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*Office on Drugs and Crime*

# TERMINAL EVALUATION REPORT

**Project Number:**  
AFG/R42

**Project Title:**  
Criminal Law & Criminal Justice Capacity Building

**Thematic area:**  
Criminal Justice

**Country:**  
Afghanistan

Report of the Independent Evaluation Team

UNITED NATIONS OFFICE ON DRUGS AND CRIME  
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## LIST OF ACRONYMS

AGO	Attorney General's Office
ACU	Anti-corruption Unit
CCS	UNODC's Crimes Convention Section CJP
	UNODC's Criminal Justice Programme
CLRWG	Criminal Law Reform Working Group
COAFG	UNODC's Country Office for Afghanistan
CPC	Criminal Procedure Code
CSTC-A	Combined Security Transition Command - Afghanistan
CTFMRM	Country Task Force Monitoring and Reporting Mechanism
DB	Database
DO	UNODC's Division for Operations
DoJ	US Department of Justice
EU	European Union
EUPOL	European Union Police Mission to Afghanistan
EWCAU	UNODC's Europe West and Central Asia Unit
H.E.	His Excellency
HOO	High Office of Oversight
HQ	Headquarters
HSB	UNODC's Human Security Branch
I-ANDS	Interim Afghanistan National Development Strategy
IABA	Independent Afghan Bar Association
IBA	International Bar Association
IEU	UNODC's Internal Evaluation Unit
INL	United States' International Narcotics and Law Enforcement Affairs
ISISC	Institute for Superior International Studies on Crime
JSC	Justice Support Centres
JSSP	Judicial System Support Project
LAS	UNODC's Legal Advisory Section
MCQ	Multiple Choice Question
MJ	Meshrano Jirga
MLA	Mutual Legal Assistance
MP	Member of Parliament
MoA	Memorandum of Agreement
MoJ	Ministry of Justice
MoI	Ministry of Interior
NGO	Non-governmental organization
PBD	UNODC's Partnership in Development Branch
PJCM	Provincial Justice Coordination Mechanism
PJI	Provincial Justice Initiative
SC	Supreme Court of Afghanistan
THB	Trafficking in human beings
TOR	Terms of Reference
ToT	Training of Trainers
TPB	UNODC's Terrorism Prevention Branch
UK	United Kingdom
UNAMA	United Nations Assistance Mission in Afghanistan

UNCAC	United Nations Convention Against Corruption
UNDP	United Nations Development Program
UNICEF	United Nations Children's Fund
UNICRI	United Nations Interregional Crime and Justice Research Institute
UNIFEM	United Nations Development Fund for Women
UNODC	United Nations Office on Drugs and Crime
UNOPS	United Nations Office for Project Services
UNTOCC	United Nations Transnational Organized Crime Convention
UPS	Uninterruptible Power Source
US	United States
USIP	United States Institute for Peace
WG	Working Group
WJ	Wolesi Jirga
WP	Work Plan

#### Disclaimer

Independent Project Evaluations are scheduled and managed by the project managers and conducted by external independent evaluators. The role of the Independent Evaluation Unit (IEU) in relation to independent project evaluations is one of quality assurance and support throughout the evaluation process, but IEU does not directly participate in or undertake independent project evaluations. It is, however, the responsibility of IEU to respond to the commitment of the United Nations Evaluation Group (UNEG) in professionalizing the evaluation function and promoting a culture of evaluation within UNODC for the purposes of accountability and continuous learning and improvement.

Due to the disbandment of the Independent Evaluation Unit (IEU) and the shortage of resources following its reinstatement, the IEU has been limited in its capacity to perform these functions for independent project evaluations to the degree anticipated. As a result, some independent evaluation reports posted may not be in full compliance with all IEU or UNEG guidelines. However, in order to support a transparent and learning environment, all evaluations received during this period have been posted and as an on-going process, IEU has begun re-implementing quality assurance processes and instituting guidelines for independent project evaluations as of January 2011.

