issues changed. The legislative developments are highly important for the CPD and the project was effective in supporting their development and passing into law.

The Penitentiary Law and Prison Regulations were drafted at the request of Ministry of Justice by UNODC, in coordination with key international and national stakeholders. The Penitentiary Law was adopted in 2005.

UNODC was requested by the Legislative Department of MoJ to help draft penitentiary regulations as a secondary legislative source in order to implement the principles stipulated in the Penitentiary Law (primary source) issued under a Presidential Decree in May 2005.

UNODC, with support from UNIFEM (now UN Women) and UNAMA/HR, worked through and with The Prison Working Group (PWG) to work in accord with the ANDS and to ensure that the Regulations were in compliance with SMR.

The CPD was transferred to the MoJ in March 2003. Through the work of the PWG, the Project worked to establish organizational structures, terms or reference for parts of the CPD and organizational protocols. The MoJ, in close consultation with the PWG, proposed two options as a possible structure of the CPD, the first and preferred option was civilian and the second was a combination of military and civilian. The latter was adopted by the President.

Given the high priority assigned to the completion of the Priority Restructuring Reform (PRR) process as quickly as possible, UNODC participated in the Technical Working Group meetings held twice a week to finalize all the 38 organizational charts and terms of reference for the associated positions. Implementation of the PRR process was completed in all provinces excluding Uruzgan. A total of 2,680 staff (1,499 line officers and 1,181 sergeants) passed the exam and were then evaluated and assigned to their respective jobs. Almost 1,541 personnel have been hired and the basic trainings have started for them in Kabul and all other relevant provinces.

The CPD was transferred back to MoI in 2012.

As part of the CJP team, personnel of R87 in the 8 years project duration have had an input in the Criminal Law Reform Working Group (CLRWG) (albeit that it is mainly financed by T03 and in part by R86). The CLRWG legislative work is attached in annex.

**Immediate Objective 2: Rehabilitation of targeted prison facilities**

The CJ evaluator's previous visits to places of detention in Kabul in 2007 provided ample evidence that the construction and refurbishment of prison facilities is a necessary and effective response to problems identified. This effectiveness is clear in the much improved conditions of the Kabul Female Prisoners Detention Centre (KFPDC). The CJ evaluator's visits to prisons that had not benefited from construction nor refurbishment support showed the deeply entrenched problems of a system struggling to cope with too few resources, a depleted prison estate and increasing prison population. The conditions for prisoners

remains a major concern. Intense overcrowding results in prisoners living in tents or places of worship or areas with a special purpose e.g. the drug treatment unit of Kunduz. The use of such facilities for prisoner accommodation makes human detention and a shift towards international standards even more challenging.

Some construction was started in earlier projects (R41 for KFPDC) though a significant amount, approximately equal to what was called for in the Project Document, was commenced and/or finalized in the Project (although perhaps more was done in Kabul than in the provinces as originally intended but this was in line with Afghanistan Government desires). The Project's construction and refurbishment activities included:

Larger projects: Pol-e-Charkhi prison high security facility for serious drug offenders; Kabul female and juvenile rehabilitation centre; Mazar-e-sharif medium security new provincial prison and Gardez medium security new provincial prison.

Pol-e-Charkhi main prison in Kabul—prioritized projects and upgrades: New kitchen designed to cook for 300 inmates block 1; Installation of 400 KV transformer; Rehabilitation of essential drainage system and water supply in block 1; Rehabilitation and construction of health clinic in block 1 and Construction of family visit area and security fence in block 1.

Prioritized projects and upgrades: Construction and rehabilitation of front area of Kabul male detention centre—phase I Construction/rehabilitation of Kabul female detention centre; Repairs to electricity system in Kabul female detention centre; Rehabilitation of Kabul male detention centre phase II and Gardez prison emergency reconstruction for winterization.

KFPDC—completed (including a female and juvenile wing, kitchen, visits building, general office and infrastructure).

Drug Treatment Clinic, Pol-e-Charkhi: this programme was established in 2008 with funding support from the Government of Canada to help drug addicts at the prison. The agreement was that the programme would be jointly managed by the Central Prison Department, the Ministry of Public Health and the Ministry of Counter Narcotics. UNODC provided medication and equipment for the programme. However, once the medication was exhausted, the CJP team reported the counterparts failed to sustain it. The CJ evaluator was unable to verify this.

Gardez Prison: The construction project in Gardez was designed in two phases. Phase I was completed and handed over to the government in 2008. Phase II was began although approximately 70 per cent of the work was completed; the remaining 30 percent remains unfinished.

Mazar Prison—construction was planned, commenced and two wings, a vocational building, visits area, kitchen, office, female wing, and infrastructure were completed.

Kabul Male Detention Centre: renovation in two phases. Phase 1 was the front areas (kitchen, visitor building, administrative offices). Phase II was the overhaul and renovation of roofs, cells, conjugal rooms, health clinic, security tower, Mosque, corridors, toilets and showers, air conditioning in each cell.

Balkh (Mazar) Provincial Prison: minor refurbishment to the toilet and shower area and the roof in the current.

These achievements are significant and highly effective. It should also be noted that the construction of prisons has been problematic marked by a litany of errors, most notably concerning Mazar-e-Sharif prison. According to the document 'Reply to Italian PM in Vienna queries on AFG/R87 June 15th 2009,' US\$800,000 was spent on the construction. Because of poor preparation that did not identify the lack of potable water, it was not possible to build the prison in the land provided. Options of water delivery were

explored but were found to be impracticable. The final conclusion was to halt the construction of the prison in that location. There were insufficient funds to start a prison in a new location and the net result of the US\$ 800,000 expenditure is a prison external wall.

That incident is now a thing of the past as UNODC has made the decision to avoid taking on large infrastructure activities, especially office complexes. It should be emphasized that when prisons were completed, they were done so at considerable expense. Inflation and elements out of the control of the project, e.g. sudden increases in cement or fuel due to border closures was one cause. Some increases are reported as a result of very high costs of implementation agencies, especially UNOPS. It is worth noting that of the US\$800,000 spent on a prison wall, the UNOPS total costs for setting up the operational capacity amounted to US\$452.315.<sup>31</sup>

Some designs have been inadequately considered for the context in which they are operating, for instance, the water and sanitation units in the KFPDC. An ICRC review identifies plumbing works that do not separate gray and sewerage waters and that there was a discharge of both into the community caused by an overflowing septic tank. There is one septic tank for the KJRC and KFPDC which lacks an adequate percolation system. The plumbing to the septic tank is built with tight angles resulting in networks being clogged causing overflow from manholes. This also results in laundry, washing and toilet facilities being unusable at times (ref correspondence ICRC–CPD 2011 seen by CJ evaluator and held in COAFG files).

COAFG has taken actions to remedy a number of the problems encountered, through changing contractors that were proving too expensive and by increasing its own technical and expert capacity to monitor and more authoritatively manage the construction process. UNODC also demonstrated a very important commitment to learning and improvement through the production of the report, ‘Prison Construction and Rehabilitation Findings and Recommendations, Experience gained by UNODC and UNOPS June 2003–September 2007’. The key text from the report is included in annex. It is important to note the most of the prison construction work was well advanced or in the case of Mazar, irredeemably stalled, by the time the review document was produced and that the new CPS for 2012 and 2014 does not identify construction of prison facilities in its activities.

### **Immediate Objective 3: Enhanced capacity of penitentiary staff, and Immediate Objective 4: Training correction officers and social workers**

*These are discussed jointly as during the course the evaluation this is how CLPs discussed them and there was little distinction made, albeit that under objective 4 there is the provision of training equipment for prisoners.*

Beyond the investment in construction and refurbishment of prison facilities the project has contributed equipment for increased operational capacity of the CPD and to establish or enhance prisoner educational and training facilities. A full list of such equipment is provided in annex.

Early duplication of training initiatives by international agencies (ref previous midterm and terminal external project evaluations) are regrettable. However, COAFG and the CJP team responded effectively by focusing training initiatives on areas of particular need and agency expertise. Additionally, efficient approaches include the use of other COAFG resources such as the Drug Demand Reduction Section to deliver training and the use of existing UNODC Justice Section literature and manuals.

There were reports of delays in establishing the vocational training centres due to the slow transfer of equipment by CPD HQ to provincial locations. Equipment for Kandahar was procured in Kabul, but there

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<sup>31</sup> Reply to Italian PM in Vienna queries on AFG/R87 June 15<sup>th</sup> 2009. Held in COAFG files.

were no funds of transportation; it took six month of further negotiation for the equipment to reach its correct destination. Some concerns were raised about overlap of project vocational training inputs with the work of other agencies, particularly in Kandahar.

#### Professional Training for Personnel of the CPD and Related Agencies

The CJ evaluator notes the comments from an Afghanistan Government official quoted in the 2007 midterm evaluation:

*“Afghanistan has been at war for more than 30 years: you can imagine that we have to train our State bodies first before we can implement all these new laws in a proper way.”*

On the balance of reasonable probabilities, training has been a necessary and effective response to the needs to improve performance of CPD. The changing legislative framework and the commitment to improved practice in prisons requires knowledge of new legislation and policy to be delivered to CPD staff and those other agencies and civil society working with CPD or advocating for human rights standards in prisons.

The Project responded appropriately through construction and refurbishment inputs to support the CPD training capacity. The refurbishment of the penitentiary training centre in Pol-e-Charkhi resulted in a venue where CPD can conduct training, classrooms, toilets, accommodations. In addition, the required stationery, 70 chairs, 70 desks, 2 projectors, 2 laptops computers, 6 large size white boards were delivered to the training centre at the main prison. This should also be noted as an important input in supporting the extension of CPD HQ oversight and influence to provincial location though enabling the CPD HQ to bring together and accommodate provincial staff.

The Project has delivered training on a broad range of issues. As more international agencies, sometimes with much larger budget and operations, have provided support to CPD professional development focused on key issues that respond to CPD gaps and needs and also draws upon the Agency’s specific and well developed expertise:

#### Manuals and training material developed or provided by Project:

(a) Basic Training Manual for Prison and Detention Centre Workers on the practical application of Constitution of Afghanistan, Law of Prisons and Detention Centres, and Prison and Detention Centre’s Regulations for Management of Affairs (English Dari and Pashtu).

(b) The Religious rights and duties of Muslim Inmates in Prisons a guide for Criminal Justice Personnel (English Dari and Pashtu).

(c) Islamic Sanctions in Islamic Societies (copy not seen by CJ evaluator).

(d) Responding to Psycho-Social Needs of Women Detainees and Prisoners (CDRom though the CJ evaluator’s copy could not be read).

(e) Translation of the United Nations Standard Minimum Rules into Dari.

After the publication of the Penitentiary law in the Official Gazette (May 2005), the Project supported the MOJ in covering the cost of the printed copies of the law. The printed laws were distributed to all detention centres and prison facilities and in all Judiciary offices located at provincial level, throughout Afghanistan. In addition all penitentiary staff (1,200 at that time) trained at the National Training Centre in Pol-e-Charkhi were to receive a copy of the law. The Project delivered training on the new Prison Law in 2006 to 210 non CPD staff which included the Attorney General’s Office, Supreme Court, AIHRC and

ANP. This extension of training beyond CPD staff is an effective and necessary element in taking practical action to promote the rights of prisoners. Through the project over 1,000 staff have been trained.

### Specialist Professional

(a) Capacity enhancement for 66 CPD staff who supervise female prisoners. Delivered in Kabul and Kandahar, this was designed to improve supervision and management.

(b) Basic life support Training of Trainers (ToT) for 15 staff of CPD district detention centres. The training was conducted to enable penitentiary staff to identify and respond to minor and major medical emergencies.