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## EXECUTIVE SUMMARY

### 1. Summary Table

FINDINGS: IDENTIFIED PROBLEMS/ISSUES	SUPPORTING EVIDENCE/EXAMPLES	RECOMMENDATIONS
<b>Project design/revision</b>		
1. UNODC was able to establish an excellent legislative support tool build around a participatory consensus-building mechanism.	Under the current project UNODC, in its capacity of co-chair and lead drafter, continued to provide legislative support through the consensus-building mechanism developed under Project R42. The undisputed efficiency of the CLRWG, which is the result of both the practical application of an operational methodology and high commitment and dedication of the staff responsible for it, remains one of the most distinctive features of the Project	The operational modalities of the CLRWG, which are key to its success, should be exported and adapted into other activities whenever possible.
2. Revision of project documents is carried out in such a way that changes can only be traced through a cumbersome procedure of comparison of documents.	Revision of project documents.	UNODC should ensure that project revision is carried in such a way that changes can be easily traced and identified by external readers, for instance with the use of "track-changes" mechanisms available with all word-processing programmes.
<b>Project management/implementation</b>		
3. UNODC proved able to adjust the implementation of the project as required by the circumstances.	Project reports. An example of the way UNODC played with the flexibility of the project is represented by the decision to switch the activities in support to the MoJ/SC from central to provincial level. This not only allowed UNODC to pursue the stated objective, but most of all prevented waste of resources and duplication of efforts, as other international actors were playing in the same area	UNODC should continue to nurture project management skills of international and national staff so that occasions to play with the margin of appreciation inherent in each project are identified and taken advantage of.
4. UNODC was able to identify and capitalize its internal human resources to provide additional innovative automation tools to	Databases (additional to those initially foreseen by the project) developed.	UNODC should nurture project management skills of international and national staff so that maximization of resources available is ensured.

<b>FINDINGS: IDENTIFIED PROBLEMS/ISSUES</b>	<b>SUPPORTING EVIDENCE/EXAMPLES</b>	<b>RECOMMENDATIONS</b>
counterparts.		
5. UNODC confirmed its ability to create synergies with other international actors, thus maximizing impact of project activities.	Databases (additional to those initially foreseen by the project) developed for the Task Force on Children in Armed Conflict and the related coordination established with UNICEF.  Coordination with IBA lead to the successful establishment of the ABA.	UNODC should nurture project management skills of international and national staff so that identification of possibilities to create synergies during project implementation is made possible.
6. Monitoring of training by UNODC's main training partner ISISC was not up to standards, making it difficult to assess real impact of the activities carried out.	Review of project documents and activity reports.	When outsourcing training, UNODC should pay special attention to the substantive (as opposed to formal) fulfilment by the implementing agencies of the reporting obligations, as their reports represent one of the fundamental tools to guarantee the quality and sustainability of the training initiatives.
7. The project suffered from lack of transparency and systematic communication with donors.	Information gathered by evaluators during the field mission.  No (regular) Board meetings with donors were held.	Project Board meetings should be organised on a regular basis throughout the life of the project, in order to convene around the same table all stakeholders, facilitating a de visu flow of information otherwise fragmented, and tackling problems as they arise, offering concerted solutions.  Organisation (and follow-up) of such meetings must be clearly included in the project document and implemented accordingly.
8. UNDC was not able to avoid conflict of interest between evaluators and those under scrutiny.	Evaluators were identified and recruited by the COAFG and not by the HQ/IEU.	UNODC should ensure that the recruitment procedure of evaluators, as laid out by the ToR for the evaluation, which foresees that selection of the evaluators is conducted by UNODC Vienna in consultation with, amongst others, COAFG, is fully complied with.
<b>Staff</b>		

<b>FINDINGS: IDENTIFIED PROBLEMS/ISSUES</b>	<b>SUPPORTING EVIDENCE/EXAMPLES</b>	<b>RECOMMENDATIONS</b>
9. Training needs of internal staff are not taken fully into account by UNODC.	Information and impressions gathered by the evaluators during the field mission.	UNODC should ensure that all internal staff receive adequate induction and continuous training of both general and specific nature, so to enhance professional growth and gratification and ensure higher internal management standards.
10. Lack of support staff to COAFG's Senior Management favours loss of institutional memory of activities.	Information and impressions gathered by the evaluators during the field mission.	UNODC should ensure that Senior Management enjoy the presence of dedicated support staff so that filing of activity and project reports is performed according to the internal standards and loss of institutional memory in case of turnover reduced.
11. COAFG's interpretation of flexibility in the performance of the tasks pertaining to a given position creates confusion and dissatisfaction.	<p>Information and impressions gathered by the evaluators during the field mission.</p> <p>The Criminal Justice Expert systematically performed a great number of managerial tasks (related to operations, finance management, coordination and supervision of international consultants) which should have been carried out by the Programme Manager and Senior Advisor who, in turn, was directly to be involved in a number of activities related to the practical implementation of the project which (in light of the ToR of the Criminal Justice Expert) were to be performed by the latter.</p>	<p>UNODC should ensure that division of tasks and adherence to positions' ToRs receive full compliance.</p> <p>Substantive and protracted lack of staff should not be systematically overcome by increasing the tasks assigned to existing personnel but should be acknowledged as a reason to revise a project.</p>
12. UNDP recruitment procedures for national staff did not prove suitable for a complex environment such as Afghanistan.	Information gathered by the evaluators during the field mission.	UNODC should try to negotiate with UNDP recruitment procedures for national staff where thresholds set by the announcement are realistic vis-à-vis possible applicants.
<b>Training</b>		
13. Systematic outsourcing of training by UNODC does not provide value for	Training outsourced to ISISC proved to be rather expensive and not always consistent with other training initiatives	UNODC should consider the possibility of creating a (small) Training Unit within the COAFG's CJP, tasked with the

<b>FINDINGS: IDENTIFIED PROBLEMS/ISSUES</b>	<b>SUPPORTING EVIDENCE/EXAMPLES</b>	<b>RECOMMENDATIONS</b>
money.	implemented by UNODC under different projects.	<p>identification of training needs, development of relevant curricula, and of the implementation (outsourcing trainers) of training programmes. This would ensure consistency and complementarity of most (if not all) interventions planned by the organization.</p> <p>The presence of a strong national component within such a unit would also favour the process of empowerment and ownership of the project result, ensuring a deeper long-term impact.</p>
<b>Legislative assistance</b>		
14. The legislative assistance provided by UNODC suffered from an excessive western-centric approach.	Information and perceptions gathered by the evaluators during the field mission.	Provided that adherence to international standards is ensured, UNODC should welcome and support proposals that, though far from western culture, best correspond to the local social and religious features of Afghanistan. Whilst providing legislative support, UNODC should pay particular attention in order to ensure that the process remains culturally-sensitive and respectful of the national legal values, promoting the sense of ownership of its recommendations particularly by the national component of the CLRWG.
15. Under the present project the CLRWG represented the only tool UNODC put in place to provide legislative assistance.	Project document.	UNODC should ensure increased sustainability of mechanisms such as the CLRWG by foreseeing training of national professionals abroad, for instance financing the participation to courses held at National Schools for Public Administration present in various Countries.

## **2. Summary Description of the Project Including Project Objectives**

Project R42 forms part of the comprehensive strategy developed by UNODC shortly after the fall of the Talibans. UNODC's a Strategic Programme Framework for Afghanistan revolved around three main actions:

- a) the strengthening of the operational capacity of the Ministry of Justice;
- b) the provision of ongoing support for the Ministry of Justice to improve its capacity to develop criminal laws, the rehabilitation of the prison system, and support for the establishment of an anti-corruption strategy;
- c) the training of Afghan officials working in the justice sector on international judicial standards and rules for judicial integrity, and technical assistance projects for the training of judges and prosecutors.

The programme aims at providing advisory services and technical and material assistance at central level, as well as in selected provinces, to further strengthen the institutional capacity of the permanent judicial institutions, namely the Supreme Court (SC), the Ministry of Justice (MoJ) and the Attorney General's Office (AGO). All coordinated interventions would eventually lead to the improvement of the judicial system, thus contributing to the creation of more favourable conditions for economic, social and political development in the provinces.

Project R42 was officially launched by UNODC in January 2004. In its 77-month life duration the project aimed at achieving the following stated objectives:

- 1) Strengthening the operational capacity of the Ministry of Justice;
- 2) Establishing multipurpose Judicial Support Centres (JSC) in selected pilot provinces;
- 3) Development of an information and web-based communication system for the Ministry of Justice and the selected provincial Centres of Justice;
- 4) Revising of national criminal law and procedure;
- 5) Strengthening the operational capacity of the Judiciary in Kabul;
- 6) Developing the legal aid programme and services including a pilot office comprised of legal professionals in Kabul.

## **3. Major Findings of the Evaluation**

R42 falls within UNODC's Criminal Justice Programme launched in 2002. It represents one element of a wider intervention, through which UNODC was able to provide, over the years, tangible support to the overall restructuring and (re)building of a justice system based on the rule of law. There is no doubt that the timing chosen by UNODC to provide technical assistance to the judicial institutions of Afghanistan was perfect, also from an institutional perspective. A high-impact contribution for the creation of a Country whose structures and institutions are compliant with the rule of law was not only needed, but also in line with the goals set for Afghanistan by the Compact and the I-ANDS.