### Vocational Training for Prisoners

(a) This is a necessary measure to meet the need of reducing the harm done by detention and contributing to the likelihood of positive post release options. It is also a necessary element of good prison management and humane detention. The provision of the types of vocational training was carefully designed to the crafts and trades of the different locations. Its effectiveness is partially undermined by two main issues:

(b) The opinion by some in the CPD that any production activity is mainly for CPD income generation (budgetary support) and is seen as a state industry, an opinion partially reinforced by support to prison industries from other international agencies. It is worth noting that prison industries and income generation, even if revenue is passed directly to Ministry of Finance, is a worthwhile activity, and not mutually exclusive from vocational training; however, the two are not the same thing.

The absence of a proper protocol on what should be the benefits to prisoners and the benefits to CPD of prisoners engaged in positive activities or implementation of vocational training, including who should benefit and the use of revenue generated. This has led to serious distortion of the activities. In Kunduz, rooms and tailoring workshop are only available to prisoners who pay 1,000 Afghanis per month (about US\$20). It was variously reported to the CJ evaluator that revenue earned by the prisoners was rarely returned to them. In Jalalabad, income from furniture production is earned through contract shops in the bazaar. However, the income can only be used to buy raw materials but not equipment, much of which is now falling into disrepair. A future project may want to help create a common approach to how income generated in the prisons is handled.

The CJ evaluator visited the Women's Prison in Kunduz, where the Project had provided sewing machines. There were no problems of access to equipment mentioned by the women prisoners, though lack of raw materials to make full use of the equipment was noted as a problem.

In early 2009, UNODC provided vocational equipment to Nangahar Provincial Prison. This equipment is currently being used in the vocational building which was completed by CPD. Vocational equipment was also provided to Paktia (Gardez) prison.

Currently, vocational training programmes are being established in Helmand, Kabul, Balkh and Herat provinces for prisoners during incarceration and following their release from prisons as part of a re-integration strategy. UNODC has engaged with the relevant government ministries such as the Provincial Department of Women Affairs and the Ministry of Labour, Social Affairs and Martyred and Disabled to link prisoners with their communities as they leave prisons. Specifically, prisoners who graduate from the vocational programmes and are being released, will be linked to community employment via trade employers in the community. In addition, starter tool kits will be provided to graduates for their use to start their own shops, make items for sale in their homes thereby generating income. An NGO will monitor each prisoner for six months after release to ensure that the tools are being used for their intended

purposes, links to employment has been made and identify additional supports that is needed by the ex-offender. These initiatives were highly praised by representatives of other international agencies and are a good example of the innovation, focused use of resources and integrated approach used by the CJP team.

### Alternatives to Imprisonment

Work on Alternatives to Imprisonment (ATI) has been sound but has yet to be effective in delivering the impact planned. Based on 2007 research by the project, national meetings have been convened to facilitate progress in line with the research findings. The results of the meetings have been to confirm an interest in and recognition of the need for, ATI. This is of particular importance with the increase in imprisonment rate calculated as 20 per cent each year (about 3,000 prisoners in 2003 to over 20,000 in 2012), far outstripping even the fast increasing prison capacity.

It is worth noting the well-informed view that up to 90 per cent of the prisoners are not dangerous (ref General Mukhtab, Helmand Justice Audit). However, while the CJ evaluator found consensus on the need for ATI serious obstacles need to be addressed, mainly in the sentencing options available to, and practice of, the judiciary.

There is also some resistance from the judiciary to non-custodial sanctions. While in some cases judges may approve of non-custodial options, fines are possible as well as diversion for cases of mental health and drug addiction, judges are reluctant to offer ATI due to fears they might be seen as corrupt or because they fear community condemnation of 'weak' sentencing.

Additionally the absence of defense lawyers to argue cases or challenge sentences on behalf of accused further diminishes the chance of a non-custodial sanction. Finally non-custodial community sanctions require some sort of sentence monitoring arrangements. Current government capacity does not provide for this, and it would be unwise to suggest a vast expansion of a new ministerial department to cover this need. Community structures to provide oversight, differing from region to region offer a possible option, and the interesting work on resettlement in Kandahar may provide useful lessons, however there is still considerable need for analysis as to what models could be piloted.

### **Immediate Objective 5: Development of programmes addressing the needs of detained women, especially those with children, and drug users**

Reintegration of Women prisoners: In 2010, with funding from the Government of Canada, UNODC, and as a part of R87, established a post-release transition programme with houses in Balkh and Kabul provinces. The houses were designed to serve women coming out of prisons in these regions. Since inception, the programmes have served almost 80 women and their children who otherwise could not return to their communities. In addition to education and vocational offerings, both programmes also included family reunification and employment components.

Approximately 15 women were re-unified with their families with intense monitoring from the NGOs running the transition houses to ensure the safety and welfare of the women. This activity is built on a sound development process characterized by research, advocacy, consensus building and pilot projects and has been highly effective in both terms of process and outcome. This approach has now attracted additional grant mechanisms to support its replication.

As well as being of benefit to extremely vulnerable women, it has made a difference to CPD who now have access to a resource when they release women, it has increased capacity of national civil society who run the transition houses and has prompted funding mechanisms from other donors to support similar initiatives. There is still work to be done on women who have exhausted the services of transitional houses as the risk of violence to women living on their own remains a very serious issue to be addressed.

For juveniles, in 2011, UNODC with funding from the United States established a pilot project at the Kabul Open Juvenile Rehabilitation Centre (JRC). This activity was intended to demonstrate the use of the JRC as an effective alternative to detention for young people who came into contact with the juvenile justice system. At the time when UNODC became involved with the activity, the average daily population of the centre was six. However, upon implementation of services and collaboration with the juvenile courts, the population increased to 25 at the end of the four month pilot. With the lessons learned from the pilot, UNODC in collaboration with the Ministry of Justice is currently scaling up programming at the JRC to include the establishment of a Vocational Training Centre, psycho-social and social work services and transportation to facilitate attendance. Funding for this aspect of the project comes now from the Government of Japan.

In August 2010, UNODC, in partnership with a local NGO and with funding from the government of Canada established integrated health and drug treatment services for prisoners in Kandahar prison. The programme was funded for 12 months. This programme was a first in Afghanistan and provided access to primary care and drug treatment for over 1,200 prisoners. This evidence based model is consistent with the Ministry of Public Health Basic Package of Health Services (BPHS) and has provided basic primary care services to almost 1,000 prisoners and drug addiction services to 300 drug addicted prisoners.

Family members also benefit from drug awareness counseling and basic health examination when they visit the prisoners. Prisoners released from Kandahar with ongoing need for drug treatment are referred to the community drug treatment program in Kandahar city funded by Canada.

## Efficiency

Efficiency of activities is discussed above under the Assessment of Project Objectives and Effectiveness of Implementation section. Efficiency of other aspects of the Project is discussed here:

### **Efficiency of Project Management and Governance**

The long duration of the Project as a result of multiple extensions raises some concerns regarding efficiency, in particular the 53 month extension alongside a slight reduction in the TAB budget. If ‘overheads’ (such budget lines as programme management staff, offices expenses but not PSC which is a fixed percentage) remain little changed throughout the duration, then it is likely the amount available for activities reduces as a proportion of total expenditure.

There were reports of inefficiency from the donors who cited examples of slow and incomplete correspondence and reporting.

The apparent absence of Project governance—the lack of tripartite reviews for example – is important. Tripartite reviews provide an opportunity for donors to be more regularly updated on project progress and offer another mechanism by which proposed extensions can be examined. Such lapses raise the possibility that useful inputs from donors will not be made. Also, these lapses increase the risk that donors will consider UNODC is acting irresponsibly – even if that is not the case - or not paying enough attention to donors which may negatively impact efforts to raise funds from the same or other donors for future work in this sector.

### **Coordination**

The Prison Working Group was established with the participation of all relevant national and international stakeholders. UNODC and UNAMA were initial members of the Secretariat and later joined by CSSP.

The PWG is part of the ANDS and conducts regular meeting fortnightly in the Ministry of Justice with participation of all relevant organizations.

During the evaluation, the commitment to coordination by the Project team (although not as much as would be ideal with donors), over and above such entities as the PWG was highly praised, though not withstanding the immense dedication, the limitation of there only being a small team dedicated to the project was noted.

The Project team has worked efficiently to draw upon the expertise and capacity of other COAFG teams, in particular concerning the work on drugs and health, to good effect. The CJ evaluator was unable to ascertain whether resources from other projects e.g. costs of other COAFG project personnel, were used in the delivery of the AFGR87. If they were, he assumed that this needs to be reflected in project reporting so as to promote clarity for donors. The CJ evaluator relied upon AR and SAR as a source of information in this matter.

Some activities show robust efficiency and effectiveness, this is particularly obvious for evidence based research and advocacy work which commenced with research: *Drugs use in prisons 2010*, *Alternatives to imprisonment 2007* and *Social Reintegration of Women Prisoners 2007*. The latter report has lead to very well targeted interventions that have gone onto influence national and international policy and attracted additional funding. The initial investment made in the research has realized far reaching and effective results.

## Relevance

During the course of the evaluation, there was consistent endorsement from national CLPs of the relevance of the Project activities and objectives. In addition, the relevance to the Government's needs and goals is clearly observed through the Afghanistan National Development Strategy, A strategy for Security, Governance and Economic Growth 2008—2013 and the National Priority Programmes. The Project's relevance is shown in its contribution to Pillar 2 and cross cutting issues of the Anti Corruption and Counter Narcotics.

## Impact

The prisons, despite cost overruns and poor planning, that have been built have had a significant positive impact on the conditions of detention. Prisoners passing through newly built or refurbished places of detention will have done so in less appalling conditions.

The transition houses have increased security for women upon release and reduced some of the negative impact of imprisonment. They have prompted further international commitment to this approach.

The provision of vocational training equipment will have had a positive impact on the lives of some individual prisoners, and was also reported by one prisoner to have enabled them to provide for their families.

The professional training provided by the Project has produced a body of documentation and tools available for training initiatives, and has enhanced the capacity of national civil society and legal professionals in the delivery of training.

The legislative framework including broader criminal justice legislation and provides traction in working towards reform and accountability framework.

The CPD is better able to carry out its core functions.

## Sustainability

### **Infrastructure**

The sustained impact of construction of prison facilities depends upon appropriateness of design and quality of construction maintenance and appropriateness of use. With maintenance the structures built by the project should continue in adequate use beyond the project duration.

### **Training**

The training materials remain available and those involved in the delivery of training, remain better equipped to continue such works after the project. Those trained have new knowledge and NGOs involved in the delivery of training will have an increased capacity that remains beyond the project duration.

### **Legal and Statutory Reform**

The legal framework will exist after the Project has finished and indicates irrefutable change (so long as no major political changes occur) that will be sustained beyond the Project duration

### **CPD Capacity Development**

The organizational development of the CPD will remain, but perhaps be subject to further reform with transfer back to MoI. This makes it difficult to assess sustainability at this point.

The influence of CPD HQ on provincial locations depends very much on the political and security environment in provinces. If this can be provided, the increased necessary influence will be much more likely to be sustainable.

### **Vocational Training**

The sustained impact of vocational training is contingent on clarity of purpose of the training, reinvestment in the facilities. However, if new skills have gained by those trained, these skills will remain with them after release.