Since its entry into the Country, UNODC's approach to provision of technical assistance has been that having projects building on the results achieved with previous interventions, thus never allowing the legacy of each project to die with their formal completion. Though sad to admit, this is the fate encountered by many activities carried out by international organizations, which are more interested in pleasing the donors by ticking a "to do list", rather than working towards the attainment of comprehensive, durable, and viable results. If one looks at the types of project that form part of the criminal justice programme, one can clearly see the red thread connecting all of them. Whilst this observation may seem trivial, as one would consider it obvious that all projects implemented within a programme complement each other and develop in sequence, so that the results achieved are maximised. However, a quick look at the way the international community works demonstrates that not all interventions are implemented with the same spirit. We note that sustainability (also guaranteed by the so called "hardware and software" approach) was not the only aspect that was taken into account by UNODC whilst developing and implementing the project. Priority

was also given to the coordination and cooperation with other members of the international community engaged in the same field (not so numerous but sometimes very powerful, also in terms of financial means), as well as to the creation of fruitful synergies with projects run by other organizations. In this respect, it ought to be said that despite being low in number, UNODC staff were able to keep abreast of the changing landscape of Afghanistan and adapting the project so that, despite the variation in the circumstances, it would still be able to serve the purpose for which it was originally conceived.

Project R42 tackles the ambitious goal of improving the quality of the administration of the criminal justice system in Afghanistan by adopting a three-fold approach: first, institution building, including enhancement of operational capacity and physical infrastructures; secondly, policy advice and support of legal reform; and, thirdly, capacity building, particularly needed in a Country where lack of appropriate human resources is endemic. In our view, there was no best way to reach the overall stated objective other than operating on the three lines mentioned above. At the same time, the choice of having one single project dealing with them at once, though, represented a positive and a critical element. The positive aspect of such a comprehensive and complex project is the fact that it allows the implementers to respond both pro actively and reactively to the real needs of the criminal justice system as they occur. At times the holistic approach adopted limited the project itself, as each of its components (as rightly pointed out in the previous evaluation) could have well been implemented as an individual project. This is particularly true having in mind the staff shortage UNODC's COAFG suffered.

Overall the opinion of the evaluators on the project is rather positive, although in the course of its implementation some outputs were dropped and various activities, as illustrated in the Section 2 of this Report dealing with outcomes, impacts and sustainability, did not take place according to the foreseen timeframe. In 2007 the evaluators asked the open question whether more of the immediate objectives could have been attained with more staff on the ground. Their conclusion was that additional staff, possibly, would have translated into more outputs being achieved. We are of the opinion that additional staff would have not made so much difference vis-à-vis the final, overall success of the project. Instead, it would have guaranteed higher standards of project management and reasonable workloads of all staff, thus reducing the level of conflict that is inherent in all stressful situations and favouring a working environment where professional growth and gratification of national and international staff (conducive to high standards) is given the same priority as the attainment of the project objectives.

#### **4. Lessons Learned and Best Practices**

In addition to the good practices identified and elaborated in the 2007 evaluation report (hardware and software approach, use of the "train the trainers" technique, working groups, administration and internal management of justice institutions, recourse to study tours ), the current evaluators identified the following positive features.

Under project R42 UNODC was able to establish one of the most efficient working groups in Afghanistan. The organization, in its capacity as co-chair of the CLRWG, set up an innovative and highly performing routine, whose high efficiency was the result of both the practical application of an operational methodology and high commitment and dedication of the staff responsible for it. The fact that the WG was not able to achieve, in the eyes of the evaluators, the desired impact does not at all diminish the importance of the operational modalities set up by UNODC, which the evaluators hope can be used as a model, whenever possible, for further UNODC activities.

Within this project UNODC was able to produce high value outputs, namely sophisticated, versatile, tailor-made, virtually everlasting databases with very limited investments. Indeed,

the work related to the development of the databases figures in the budget as an in-house contribution, thus weighting very little on the overall expenditure. The evaluators hope that the experience accumulated by UNODC with the production of these first five database is used to perfect the production of software to support justice institutions in all areas (for instance that of execution of penalties) in which efficient management of data can serve the protection of human rights and the establishment of the rule of law.

One distinctive feature of UNODC's approach to the implementation of project R42 is its ability to create synergies with other members of the International Community. Thanks to the extreme dedication and commitment of the staff, particularly of the International Criminal Justice Expert, UNODC proved extremely attentive in identifying activities, falling into the scope of the project but never formally identified, and which had the effect of maximising the results of the project. Examples of such capacity are the (initially not foreseen) cooperation with UNICEF and with IABA, which lead to dramatic results in the field of protection of children and in the creation of the Bar Association. Under these circumstances, it is clear that the keyword best defining the approach of UNODC in the attainment of its goal is “complementarity” rather than “competition”.