## Findings

### **Critical**

The Project and activities were highly relevant though there are significant examples of inefficient implementation, in particular with revisions that require extension of duration, but no change in Total Approved Budget (TAB), are marked by inefficiency when the project overheads remain largely unchanged for duration. While the PSC remains unchanged as a percentage costs the balance between the

percentage of recurring costs e.g. staffing and percentage of costs for activities indicates inefficiency or poor value for money

There is a significant need for evidence based planning for CPDs strategy, operations and budgeting. Data concerning prisoners and flow of prisoners is disaggregated, located in silos and recorded in dissimilar ways. This impedes CPD and programme planning.

According to advice received during the evaluation international attention and funding for prison work is set to decrease and certainly the methods by which donor funds are invested in prisons has changed and is likely to continue to change.

Donor management under the project has been weak. There is considerable respect from the donors for the expertise and approach of UNODC however there is also concern and frustration about delays from COAFG in updating donors and keeping to reporting requirements and standards.

The original Project Document is very limited with regard to indicators and means of verification, which is a clear obstacle to measuring progress and accountability

### **Important**

The construction of places of detention has some high profile and very expensive errors in planning, design and implementation, that are acknowledged and documented; however the Project has demonstrated a process of adaptation and learning to reduce mistakes and the new CP identifies limits to construction activities.

The conditions for women in detention in Kabul have much improved in part as a result of the Project. The establishment of the new female prison provides arrangements that are closer to relevant international standards than the female wing in Pol-e-Charkhi.

Conditions for some released women prisoners who access the NGO run transition houses have much improved in part as a result of the Project.

The Project has showed excellent practice through a process of research, development of baselines, evidence based advocacy, promoting collective action and leveraging funds. This is particularly the case for the work on women in prisons.

There has been significant progress on building understanding and support for ATI, but further and very targeted work on implementation is needed to overcome the significant obstacles that remain.

Vocational training activities inside prisons have an unclear purpose. They are talked about as part of humane custody and rehabilitative but in the CPD they are spoken of mainly as a means of generating institutional income. Prisons industries and rehabilitation through vocational training are not mutually exclusive, but to conflate the them is a mistake and undermines the purpose of each.

### **General**

The impact of the training is little understood. There are significant capacity gaps that need to be addressed, and training is much demanded by national stakeholders, however, for such an important and

often used activity, there is no obvious understanding if anything has changed, (other than people have been trained) as a result of the training.

### III. CONCLUSIONS

The CJ programme has run from 2005, and the activities from that time are closely linked to the early initiatives of UNODC, the urgent needs as identified by the Afghan national authorities, and the nature of the international community involvements.

The needs and priorities of the Afghan national authorities and the nature of international involvement have evolved significantly in the intervening period during which time UNODC has demonstrated a commitment to learning and adaptation, based on contextual changes and experiences from earlier interventions. The R87 Project has demonstrated some excellent practice and has been highly influential. This is particularly true when the Project focused on key areas where UNODC has added value of significant experience and has committed funds to and taken an evidence based approach to developing activities, e.g. women in prison and more recently drug use in prison.

The operational environment is extremely challenging. COAFG has faced major difficulties in implementation in the fluid and deteriorating security situation. This will remain a major and increasing determinant to the transitions over the next 36 months: the exit of international forces, a reduction in donor funding and the approaching Presidential and parliamentary elections. This is likely to prompt further need for UNODC to be active in the field of the Rule of Law and will require significant budgetary increases, as well as changes to security plans and practices.

In this regard, the move from project approach to a programme framework is a very positive step which has the potential to reduce inefficiency, provide a more enabling framework for results based management and implement the documented commitment to programme governance and oversight.

The increased commitment to research and advocacy in the new CP is a significantly positive step and should be used to reinforce UNODC very specific expertise and demonstrate added value in all areas of the CP that is steeped in analysis and practice that fundamentally responds to the Afghanisation of development. Core to the increasing impact of the CJP in this environment are COAFG personnel: their welfare and performance.

All activities of the Project were necessary and relevant and the progress made and lessons learnt provide a highly valuable platform for the future work of COAFG.

Prisons reform is often a low priority, and the nature of the reform is contentious. There are still very significant and in some cases as a result of the growing prison population, increasing demands for investment and reform. UNODC is a trusted agency in Afghanistan and its specialist and expert apolitical mandate provide significant opportunity as well as responsibility. Meeting those responsibilities, requires convincing work with the donor community, to enable the very positive outcomes from CJP to continue and be extended.

## IV. RECOMMENDATIONS

### **Critical**

#### Efficiency

COAFG and Vienna need to continue to review and develop measures for minimizing inefficiency. Of particular concern are lengthy extensions without an increase in overall budget, resulting in unfavorable balance between activities and recurring costs. COAFG and Vienna must ensure that the balance between overheads and activity costs remains legitimate through duration of extended projects.

#### Evidence based planning

COAFG should work with CPD and other criminal justice agencies e.g. Appeal Courts and AGOs on to how build on their data to support well informed further intervention inside prisons.

#### Funding for prison work

In a challenging funding environment, the value of work in prisons needs to be understood in a wider context.

The following recommendations are based on conclusion formed without consultation with the Justice Unit; however, the CJ evaluator's view is that the Justice Unit has high expertise in these issues, and if there are sufficient resources, the Justice Unit could take a joint lead role with COAFG CJP and Research teams to develop evidence based advocacy tools and promote pilots that focus on the relationships between public health and prison.

COAFG should build on evidence from drug user survey to promote understanding of linkages between detention and drugs use.

#### Donor management

The relationship with donors is a role that extends beyond COAFG, from the evaluation, which included only very limited to contact with COAFG staff not located in Kabul, I make recommendations that focus on COAFG, but assume in some cases these would best be carried out jointly with other staff or require specific actions from Vienna.

COAFG convenes twice yearly roundtables for all CJP donors to include a presentation of challenges and progress and a Q and A opportunity.

COAFG should work with Vienna to proactively ensure that donors (and new donor staff in Kabul) can either directly access ProFi or know that they can ask for ProFi reports from their headquarters.

COAFG should offer an introduction to ProFi reports for Afghan based donors.

COAFG/CJP needs to implement a higher standard of quality control on semi-annual and annual reports, which should be prepared with explicit attention to the function they perform in donor reporting.

#### Project design and documentation

COAFG and Vienna should ensure staff responsible for project documentation preparation and well versed in results based management.

COAFG and Vienna should ensure systematic oversight of project document development.

CJP needs to draw upon monitoring and evaluation expertise in COAFG to integrate robust evaluation tools and procedures in project documentation.

#### Women in detention

There has been some significant progress that needs to be built upon. The more recent UN Bangkok Rules, with its emphasis on the extra vulnerability of women in the criminal justice system provide a useful vehicle for continuing the promote much needed further reform for women in prison. COAFG should seek and build on opportunities to remedy the use of criminal justice response to ‘moral’ crimes.

#### Released women prisoners

COAFG should document and develops evidence based advocacy tools concerning lessons on post release work for women to promote further understanding and possible investment for increased provision of safe and decent transition facilities

COAFG needs to assist civil society, relevant government authorities in the development of a safe policy for women passing though the transition house system and into the community.

### **Important**

#### Construction

COAFG should ensure that lessons learned from prison construction activities are shared and understood and applied to other construction work.

#### Advocacy

COAFG needs to further apply the evidence based advocacy model throughout the CJP. To achieve this the COAFG Research Programme, as described in the CP resources and expertise should be available for the CJP.

#### Alternatives to imprisonment

ATI will only work if it is used as a sentence by a judicial officer, a judicial officer needs to be confident that a non custodial measure is possible in terms of a community response. COAFG should focus ATI

efforts on judiciary and community structures that would be responsible for sentencing and oversight of ATI.

#### Vocational training for prisoners

UNODC should consider lessons learnt from other activities in the region e.g. KGTZ90 which has invested heavily in distinguishing between income generation and vocational training activities.

COAFG should support CPD on development of protocol and guidelines for establishment of vocational training activities and selection of candidates for ATI

#### **General**

#### Training activities

COAFG should develop systems and tools to ensure training impact is monitored, understood and feeds into programme planning and implementation.

To assist the evaluation of future training activities, the CJP evaluator proposes this approach in Annex 5.

## ANNEX I. REVIEWED AND REVISED DRAFT LAWS

### Reviewed and Revised Draft Laws by Criminal Law Committee

<b>Legislation</b>	<b>Date of review</b>	<b>Status</b>	<b>Number of Chapters and Article</b>	<b>Official Gazette No. &amp; Date</b>
Forensic Law	2006	In effect and published in the Official Gazette		947 2008
Anti-Terrorism Law	2007	In effect by Legislative Decree, but still pending in National Assembly),	4 Chapters 26 Articles	952 2008
Extradition and Mutual Legal	2007	Extradition and Mutual Legal Cooperation Law (pending in the President office for endorsement	4 Chapters 51 Articles	
Abduction and Human Trafficking Law	2007 & 2008	In effect by Legislative Decree, but still pending in National Assembly),	4 Chapters 23 Articles	952 2008
Law on Juvenile Rehabilitation Centres	2008	In effect by Legislative Decree, but still pending in National Assembly	6 Chapters 42 Articles	969 2008
Criminal Procedure Code 2009	2008 & 2009	In effect by Legislative Decree, but still pending in National Assembly),	382 Articles	
Elimination of Violence Against Women Law	2009	In effect by Legislative Decree, but still pending in National Assembly	4 Chapters 44 Articles	989 2009
Counter Narcotics Law	2009	Approved by National Assembly and Endorsed by the President and published in the Official Gazette	5 Chapters 67 Articles	1025 2010
Audit Law	2009	Pending in National Assembly	10 Chapters 40 Articles	
Law on the Structure and Jurisdiction of Special Courts	2010	In effect by Legislative Decree and published in OG, but pending in National Assembly	4 Chapters 22 Articles	1033 1010
Law on the Structure and Authority of Attorney General Office	2010	Pending in National Assembly	8 Chapters 43 Articles	
Anti-corruption Law	2010	Pending in National Assembly	4 Chapters 26 Articles	
Amendments to	2010	Approved by Council of	13 Articles	

the Penal Code		Ministers, Pending in National Assembly		
Law on Dispute Resolution	2010	The process has been stopped and is omitted from the list of legislative working plan of this year 1391 by CoMs		
Regulation on Women's Protection Centres	2011	Approved by CoMs and in effect	5 Chapters 33 Articles	1058 2011
Law on the Campaign against Major Crimes	2011	Pending in Taqin/MoJ <sup>32</sup> .	3 Chapters 21 Articles	
Law on the Prohibition of the Development, Production and Stockpiling of Biological and Toxin Weapons and on Their Destruction	2012	Pending in Taqin	5 Chapters 34 Articles	
Penal Code	2012	Under review by CLRWG	2 Books and 524 Articles	

<sup>32</sup>Due to the weakness of the draft, ambiguity defining major crimes and creation of friction with the responsibilities of other justice institutions by the provisions of this draft as well as by the establishment of Major Crimes Task Force (MCTF), it was decided that the draft should be re-reviewed by the stakeholders to find a clear definition of major crimes and justification for the establishment of MCTF in order to avoid frictions and overlaps.

## ANNEX II. PRISON CONSTRUCTION AND REHABILITATIONS, EXPERIENCE GAINED BY UNODC AND UNOPS

*‘Prison Construction and Rehabilitation Findings and Recommendations, Experience gained by UNODC and UNOPS June 2003–September 2007*

*Generally we have found the best concept of design for Afghan prisons is to keep the prison simple and “fully manual” with little or no reliance on electronic surveillance, locking, fire and smoke detection or cell call. We realised the fully manual and simple prison style is the most suitable for Afghanistan.*

*The manual prison has the following advantages;*

- 1. Economical to operate and construct*
- 2. Maintenance requirements are minimal*
- 3. Requires a less sophisticated level of training*
- 4. Does not rely on electrical power that is generally not available*

*The manual prison concept is the most suitable solution in Afghanistan as it does not create a “gap” in prison security or increase risk of injury to staff and inmates when electronic or complex systems fail. Alternative operational plans are unlikely to be applied during the failure of complicated system or power cuts.*

*We have found construction and rehabilitating prisons in Afghanistan to be a challenging task. The following factors have negatively influenced our program significantly. The deterioration of security in many provincial areas has created difficulties during implementation of the program.*

*Construction and general costs has seen regular high levels of inflation since the fall of the Taliban regime.*

*The cost of concrete the main construction material in Afghanistan has increased in price three fold due to demand in country combined with higher demand in supplier and neighboring countries.*

*Initially and in some instances ongoing reluctance of the Afghan authorities to fully support prison reform and reconstruction that meets ISMR and LPDC.*

*Lack of inclusion of, and coordination with the MoJ and CPD by participants operating in Afghanistan reforming prisons. (The lack of inclusion of and coordination with the MoJ now is rectified to great extent.)*

*An initial lack of information of existing prison construction and infrastructure in Afghanistan. (This has largely been remedied now by publication of two surveys of existing prisons. These comprehensive reports were published by ICRC The Provincial Prisons of Afghanistan, Technical Assessment and Recommendations Regarding the State of the Premises and of the Water and*

*Sanitation Infrastructure published December 2005 and Altai Consulting report sponsored by CFC-A published January 2006).*

*Early in the program difficulties were encountered identifying a suitable mechanism to coordinate technical matters with Afghan authorities. The MOJ and CPD had in little or no technical capacity in house to help them understand their requirements and operational capacity with new or rehabilitated prisons. This has resulted in a number of misunderstandings. The new CPD in house technical staff supported by CSSP has to a large extent filled the technical communication gap between prison reform participants and the CPD. In November 2006 a prison working group was established resulting in a much improved level of communication among all Afghan and international participants in prison reform. Positive results have been achieved both in terms of sharing information and reaching a more common understanding.*

## **9.0 RECOMMENDATIONS**

*Throughout implementation of our work to date in Afghanistan we feel we have gained sufficient experience to recommend the following points:*

*Prisons be designed to comply with ISMR and LPDC.*

*Prisons be designed to suit the operational capacity and mindset of the CPD.*

*Design toilets, washing facilities, ventilation, lighting and yards to cope with far greater inmate numbers than the designed area per inmate.*

*Prisons built utilising donor money must use the highest quality of materials and workmanship as additional funds for repairs or maintenance may not be available to through CPD well into the future*

*A mentoring mechanism must be further developed jointly with Afghan authorities and the international community responsible for developing a long term infrastructure maintenance and planning program.*

*Technical capacity has to be further developed at MOJ/CPD. The new technical engineering unit established at CPD represents a good starting point for promoting and increasing knowledge on prison construction techniques, suitable materials, design, plans, and cost estimation.*

*A coordination mechanism has to be developed with Ministry of Public Works in Afghanistan by MOJ/CPD since prison buildings must be considered as public buildings. This coordination mechanism would promote advocacy among the public institutions on prison building needs. To include the prisons rehabilitation and a new construction plans in the Afghan national financial plan, it could be a way to increase available funds.*

*Education and training for CPD should be continued and developed further to ensure the correct and most efficient utilisation of new or rehabilitated facilities.*

*Training must be developed for all CPD staff in general and for kitchen staff specifically in regards to basic hygiene principles and nutritional catering for prisons.*

UNITED NATIONS OFFICE ON DRUGS AND CRIME  
Vienna

Independent Project Evaluation of the  
**Criminal Justice Capacity Building–Extension to  
the Provinces**

AFG/T03  
Afghanistan

July 2013



UNITED NATIONS  
New York, 2013

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# EXECUTIVE SUMMARY

The Overall Objective “falls in the framework of the larger Criminal Justice Reform Programme of Afghanistan”. The Project had the following immediate objectives:

(a) to construct offices for members of the justice sector, to continue with the construction of justice support centres, and to equip these sites with necessary materials and furniture (Herat, Bamyan, Nangahar, Kunduz and Kandahar provinces).

(b) to strengthen the institutional capacity of prosecutors and judges in the provinces to arrest, investigate, prosecute and convict criminal offenders – in particular of drugs-related crimes – through specific training and mentoring courses on criminal law and procedure.

(c) to assist the Legislative Department of the Ministry of Justice (MoJ) in the revision or formulation of selected criminal laws and procedures.

T03 commenced in August 2007, went through five revisions, and ended in December 2012. The original duration of the Project was 24 months, but was eventually extended for 40 months for a total final duration of 64 months. The original budget was US\$2,734,400; the final budget was US\$6,660,410, an increase of US\$3,929,700.

This Project works with the MoJ to improve the judicial system in Afghanistan. The Project is integral to the Operational Targets as per the Country Office Afghanistan (COAFG) Strategic Programme Framework 2006-2010 and these are in turn linked to benchmarks in the Afghan National Development Strategy (ANDS). The Project is also linked to national priorities that are now reformulated under National Priority Programmes under the Governance (Economic and Financial Reform, transparency and Accountability, Efficient and Effective Government, Local Governance, Justice for ALL, Human Rights).

The Project operated in Kabul, Bamyan, Herat, Kandahar, Kunduz, and Nangahar. The donors were Canada, Japan, and the United States.

## **Introduction to the Evaluation**

This Evaluation Report evaluation assesses AFGT03 but also considers its contribution to the COAFG Sub-Programme on Criminal Justice (CJP).

The field mission in Afghanistan by the Criminal Justice evaluator was from 1st – 23rd September (including travel to and from the UK).

The mission schedule was drafted by the CJP team, and then finalized with the evaluator to include additional meetings. Field missions were agreed in an effort to include visits to project sites that covered as many examples of activities. The final schedule is in Annex 1.

During meetings with Core Learning Partners (CLP) where English was not the lingua franca, the evaluator was accompanied by a COAFG translator. For other meetings, COAFG or Vienna Headquarters personnel attended, most usually only to make an introduction.

The evaluation included site visits, CLP interviews, document reviews and interviews and group meetings with COAFG staff. In the inception report, core evaluation questions on relevance, effectiveness, appropriateness, efficiency, partnerships, sustainability and lessons learned were agreed as were proposed supplementary questions that would provide analysis to answer the core evaluation questions. A questionnaire was developed using open ended questions to facilitate and guide semi-structured individual and group discussions. The overall evaluation questions were developed to provide discussions points to enable the evaluator to provide well founded answers to contribute to successfully evaluating the projects. These questions were designed to link with the indicators in the project

The sampling strategy was agreed to include interviews and discussions with targeted key Government counterparts and CLPs and site visits were planned to cover a variety of government counterparts, a range of activities and varied locations. Key contextual information was provided from interaction with COAFG staff and other international agencies including donors in Kabul.

Likely limitations (more details below) were documented and agreed, though by far the biggest obstacles were security and operational obstacles, the vast volume of material to be assessed (nearly twenty years of documentation), the absence of accessible data in particular from government counterparts and the weakness of project indicators making it extremely difficult to assess change.

To allow triangulation of findings, a varied range of sources of data was agreed in the inception report. As the evaluation progressed it became obvious there should have been greater emphasis on meeting with Vienna HQ

### **Challenges to the Evaluation**

An obstacle to project implementation as well as to timely evaluation is the poor infrastructure of the country. Project sites are located in sometimes remote areas accessed by poor roads. There were sites of interest to the Evaluation that could not be visited due to the time constraints of the Evaluation schedule.

The security situation in Afghanistan has been deteriorating which interfered with the Evaluation schedule. UNODC follows the UN in placing strict controls on the movement of staff, both national and expatriate, to minimize risks. A number of visits and meetings had to be cancelled or postponed for security reasons.

Nevertheless, the Evaluation Team is convinced that the team members managed to visit enough places, meet a sufficient number of stakeholders and beneficiaries, and study a satisfactory number of documents and reports that it obtained a reliable understanding of the strong points and deficiencies of this Project and that the findings in this report are valid.

### **Background**

Afghanistan's formal justice system continues to suffer from severe and systemic problems. There has been some progress before and during the project with judges and prosecutors are being trained, more defendants are being represented, courthouses and prisons are being built or refurbished and the capacity of the permanent justice institutions has been enhanced. However, the project responded to continuing needs where the justice system still lacks sufficiently qualified officials, adequate legal education, and the necessary administrative tools and physical infrastructure to administer justice properly, fairly and effectively. The absence of strong state institutions, particularly in rural areas, low salaries for judges and prosecutors, rampant corruption, and the failure to ensure a secure environment for courts, judicial personnel, victims and witnesses, have severely undermined the capacity of the legal system to act independently and impartially. Officials of the criminal justice agencies and their premises are subject to violent attacks from anti-government groups. In line with the strong commitment of the Afghan

Government to tackle the drug problem and in order to ensure that high level drug offenders do not continue to operate with impunity, UNODC as part of its SPF, supports institutional capacity building for judges and prosecutors actively involved in fighting the production and trafficking of narcotics.

The development, review and approval of legislation by the Cabinet and National Assembly has been hampered by the lack of capacity in the responsible ministries. Issues of coordination between ministries have also been identified as impediments to the process, such as in the development of proposed legislation. Before the commencement of the project UNODC provided substantial technical assistance to major national institutions as Lead Agency of the Criminal Law Reform Technical Committee, which was established within the framework of the Afghanistan Compact and the Afghan National Development Strategy (ANDS). There remains considerable needs for legislative developments and improvement and the project has responded to this through the Criminal Law Reform Working Group.

## **Conclusions**

The programme has run from 2005, and the activities from that time are closely linked to the early initiatives of UNODC, the urgent needs as identified by the Afghan national authorities, and the nature of the international community involvements.

The operational environment is extremely challenging and COAFG has faced major difficulties in implementation in the fluid and deteriorating security situation. This will remain a major and increasing determinant to the transitions over the next 36 months: the exit of international forces, a reduction in donor funding and the approaching Presidential and parliamentary elections. This is likely to prompt further need for UNODC to be active in the field of Rule of Law and require significant budgetary increases, as well as changes to security plans and practices.

The needs and priorities of the Afghan national authorities and the nature of international involvement have evolved significantly in the intervening period during which time UNODC has demonstrated a commitment to learning and adaptation, based on contextual changes and experiences from earlier interventions.

All activities were necessary and relevant, the law reform working group and the JSCs were observed to be highly effective. There is very clear evidence of impact and much that will be sustained beyond the duration of the Project.

# SUMMARY MATRIX OF FINDINGS, EVIDENCE AND RECOMMENDATIONS

Findings: <sup>33</sup> problems and issues identified	Evidence (sources that substantiate findings)	Recommendations <sup>34</sup>
<b>Critical</b>		
<p>Worsening security environment has made implementation more difficult, unpredictable and more expensive.</p>	<p>Interviews with CLPs, COAFG documentation and other international documentations.</p>	<p>COAFG needs to ensure donors and national partners understand the implications and build tolerance into project planning and expenditure.</p> <p>COAFG and Vienna must constantly review the impact of security on staff and staffing.</p>
<p>Donor management is weak.</p>	<p>Interviews with CLPs, Project documentation and correspondence records.</p>	<p>COAFG needs to convene twice yearly roundtables for all CJP donors to include a presentation of challenges and progress and a Q and A opportunity.</p> <p>COAFG should work with Vienna to proactively ensure that donors (and new donor staff in Kabul) can either directly access ProFi or know that they can ask for ProFi reports from their headquarters.</p> <p>COAFG should offer introduction to ProFi reports for Afghan based donors.</p> <p>COAFG/CJP needs to implement a higher standard</p>

<sup>33</sup> A finding uses evidence from data collection to allow for a factual statement.

<sup>34</sup> Recommendations are proposals aimed at enhancing the effectiveness, quality, or efficiency of a project/programme; at redesigning the objectives; and/or at the reallocation of resources. For accuracy and credibility, recommendations should be the logical implications of the findings and conclusions.

		of quality control on semi-annual and annual reports, which should be prepared with explicit attention to the function they perform in donor reporting.
Unplanned delays in recruitment are an impediment to the efficiency of a Project	Interviews with COAFG Regional Section for West and Central Asia staff, COAFG documentations.	COAFG and Vienna conduct a detailed review of causes of delays and prepare an action plan to avoid similar delays.
Project governance and management is inconsistently applied even though clearly stated in project documents.	Interviews with COAFG and Regional Section for West and Central Asia staff and project documentation.	COAFG and Vienna need to ensure that governance and management obligations as per CP are adhered to and documented, with decisions and action resulting from them followed up.
The original Project Document is very limited with regard to indicators and means of verification, however, more recent similar Project documents have shown a marked improvement.	Project documentation and interviews with COAFG personnel.	COAFG and Vienna need to ensure staff responsible for project documentation preparation and well versed in results based management.  COAFG and Vienna need to ensure systematic oversight of project document development.  CJP need to draw upon monitoring and evaluation expertise in COAFG to integrate robust evaluation tools and procedures in project documentation.
The work and output of the Criminal Law Reform Working Group (CLRWG) is widely respected and has contributed to the ANDS.	Interviews with CLPs and documentation review.	COAFG need to continue ensuring that a relevant blend of expertise and experience available to CLRWG and the high performance of the CLRWG remains understood by the donor community.
<b>Important</b>		
Construction of judicial offices has contributed to the more effective administration of justice e.g. interagency meetings held at Justice Support Centres and public trails.	Project site visits, interviews with CLPs.	COAFG should work with Judicial authorities to ensure wider use facilities.

<p>Implementation of construction of judicial offices has been problematic, though the project has learnt lessons from earlier construction work and has sought to improve performance.</p>	<p>Interviews with CLPs, interviews with COAFG personnel, Project site visits.</p>	<p>COAFG needs to maintain an ongoing review of most cost effective way of contracting and delivering construction of justice.</p> <p>COAFG needs to proactively seek assistance from UNAMA regional offices to augment monitoring of construction projects.</p>
<p>Justice users' e.g. those before courts and those who are in or have been in prisons experiences are little understood, except with a reference to corruption.</p>	<p>Interviews with CLP and project documentation.</p>	<p>COAFG should develop activities to capture experiences of justice users, for the purposes of project planning and advocacy.</p>
<p>The relationship between the CJP and the research programme in CP is according to documented description of activities limited with a focus on CN.</p>	<p>Interviews with COAFG personnel and COAFG documentation.</p>	<p>COAFG needs to review and plan for the practical implementation of mutually supportive roles between CJP and Research.</p>
<p>Rapid donor funding with short term implementation challenges management process such by requiring revisions &amp; procurement.</p>	<p>Interviews with COAFG and Regional Section for West and Central Asia personnel and Project documentation.</p>	<p>COAFG and Vienna should develop income generation strategy for the CJP.</p>
<p>The value and impact of training is little understood.</p>	<p>Interviews with CLP, CJP team and project documentation.</p>	<p>COAFG should establish a focal point for training oversight, with particular attention to coherence on methodology, quality control and responsibility for the development and implementation of a practical plan to measure or observe change as a result of training.</p> <p>To assist the evaluation of future training activities the CJP evaluator proposes the following approach in Annex 5.</p>

# I. INTRODUCTION

The main objectives of the project: a) to construct offices for members of the justice sector, to continue with the construction of justice support centres, and to equip these sites with necessary materials and furniture (Herat, Bamyān, Nangahar, Kunduz and Kandahar provinces); b) to strengthen the institutional capacity of prosecutors and judges in the provinces to arrest, investigate, prosecute and convict criminal offenders – in particular of drugs-related crimes – through specific training and mentoring courses on criminal law and procedure; and c) to assist the Legislative Department of the Ministry of Justice in the revision of selected criminal laws and procedures.

Provinces: Kabul, Bamyān, Herat, Kandahar, Kunduz, Nangahar

Donors: Canada, Japan, United States.

T03 went through five revisions<sup>35</sup> and ended in December 2012

T03 original duration 24 months, final duration 64 months – 40 months extension

T03 original budget 2,734,400, final budget 6,660,410.

## Project Design

The project is integral to the Operational Targets as per the COAFG Strategic Programme Framework 2006-2010 and these are in turn linked to benchmarks in the ANDS. National priorities are now reformulated under the National Priority Programmes (NPPs) the projects are still strongly characterized by relevance to that new framework under Governance: (Economic and Financial Reform, Transparency and Accountability, Efficient and Effective Government, Local Governance, Justice for ALL, Human Rights).

The project promotes conventions and standards of which UNODC is the custodian, e.g. United Nations Convention against Corruption (UNCAC) and Standard Minimum Rules for the Treatment of Prisoners (SMR).

UNODC's government counterpart agency is the MoJ. The project uses a range of activities including, legislative reform, infrastructure development and refurbishment, professional training, improving IT capacity, providing equipment to deliver expected outputs.

The project design, considering the ambitious objectives, was of too short a duration. This is particularly the case when the provincial scope and extensive construction are taken into account. Even though construction activities are sub-contracted, they require vast amounts of work to ensure value for money and accountability and even the climate influences construction speeds. At the stage of the time of the design 2005/2006 the needs of the beneficiaries would have been much different to the time this evaluation was conducted (2012), at least, the extent of the needs would have been different. Infrastructure and equipment needs were higher priorities and it is clear these have made a difference where they have been delivered. The project promotes coordination among criminal justice agencies, and

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<sup>35</sup> The history and details of the project revisions were taken from ProFi.

this has been a very important outcome where it has been made possible. This is a good feature of the design of the project recognizing the sustained added value of government agencies working together.

The support to justice agencies and officials is mutually supportive of the other projects in CJP and foresees projects working collectively, making good use of resources and drawing upon and sharing expertise. The design of the project in respect to results based management is weak, though this is most likely to reflect the time at which the project was designed when staff had yet to benefit from support and training on these issues and capacity was less.

### Challenges/Limitations to the Evaluation

The evaluation assesses AFGT03 but also considers its contribution to the COAFG Sub-Programme on Criminal Justice (CJP). The evaluation analyzes the CJP using the same framework for the project evaluations and comments on the linkages to the Strategic Programme Framework (SPF) and the new Country Programme (CP).

The field mission in Afghanistan section by the Criminal Justice evaluator was from 1st – 23rd September (including travel to and from the UK). The CJ evaluator notes that logistical preparation and support during the field mission was exemplary. Contracts were finalized and transport arranged in good time, project documents were made available and pre-mission guidance was provided by the Independent Evaluation Unit (IEU) through an individual call. During the mission, a very high standard of support was provided in terms of translation, IT, transportation and security briefing. All these contributed to the necessary enabling environment for the mission.

The mission schedule was drafted by the CJP team, and then finalized with the evaluator to include additional meetings. Field missions were agreed to in efforts to include visits to project sites that covered as many examples of activities. The final schedule is in Annex 1.

During meetings with CLP) where English was not the lingua franca the evaluator was accompanied by a COAFG translator. For other meetings, COAFG or Vienna Headquarters personnel attended, most usually only to make an introduction.

During the evaluators visit to Afghanistan, security concerns had a major influence on the completion of the mission schedule, with the following impact:

In Bamyán the CJ evaluator had to remain in the UNAMA compound and could not return to accommodation due to protests (unrelated to UNODC).

In Kunduz, the evaluator was part of a precautionary evacuation from the UNAMA compound to the Provincial Reconstruction Team<sup>36</sup> (PRT) due to protests (unrelated to UNODC).

The mission to Jalalabad by the CJ Evaluator was not possible due to a cancelled flight<sup>37</sup>. However, the team leader and international staff member of UNODC based in Kabul did go to Jalalabad and visited the

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<sup>36</sup> Militarized bases.

<sup>37</sup> Project sites are located in sometimes remote areas accessed by poor roads. Within the timeframe of the evaluation there were sites of interest that could not be visited due to time constraints. Related somewhat is the unreliability of air services. Due to poor security records of domestic airlines, UN staff is required to travel by UNHAS, the UN air service. However, for multiple reasons, this service is also not reliable and in one case prevented the CJ evaluator from visiting Jalalabad. Although the Team Leader did visit here, this detracted from the time he could have used places elsewhere of use to the evaluation.

Appellate Court, the provincial prison (including the women's detention centre), the Ministry of Justice office, the Attorney General's Office, and the Deputy Provincial Governor. While not experts in this sector, a considerable amount of information that is included in the evaluation report was obtained. Another obstacle to timely evaluation is the poor infrastructure of the country. Project sites are located in sometimes remote areas accessed by poor roads. Within the timeframe of the evaluation there were sites of interest that could not be visited due to time constraints. Related somewhat is the unreliability of air services. Due to poor security records of domestic airlines, UN staff is required to travel by United Nations Humanitarian Air Services (UNHAS), the UN air service. However, for multiple reasons, this service is also not reliable and in one case prevented the CJ evaluator from visiting Jalalabad. Although the Team Leader did visit here, this detracted from the time he could have used places elsewhere of use to the evaluation.

The CJ evaluator could not visit Juvenile Rehabilitation Centre<sup>38</sup> (JRC) facility in Bamyan because of security status.

The visit to the Kunduz prison was interrupted and incomplete due to NATO presence concerning insurgent detainees/prisoners.

In Kunduz the CJ evaluator could not meet with local government or the Governors office due to protests.

The CJ evaluator could not visit Pol-e-Charkhi prison because of prisoner disturbances.

The CJ evaluator could not visit Kabul Male Detention Centre because of security status. However, the Team Leader did make the visit along a senior local staff member.

The CJ evaluator arranged meetings in London and made follow up calls, including through Skype after the visit to Afghanistan to fill gaps as much as possible.

Other impediments to the mission included:

Government officials neither had nor did not want to release information that they considered sensitive (such as regarding influential individuals or specific data on drug use). It was hard to identify the exact reasons for this even with the assistance of COAFG personnel.

A tight schedule prevented a meaningful visit to the JRC in Kabul where traffic is unpredictable and vulnerable to rapidly changing security status, sometimes with astonishing delays to short journeys.

Some planned meetings with CLP government officials<sup>39</sup> were with their subordinates this meant little relevant information or informed opinion was available.

Some Government officials had not been in post for long and only had a fleeting glance of activities.

Some donors newly in post lacked immediate familiarity with the long projects.

The inception report (see annex) describes the predicted limitations, sampling strategy, data collection instruments, ethical considerations and specific questionnaire framework. The evaluator drew upon the agreed Inception Report to guide the mission. There were however times when it was not possible or practical to follow the specific questionnaire framework due to the nature of the meeting. Most usually

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<sup>38</sup> Places of detention under the Ministry of Justice for persons under the age of 18 convicted to a custodial sentence.

<sup>39</sup> Some officials were called away to attend to urgent or higher priority issues.

the representative of the CLP was not in a position to share information or the circumstances of the meeting e.g. visiting a prison meant that conversation was held walking around premises and it was important to react to and enquire about what was presented and observed.

By far the biggest challenge was the sheer volume of information, written and verbal, associated with the three projects covering nearly 20 years of activity. The CJ evaluator sought guidance from COAFG and the CJP team on the documents to prioritize. Even by doing this, it was difficult to cover all aspects of the programme, particularly with what turned out to be, as a result of unavoidable schedule interruptions, somewhat limited opportunity to meet with all CLP during the mission.

A key feature of virtually all meetings with Government CLPs is the reliance of measuring progress through recording input and activities. Various approaches during individual meetings to prompt reflection on, or opinion about, outcomes and the use of indicators, revealed little. This was mirrored to some, but a much lesser, extent in the CJP team.

The CJ evaluator had the opportunity after meetings to clarify points with CJP and other COAFG personnel and, where the schedule allowed, to review experiences and progress with the other Evaluation Team members.

The Evaluation Team is of the opinion that the team members managed to visit enough places, meet a sufficient number of stakeholders and beneficiaries, and study a satisfactory number of documents and reports that it obtained a reliable understanding of the strong points and deficiencies of this Project and that the findings in this report are valid.

### Challenges/Limitations to Project Implementation

The implementation took place amid a variety of challenges and limitations that must be recognized (some of which also affected the Evaluation itself, as noted above). COAFG and the CJP team have demonstrated a serious degree of analysis and strategically sound response to these challenges that are in the main beyond their direct control. Here are the major constraints of the Project's work.

#### International

The international community is heterogeneous and represents, albeit in quasi-coordinated entities, many interests, and a broad range of approaches. This diversity places pressure on national authorities, pulling them in differing directions. That some members of the international community are backed by vast budgets further distorts the coherence of national planning and prioritization. This occasionally disjointed national planning environment makes it hard to focus programme support. Domestic pressures on members of international communities also have a significant impact on the programme as donor governments swiftly, dramatically and injudiciously reduce the nature of their commitment, with little regard for needs in Afghanistan.

#### Regional

Afghanistan is vulnerable to events in Iran and Pakistan in some very practical ways. For instance, border closures can have dramatic consequences for implementation with spiralling costs of raw materials. Movement of Afghan citizens to and from Iran poses some isolated but telling challenges for the criminal justice programme with (often involuntary) returnees being drug users and in some cases ending up in Afghan prisons.

#### Capacity of National Institutions

It was an almost constant refrain from national partners that there was a shortage of important documentation e.g. national laws and important training manuals. While the projects and programmes have increased capacity and still aim to do so, such fundamental gaps remain an impediment to the impact of legislative development.

### Kabul Centric Development

The reach of government initiatives is limited, meaning that CJP work, which is correctly based on agreements with high government authorities based in Kabul are sometimes impeded. In Bamyan for instance, the draft National Priority Programmes (NPPS) could not be discussed as there were no versions in Dari, and the National Justice Sector Strategy (NJSS), finalized in 2008 had not, as of May 2011, been made available to judicial officers in the Province.

### Insecurity

The changing and deteriorating security context with in which the CJP is implemented has a dramatic impact.

Of foremost concern is the toll on, and welfare of, COAFG personnel. The CJP is not unique in that the national counterparts are particularly vulnerable (security and justice institutions). The Ministry of Interior, Prisons and the Ministry of Justice and Courts are key national counterparts; programme implementation requires visits to locations that pose peculiar risks.

In addition the provision for international staff to take periodic “R&R” breaks means that a full staff team in country is a rarity. Other pressures, intimidation for instance, exist for national staff, though the CJ evaluator is not aware of what provisions have been made to accommodate this.

The necessary vigilance, precautions and procedures established by United Nations Department for Safety and Security (UNDSS) mean that implementation is frequently interrupted. This can be through the inability to travel in Kabul due to security status, road missions to project sites not being possible, flights cancelled at the discretion of UNHAS as a result of insecurity, and government counterparts having their priorities distracted due to insecurity so meetings cannot always take place as planned.

The changing nature of threats and risks demands changing security arrangements, travel, office, accommodation, personnel terms and conditions results in escalating costs for COAFG.

### Prioritization of Location and Nature of Intervention

There are two challenges here, both partially linked to the project funding model that characterizes the CJP, though this is not unique to the CJP in COAFG, and this is not unique to COAFG in UNODC.

First, the CJP and national partners are subject to the influence of the donor community in deciding where to implement activities. The choice of location by donors may well be politically driven, e.g. to locations where it is important for the government to have demonstrable indicators of its reach and authority. This political decision may not at all times be aligned with CJP analysis that identifies most pressing need and comparative advantage of an intervention.

Second, the nature of an intervention is in part to do with timing and this is linked to the project funding model of the CJP. Donors may make available funds to be used in a time frame ill suited to UNODC systems--project revisions, procurement nor may not take fully into account the environment in which an activity is supposed to take place. However with COAFG having legitimate commitments to the added value of staff and programme continuity, the risk is that funds are accepted for activities that are hard to implement to the highest standards in the required time frame.

## Corruption

The perceived high level of corruption is a major roadblock to development and better governance and, thus, to effective project implementation. The ultimate objective of the Government's anti-corruption strategy is a public administration that operates with integrity and accountability to provide an enabling environment for economic and social development, based upon the rule of law, impartiality in political decision making, the proper management of public resources, the provision of efficient services and the active engagement of civil society and the private sector. The Government's anti-corruption strategy and roadmap are focused on achieving clear progress in reforming public administration and judicial systems as well as implementing measures in the counter narcotics strategy. In Afghanistan a sense of corruption is pervasive, and actual corruption is widely reported.<sup>40</sup> These are not only an implementation concern, requiring extensive and robust systems to ensure value for money, but has an impact on practice in the criminal justice system e.g. access to defense lawyers was often reported to the evaluator as subject to ability to pay<sup>41</sup>. Concerns about corruptions is also an obstacle to the potential of progressive reform in the criminal justice system e.g. reluctance of judges to use non-custodial sanction for fear of accusations of corruption.

## Limited Practice of Documentation of Analysis

The requirement for programme planning based on robust evidence based analysis is undermined by significant gaps in national capacity and national and international practice. As the Supreme Court bulletin notes:<sup>42</sup>

Another challenge facing these statistics is that we do not receive the statistics from each and every court that is active in the area of corruption.

During the evaluation there was from the international community more demonstrable practice but it remains patchy.

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<sup>40</sup> Corruption Perception Index, Transparency International, 2011.

<sup>41</sup> One woman in prison for 'moral crimes' in Kunduz was asked why she had not consulted a lawyer. She explained she did not have the funds to pay, despite there being free legal aid provision in Kunduz.

<sup>42</sup> Afghanistan Supreme Court Special Bulletin No 19 May 2012.

## II. EVALUATION FINDINGS

### Effectiveness

According to the last revision of the Project Document, the Overall Objective of the Project “falls in the framework of the larger Criminal Justice Reform Programme in Afghanistan.”

The Immediate Objectives are as follows:

(a) 1 Objective: To construct offices for members of the justice sector, to continue with the construction of justice support centres, and to equip these sites with necessary materials and furniture (Herat, Bamyán, Nangahar, Kunduz and Kandahar provinces);

(b) 2 Objective: To strengthen the institutional capacity of prosecutors and judges in the provinces to arrest, investigate, prosecute and convict criminal offenders—in particular of drugs-related crimes—through specific training and mentoring courses on criminal law and procedure; and

(c) 3 Objective: To assist the Legislative Department of the Ministry of Justice in the revision or formulation of selected criminal laws and procedures.

The Overall Objective is so vague that it makes it difficult to assess whether the Project has been successful or not. Its indeterminate nature means that the Project documentation had no strategic prioritization for which provinces and which kinds of structures constructed, training carried out, and laws revised.

While noting this weakness, the Evaluation assesses the Project Objectives as if the Project Document and revisions were written tightly. The Evaluation Team was able to discuss the Project approach with key UNODC officials in Kabul as well as important national stakeholders so it is confident that it understands the approach taken and the (sometimes) unwritten logic underlying it.

### **Immediate Objective 1: Construction of Courts and Justice Support Centres**

The Project has constructed JSC in Kunduz, Bamyán and Kandahar, AGO offices in Kunduz, Bamyán and Herat and MoJ buildings in Nangahar.

The Project not only provided premises it invested heavily in equipment, some of which the CJ evaluator was able to see in use.

#### Attorney General’s Office

In Kunduz, there were concerns from the AGO staff that space was inadequate and the waste water disposal was poor quality—toilets were not functioning. The CJ evaluator cannot say if this was a result of poor quality construction or poor maintenance or some other factor. Concerning space in the offices, all designs were agreed by the AGO in Kabul. It is easy to say that this agreement is a sufficient safeguard for the integrity of the activities; however, designs will also be finalized within the funds available and, if left with a choice of a smaller building or no building, the CJ evaluator can understand the reluctant acceptance of a smaller building. However, designs have to be agreed based on immediate needs and funds available and it seems very reasonable for the project to work within those parameters.

The AGO office is in a location some distance from the centre of town. Land is provided and designated by the Government. The staff there noted that this was a security risk as a result of the distance from centre of town. This is a factor beyond the control of the project.

The CJ evaluator noted that there was power, working IT equipment (which was often the case in government offices visited) and the impression was that the office was functional and appeared in sound condition.

In Bamyan the evaluator was not able to meet the appropriate official and so was able to derive little from the meeting. However, what was seen of the AGOs office seemed of good quality and was located in the Government District of Bamyan which contributed to the effectiveness of the AGO operations that require close cooperation with other judicial offices. The previous office had been so conveniently located. Other justice agencies that had not been similarly supported were working from extremely dilapidated premises.

### Justice Support Centres

The CJ evaluator visited JSC in Bamyan and Kunduz. The team leader visited the JSC in Jalalabad, Nangahar.

#### Kunduz

The JSC also serves as a public court and offices for the Appeal Court. The facilities were good and being used for public court hearings, though there was a closed hearing at the time of the visit. In the JSC there are offices for the Head of the Appeal Court and offices that are used to facilitate trials e.g. private meeting rooms. The offices had working IT equipment.

The JSC is used regularly for interagency coordination meetings, trainings and has a well stocked library of legal texts. The JSC is under the stewardship of the Appeal Court and access to the library could be further extended to other organizations.

The JSC has been maintained well and had benefited from some Government investment. The provision of equipment for Internet connection by the project was much appreciated; however, the costs of ongoing connection were not budgeted for by the Appeal Court and the connection had lapsed after the first 12 months provided by the project. The JSC also has a guest room for visiting judicial officers. There was running water and heaters available for winter. The maintenance and good facilities all contribute to the more effective extension of justice services.

#### Bamyan

The JSC is slightly smaller than in Kunduz, though with good sized seminar and meeting rooms. Judicial officers and UNAMA officers both confirmed it was widely used for interagency meetings and while use could be wider, use was increasing. The JSC was reported as becoming a hub for judicial activity and justice sector training and meetings.

#### Nangahar

In the City Court Building in Jalalabad, one part is used as an open trial courtroom which had seating for approximately 80-90. It was reported that on many days there was standing room only for visitors. When there was to be an open trial this would be announced to the public one day in advance. The courtroom for the open trials was very nicely appointed and in excellent condition. The building was constructed by other donors but UNODC contributed to the overall program such as by providing a set of about 1,000

law books which unfortunately was hidden away in a closet with mattresses and other supplies leading the evaluators to think that they were not well-utilized (although in quite satisfactory condition). UNODC did build a separate Justice Support Centre in the same compound and this was well-maintained and actively used.

#### Department of Justice Buildings

In Nangahar, UNODC built a new Department of Justice building. This was originally intended for three departments: juvenile (aged 12-18) offenses, government cases, and human rights. Later both an information section was added and defense lawyers became affiliated with the DOJ. This has caused a space shortage and left the DOJ here with no satisfactory meeting room.

### **Immediate Objective 2: Improve Professional Skills of Justice Officials**

The Project has conducted training in legal aid, counter narcotics, juvenile justice, justice management and justice in provinces in Kabul, Kandahar, Jalalabad, and Mazar for nearly 400 participants. These are all issues where increased capacity and expertise is much needed for the effective extension of higher quality justice services. A full list of training is included in annex.

New curricula and manuals have been developed to cover many subjects for a wide range of beneficiaries. New laws have required publication and distribution. Training on these new laws is necessary for officials and civil society. It is not possible to comment on the effectiveness of the training as there has been no follow up with those trained or justice system users to observe and measure changed practice. At the end of most training workshops, immediate feedback from trainees was provided that most usually reported their satisfaction.

In some cases, training has proved to be difficult, e.g. providing training in Kandahar where the security situation is serious, means that calls for proposals attract few legitimate bidders. To transfer the training to Kabul, can also be problematic, with Government officials being absent from duty stations for extended periods of time.

### **Immediate Objective 3: Legislative Documents Reviewed and Adapted to UN Standards**

UNODC has played an effective coordination role from the very inception of the CLRWG and has also worked appropriately with Parliament as possible and when required. The key role of COAFG in the CLRWG has promoted a culture and practice of harmonisation and coordination of international support and national engagement with law reform.

COAFG has correctly played a facilitative and catalytic role in that the appropriate national authorities are increasingly leading the law reform process, rather than having it imposed by outside agencies. COAFG in part enables this process as well as makes a vital contribution through its broad portfolio of national, Sharia and international legal expertise. The list of laws the CLRWG has contributed to is in annex.

#### Efficiency

Efficiency of activities is discussed above under the Assessment of Project Objectives and Effectiveness of Implementation section. Efficiency of other aspects of the Project is discussed here:

#### **Project Oversight and Donor Management**

The tripartite review (TPR) and Project Steering Committee meetings are an effective mechanism for raising challenges and opportunities earlier than ordinary reporting schedules. According to the Project Document, these bodies should meet at least annually. However, from the documents the evaluator has access to, only one TPR took place, and that was in 2010. These oversight and guidance mechanisms are important in identifying and overcoming obstacles as well as opportunities. If they had been implemented fully it is the evaluators view, that some efficiencies would have been minimized.

Communication with donors has at times been slow. For instance, the construction activities in Kandahar, where donors reported to the CJ evaluator that the very slow progress, was brought to their attention by the Provincial Reconstruction Team (PRT), rather than by COAFG. The delays and problems in Kandahar were not brought to the donors' attention by COAFG until the scheduled formal report. A further example where major changes were brought to the donors' attention overly late was a US\$3,000,000 reallocation at the end of the 2009—11 funding tranche. This reallocation was only brought to the attention of the donor three months before the end of the funding period. The CJ evaluator is not in a position to state the causes of these delays and absences of communication, but notes that there has been weak project oversight e.g. absence of TPR when such matters would have presumably arisen as agenda items and been promptly dealt with. It is also possible that these matters were fully understood at all appropriate levels in COAFG but there was an omission in communication with the donor.

Formal reporting to donors lacks sufficient detail for results based management. It is noted by the CJ evaluator that donors have agreed to accept UNODC standard reporting, based on the semi-annual and annual reports. This is a valuable concession from donors. However donors noted that the standard of the semi-annual and annual reports does not provide sufficient analysis nor do they feel it provides sufficient distinction of which donors have funded which specific input (something important to most donors for reasons of their own accountability). Where a donor had asked for supplementary information, they were disappointed with the response which had seemed to them as if little attention was given to their requests.<sup>43</sup>

The donors did stress to the Evaluation Team that they understood the complex and challenging nature of operations in Afghanistan and that many agencies faced delays and problems. They noted that through T03 UNODC still delivered programmes of substantively high quality and that the move from a project based approach was a positive development. Nonetheless, there remains room for significant improvement by COAFG on timeliness of communication and quality of reporting.

## **Project Planning**

There are legitimate reasons beyond COAFG's control for sharp increases in implementation costs but Project planning and budgeting has not captured the likely inflation costs associated with construction. This has led to reduced building targets prompting the need for extensive reviews and perhaps unnecessary and time consuming negotiations with the donors.

In particular, the regular contribution from the Government of Japan was pledged on the basis that it would enable the construction of eight judicial offices though the Project has so far committed to only three. The CJ evaluator understands this construction is part of AFGK62, though it is very clearly linked to and a continuation of T03. UNODC informed the CJ evaluator they had committed to construct eight judicial facilities in the Grant Agreement, however UNODC has commenced work on three judicial

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<sup>43</sup> From correspondence provided to the CJ evaluator from the Japanese Embassy in Kabul.

facilities. UNODC will endeavor to build the remaining five judicial facilities in collaboration with the Afghan Government and subject to budget constraints. That this position of intent was not a shared understanding with the donor is an indicator of weak Project planning or description and/or weak communication.

### **Coordination**

There were reports of good use of other agency capacity at a provincial level, for example the UNAMA office in Kunduz delivered equipment to judicial offices provided by the Project. UNAMA also reported in Kunduz and Bamyan that JSC facilities were used by them for training and meetings. There is potential for more efficiency, for example, in Bamyan UNAMA through their engineer can play a role in the monitoring of the construction of the MoJ building.

Coordination with other agencies has been high through working groups and committees. However, it is not always simple to blend all agency interests and approaches rendering necessary committee time consuming. The balance between efficiency and effectiveness is important to note and ultimately, the time consuming processes of committees in this case seems to have delivered more effective results.

Coordination between the projects of the CJP was strong and mutually reinforcing, including learning and deployment of resources. Coordination between UNODC offices in Kabul and Kandahar was reported by donors as at times weak, with occasionally contradictory messages.

### **Infrastructure**

The cost of construction work under the Project has been significantly higher than expected. Often these increases were caused by factors beyond the control of the Project, such as border closures increasing the costs of cement and petrol. The Project has taken on lessons learnt from other construction initiatives to improve efficiency. There were also unexpected extra costs in dealing with other UN agencies (such as UNOPS) that directly supervised the construction. However, the hiring of an architect by COAFG for the Project and the presence of an engineer in CJP team have been important steps in reducing problems and inefficiencies which, by 2012, were far fewer than previously.

### **Training**

Training development and delivery has used a variety of approaches, including international resources, combining international and national and with a gradual shift to a greater reliance on national resources. Earlier delivery mechanisms through the United Nations Interegional Crime and Justice Research Institute (UNICRI) and the International Institute of Higher Studies in Criminal Science (ISCIC) probably correctly reflected the gaps at that time in training development and delivery resources available in Afghanistan. The appropriateness and efficiency of training has increased now the Project is drawing upon the maturing national capacity of civil society and the national legal institutions. This is supplemented by inputs from occasional short term international consultants and existing national and international expertise within the COAFG CJP team making for a more sustainable training package.

### **Legal Reform**

This has been labor and resource intensive but seems to have worked efficiently, due to COAFG persistent commitment to law reform and working diligently to ensure that law reform involves all key authorities and international agencies.

## Relevance

During the course of the evaluation, there was consistent endorsement from national CLPs of the relevance of the CJP activities and objectives. In addition, the relevance to the Government's needs and goals is clearly observed through the Afghan National Development Strategy, A strategy for Security, Governance and Economic Growth 2008—2013 and the National Priority Programmes. In particular, T03 contributes to Pillar 2 (Good Governance, Rule of Law, and Human Rights) and cross cutting issues of Anti Corruption and Counter Narcotics.

The work of this Project relates also to human rights and the mandate for the Government to “strengthen its capacity to protect the human rights of all Afghans through the development, ratification and enforcement of legislation that is consistent with Afghanistan’s international obligations”. These include the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Committee on the Elimination of All Forms of Discrimination against Women (CEDAW), and the Convention on the Rights of the Child (CRC).

Improved institutional capacity to deliver sustainable justice services: The Government will reform and restructure judicial institutions; strengthen legal education; develop a judicial records system; enhance administrative capacity; reduce corruption; promulgate codes of ethics; develop a public complaints system; expand judicial services through infrastructure development and procure necessary transportation and equipment.

Improved coordination and integration within the justice system and other state institutions: The Government will increase coordination and integration with other government institutions and civil society; improve legislation through enhancing capacities of the Taqin and the National Assembly; establish a National Legal Training Centre; increase opportunities for external stakeholders and civil society to contribute to legal policy development, analysis and legislative drafting; and improve the delivery of justice services in the provinces by strengthening the Provincial Justice Coordination Mechanism (PJCM). The PJCM will assist the Government to systematically expand rule of law beyond Kabul through coordinated and targeted donor programs for technical assistance, training, capacity building, infrastructure and provision of equipment and transportation.

Improved quality of justice: The justice sector’s strategic objective is to create an Islamic society in which an impartial and independent judiciary protects the safety and security, religion, property, human rights and Islamic values of its citizens, while respecting liberty, equality before the law and access to justice for all. The Government will: (i) establish an investigation system to reduce delays in the criminal justice processes caused, in part, by the lack of representation and poor case management; (ii) develop sentencing policies; (iii) implement the Juvenile Justice Policy; (iv) develop specialized policy units to address cross-cutting and emerging criminal justice issues; (v) enhance and improve civil court case administration and jurisdiction structures in major litigation categories; (vi) improve links between the formal and informal justice sectors; and (vii) provide oversight to the informal justice sector.

## Impact

The impact of this Project is difficult to assess because of the lack of a specific Overall Objective and the weak indicators. Furthermore, the deliverables, such as buildings and trained individuals, are intended to lead to qualitative changes that are challenging to assess.

Nonetheless, the Evaluation Team believes that the Project, despite serious design flaws and the many challenges it faced in implementation, made a positive impact through enhancing the credibility and authority of the legal system and, indirectly, the rule of law.

### **Infrastructure**

New judicial structures have made a difference. One judge in Nangahar noted that people were placing more faith in the legal system than before. He attributed this in part to the use (for about the last two years) of court trials that were open to the public (open trials).

The provision of shared common judicial office facilities—the Justice Support Centres have catalysed the administration of justice at a provincial level. All agencies reported that regular meetings were held during coordinated efforts were made to address case backlogs. In the absence of baseline data<sup>44</sup> or figures concerning duration of cases or time spent in pre-trial or under trial detention it is not possible to measure the change as a result. However, good practice from other comparable environments where weak interagency coordination is a cause of delays in justice, it is observed that such meetings do quantifiably improve—speeding up case file management for instance—the administration of justice.

### **Professional Training**

There are now approximately 400 individuals who have received some legal training through this Project. Given the deterioration of the Afghan legal system that has occurred over the previous decades, there are many newly-appointed officials who lack field experience. Similarly, almost all the judicial officials (particularly in the provinces) lack familiarity with the new legal codes being devised since 2001. The training provided by T03 has addressed this in a suitable manner by helping new inexperienced officials gain a better understanding and also gain on-the-job training so as to better carry out their duties.

Through and associated with the training a body of documentation and tools have been produced which are now available for new training initiatives. This will provide further support for national civil society and legal professionals in the delivery of training. Changes as a result of training have not been possible to assess. In some areas law books have been provided to the JSC.

### **Legal Reform**

The legislative framework, which includes broader criminal justice legislation, provides traction in working towards reform and accountability framework. COAFG has worked to build links between the legal reforms (based on international models) hurriedly introduced in the first years after the fall of the Taliban so that they do not conflict with Sharia law (there are Sharia experts in COAFG). Besides creating more viable laws, this effort has enhanced the profile of UNODC as a culturally-sensitive organization in the country where not every international agency is seen as such.

### **Sustainability**

#### **Infrastructure**

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<sup>44</sup> Not to be confused with baseline data for the UNODC projects themselves.

The sustained impact of construction of judicial facilities depends upon appropriateness of design and quality of construction maintenance and appropriateness of use. The sites that the CJ evaluator visited seemed of appropriate design and quality of build and, with minimal maintenance, the impact of such new facilities will be sustained beyond the Project duration.

### **Training**

The training materials remain available and those involved in the delivery of training, remain better equipped to continue such works after the Project. Those trained have new knowledge that remains beyond the Project duration but the use of it has not been possible to assess. National experts involved in the delivery of the training can employ skills after the Project duration.

### **Legal Reform**

Because of the care UNODC has taken to in its approach to the improving legal framework it has worked on levels acceptable both the international community as well as to the Afghans. The new framework will exist after the Project has finished and indicates irrefutable change (so long as there are no major political changes in the future) that will be sustained beyond the Project duration.

### **Findings**

#### **Critical**

The worsening security environment has made implementation more difficult, unpredictable and more expensive. Delays in implementation are in many cases simply beyond the control of COAFG, however, how those delays are managed is a matter that is in the control of COAFG.

Feedback from donor representatives in Kabul indicates donor management is weak. The quality of reporting (seen by the consultant) to donors is poor, most often based on semi annual or annual reports and donors cited incidents where COAFG had been slow to advise them of important issues. The turn over of staff in donors in Kabul means donor relationships and management requires major investment, more so in locations with less turn over and where interaction with donors is less constrained by security.

Unplanned delays in recruitment are an impediment to the efficiency of a Project. It is not possible to ascertain why there have been serious gaps in the staffing structures, though it is noted they are challenging posts to fill. However, the project and its activities were planned with a staffing model deemed necessary to deliver those activities to a certain standard and following certain practice. In the absence of adequate staffing delays in activities, sometimes necessitating extensions of duration can lead to inefficiency.

Project governance and management is inconsistently applied even though clearly stated in project documents. The absence of meaningful project governance the TPR and PSC is a concern and if they had occurred it may have been the mechanism through which delays and donor concerns were addressed

The original Project Document is very limited with regard to indicators and means of verification, which limits possibility of measuring change. It is noted that there has been investment staff training on these issues and newer documents are of a higher standard

The work and output of the Criminal Law Reform Working Group is widely respected and has contributed to the ANDS. There was widespread appreciation from all CLPs of the nature of the work of CLRWG, the approach taken by COAFG and the blend of expertise provided to the CLRWG through COAFG

### **Important**

One of the highest cost and most demanding interventions has been construction. Climate, security, cross border trade disputes, lack of contractors, inadequate capacity in COAFG all contribute to the complexity, expense and long duration of such work. The project has sought absorb lessons from other projects and earlier activities and at the time of the evaluation, COAFG has increased professional capacity in these matters. The construction of judicial offices has contributed to the more effective administration of justice, with reports from national and international core learning partners of interagency meetings held at Justice Support Centres and public trails.

Justice users' e.g. those before courts and those who are in who or have been in prisons experiences are little understood, except with a reference to corruption. This is a gap in the knowledge base that should be available for programme planning and advocacy activities. COAFG has demonstrated highly quality similar with such as the corruptions survey and seems well placed to do something similar with justice users. However, the consultant notes the relationship between the CJP and the research programme in CP is according to documented description of activities limited with a focus on CN.

The project funding mechanisms of donor funding with short term implementation, sometimes in the region of 12 – 24 months challenges management process such as revisions & procurement. It was reported to the consultant by COAFG team that project revisions and procurement activities are lengthy processes. The cause of these being so lengthy is not clear, as the ToR do not provide for a detailed analysis. However, the net result is a poor match between implementation schedule and the donor conditions.

### III. CONCLUSIONS

The T03 Project has run from 2005, and the activities from that time are closely linked to the early initiatives of UNODC, the urgent needs as identified by the Afghan national authorities, and the nature of the international community involvements.

The operational environment is extremely challenging and COAFG has faced major difficulties in implementation in the fluid and deteriorating security situation. This will remain a major and increasing determinant to the transitions over the next 36 months: the exit of international forces, a reduction in donor funding and the approaching Presidential and parliamentary elections. This is likely to prompt further need for UNODC to be active in the field of Rule of Law and require significant budgetary increases, as well as changes to security plans and practices.

The needs and priorities of the Afghan national authorities and the nature of international involvement have evolved significantly in the intervening period during which time UNODC has demonstrated a commitment to learning and adaptation, based on contextual changes and experiences from earlier interventions.

The move from a project approach to a programme framework is a very positive step which has the potential to reduce inefficiency, provide a more enabling framework for results based management and implement the documented commitment to programme governance and oversight.

The increased commitment to research and advocacy in the new CP is a significantly positive step and should be used to reinforce UNODC very specific expertise and demonstrate added value in all areas of the CP that is steeped in analysis and practice that fundamentally responds to the Afghanisation of development. Core to the increasing impact of the CJP in this environment are COAFG personnel: their welfare and performance.

All activities were necessary and relevant, the law reform working group and the JSCs were observed to be highly effective. The progress made and lessons learnt provide a highly valuable platform for the future work of COAFG. There is very clear evidence of impact and much that will be sustained beyond the duration of the Project.

## IV. RECOMMENDATIONS

### **Critical**

#### Security and finance

COAFG needs to ensure that donors and national partners understand the implications of security for instance to build tolerance e.g. flexibility, and contingency into project planning and expenditure. There should be additional commitment from COAFG to ensuring project stakeholders are promptly and regularly updated on any incidents that have consequences for the cost of schedule of activities.

COAFG and Vienna needs to maintain constant review of impact of security on staff and staffing, with particular attention to the safety and well-being of staff but also on ensuring recruiting and retaining appropriately qualified and experienced staff.

#### Donor management

The relationship with donors is a role that extends beyond COAFG, from the evaluation, which included only very limited to contact with COAFG staff not located in Kabul, I make recommendations that focus on COAFG, but assume in some cases these would best be carried out jointly with other staff or require specific actions from Vienna.

COAFG should convene twice yearly roundtables for all CJP donors to include a presentation of challenges and progress and a Q and A opportunity.

COAFG needs to work with Vienna to proactively ensure that donors (and new donor staff in Kabul) can either directly access ProFi or know that they can ask for ProFi reports from their headquarters.

COAFG should offer an introduction to ProFi reports for Afghan based donors

COAFG/CJP should implement a higher standard of quality control on semi-annual and annual reports, which should be prepared with explicit attention to the function they perform in donor reporting.

#### Recruitment

COAFG and Vienna need to conduct a detailed review of causes of delays, perhaps using this project as a case study and prepare an action plan to avoid similar delays.

#### Project governance

COAFG and Vienna should ensure that governance and management obligations as per CP are adhered to and documented, with decisions and action resulting from them followed up. This requires project teams being properly briefed on the mandate and responsibilities of the CP governance mechanisms and provision made for staff to prepare necessary contributions e.g. bespoke reports or presentations.

### Project design and documentation

COAFG and Vienna need to ensure staff responsible for project documentation preparation and well versed in results based management.

COAFG and Vienna need to ensure systematic oversight of project document development.

CJP should draw upon monitoring and evaluation expertise in COAFG to integrate robust evaluation tools and procedures in project documentation.

### Criminal Law Reform Working Group

COAFG need to continue ensuring that a relevant blend of expertise and experience available to CLRWG and the high performance of the CLRWG remains understood by the donor community.

## **Important**

### Use of judicial offices

COAFG should work with judicial authorities to ensure wider use facilities to all justice agencies and non-state actors providing services in the justice sector.

### Construction of judicial offices

COAFG should maintain an ongoing review of most cost effective way of contracting and delivering construction of justice.

COAFG needs to proactively seek assistance from UNAMA regional offices to augment monitoring of construction projects.

### Justice users' surveys

COAFG should develop activities to capture experiences of justice users, for the purposes of project planning and advocacy. Surveys over a period of time are most beneficial and capture not only experiences but patterns of incarceration that inform policies, planning and budgeting of CPD and programming of agencies supporting prison reform.

### CJP and the research programme in CP

COAFG should review and plan for the practical implementation of mutually supportive roles between CJP and Research Unit.

### Donor funding practice

COAFG and Vienna should develop an income generation strategy for the CJP.

### Training activities

COAFG should establish a focal point for training oversight, with particular attention to coherence on methodology, quality control and responsibility for the development and implementation of a practical plan to measure or observe change as a result of training.

To assist the evaluation of future training activities the CJP evaluator proposes this approach in Annex 5.

## ANNEX I. REVIEWED AND REVISED DRAFT LAWS

### Reviewed and Revised Draft Laws by Criminal Law Committee

<b>Legislation</b>	<b>Date of review</b>	<b>Status</b>	<b>Number of Chapters and Article</b>	<b>Official Gazette No. &amp; Date</b>
Forensic Law	2006	In effect and published in the Official Gazette		947 2008
Anti-Terrorism Law	2007	In effect by Legislative Decree, but still pending in National Assembly),	4 Chapters 26 Articles	952 2008
Extradition and Mutual Legal	2007	Extradition and Mutual Legal Cooperation Law (pending in the President office for endorsement	4 Chapters 51 Articles	
Abduction and Human Trafficking Law	2007 & 2008	In effect by Legislative Decree, but still pending in National Assembly),	4 Chapters 23 Articles	952 2008
Law on Juvenile Rehabilitation Centres	2008	In effect by Legislative Decree, but still pending in National Assembly	6 Chapters 42 Articles	969 2008
Criminal Procedure Code 2009	2008 & 2009	In effect by Legislative Decree, but still pending in National Assembly),	382 Articles	
Elimination of Violence Against Women Law	2009	In effect by Legislative Decree, but still pending in National Assembly	4 Chapters 44 Articles	989 2009
Counter Narcotics Law	2009	Approved by National Assembly and Endorsed by the President and published in the Official Gazette	5 Chapters 67 Articles	1025 2010
Audit Law	2009	Pending in National Assembly	10 Chapters 40 Articles	
Law on the Structure and Jurisdiction of Special Courts	2010	In effect by Legislative Decree and published in OG, but pending in National Assembly	4 Chapters 22 Articles	1033 1010
Law on the Structure and Authority of Attorney General Office	2010	Pending in National Assembly	8 Chapters 43 Articles	
Anti-corruption Law	2010	Pending in National Assembly	4 Chapters 26 Articles	
Amendments to	2010	Approved by Council of	13 Articles	

the Penal Code		Ministers, Pending in National Assembly		
Law on Dispute Resolution	2010	The process has been stopped and is omitted from the list of legislative working plan of this year 1391 by CoMs		
Regulation on Women's Protection Centres	2011	Approved by CoMs and in effect	5 Chapters 33 Articles	1058 2011
Law on the Campaign against Major Crimes	2011	Pending in Taqin/MoJ <sup>45</sup> .	3 Chapters 21 Articles	
Law on the Prohibition of the Development, Production and Stockpiling of Biological and Toxin Weapons and on Their Destruction	2012	Pending in Taqin	5 Chapters 34 Articles	
Penal Code	2012	Under review by CLRWG	2 Books and 524 Articles	

<sup>45</sup>Due to the weakness of the draft, ambiguity defining major crimes and creation of friction with the responsibilities of other justice institutions by the provisions of this draft as well as by the establishment of Major Crimes Task Force (MCTF), it was decided that the draft should be re-reviewed by the stakeholders to find a clear definition of major crimes and justification for the establishment of MCTF in order to avoid frictions and overlaps.