The most distinctive feature of R42 is that it was a sufficiently broad a project to allow the organization and its implementing agencies to enjoy flexibility of interventions. In other words, the final objectives could be achieved in a variety of non-predetermined ways. This also meant that the project activities could be modified and adapted so as to respond to the needs as they arose. Though this “advantage” is probably inherent in the nature of the project, UNODC deserves special credit for having been able to play a constructive part in the flexible way in which the project has been administered. Indeed, the risk that because of its distinctive nature R42 became an empty container did not materialise thanks to the strong focus on the immediate objectives and the final goal, and to the intense relationship with beneficiaries and interlocutors that UNODC was able to maintain throughout the project life. A typical example of the way UNODC played with the flexibility of the project is represented by the decision to switch the activities in support to the MoJ/SC from central to provincial level. This not only allowed UNODC to pursue the stated objective, but most of all prevented waste of resources and duplication of efforts, as other international actors were playing in the same area.

## **5. Recommendations, Conclusions and Implications to UNODC**

In the light of the assessment carried out and of the best practices and lessons learned the evaluators have identified five areas of implication to UNODC.

The first concerns project design and revision. UNODC must be praised for having created a unique legislative support tool based on a consensus-building mechanism, which the evaluators recommend be replicated and adapted whenever possible when delivering technical assistance. In relation to revision of project documents, the evaluators found that non-use of popular word processing tools such as “track changes” made comparison between documents particularly cumbersome.

When it comes to project management and implementation, the evaluators have already expressed under paragraph no. 4 their appraisal for the way UNODC was able to interpret the “flexibility” of the project, to identify and capitalize its human resources to produce a number of additional databases boosting the development of rule of law and the protection of human rights, and to create synergies with other international partners, thus maximizing the project impact. In the light of such success, the evaluators can only recommend that the organization nurture the project management skills of its personnel, so that such occurrences as listed above are not personality-driven but become integral part of the modus operandi of project staff.

On the issue of internal monitoring of project activities and progress, the evaluators believe that UNODC seemed to have underestimated the importance that such activity is carried out on a regular basis. The original project document, under the heading “Monitoring and Reporting”, does not detail the frequency of monitoring outputs and simply mentions the mid-term and final project evaluations. The Project’s revised Logical Framework, however, mentions quarterly, semi-annual and annual evaluations (rectius, reports) as means of verification of achievement of results. UNODC COAFG reported on the project in compliance with the instructions received by the HQ which, at some point during the project, decided to discontinue quarterly reports and limit obligations on an annual and semi-annual basis. The frequency of reporting as established by the HQ is, in the eyes of the evaluators, insufficient to provide for sound project management. In this respect, the current evaluators share the opinion already expressed in finding 22 of the 2008 Thematic Evaluation.<sup>1</sup> Similarly, the evaluators suggest that Project Board meetings be organised on a regular basis throughout the life of the project, in order to convene around the same table all stakeholders, facilitating a *de visu* flow of information otherwise fragmented, and tackling problems as they arise, offering concerted solutions. Organisation (and follow-up) of such meetings must be clearly included in the project document. The same need for transparency and substantive exchange and flow of information should apply also to implementing partners. In this respect, when concluding agreements for the implementation of project activities, UNODC should ensure that quarterly reporting obligations are included and substantive implementation ensured.

In relation to the present exercise, the evaluators would like to denounce the conflict of interest that arose in relation to their selection, which was carried out by the COAFG (whose work ought to be scrutinized) rather than by the HQ/IEU. Despite the lack of consequences, the evaluators believe that strict adherence to the selection procedures as foreseen by the evaluation ToR should be guaranteed.

The third area of implication concerns in general the organization’s staff. In the light of the information gathered during the field mission, the evaluators would like to recommend that UNODC pays more attention to the initial and continuous training of its personnel and their professional growth, also to enhance those project management skills mentioned earlier in this paragraph that can make the difference in the implementation of activities and creation of synergies. Ensuring professional growth of staff also means that job descriptions are fully adhered to and only exceptionally personnel is asked (or allowed to) perform tasks which belong to other functional positions. Though the above mentioned considerations seem quite obvious, the evaluators had the impression that much of the dissatisfaction perceived amongst (national) staff could have been easily avoided. Last but not least, the evaluators noticed that the project suffered, at some point, from lack of staff whose recruitment was not possible due to the high thresholds set for the position by UNODP. Although the evaluators understand the need to adhere to the common UN recruitment rules, they believe that it would be opportune that UNODC negotiates with UNDP exceptions to such rules, in order to avoid the conduct of selections based on unrealistic (for Afghanistan) requirements.

The fourth problem area relates to training. Considering the high involvement of UNODC in training activity, and having in mind the little value for money that the outsourcing of training produced, we are of the opinion that the Country Office should consider the possibility of creating a (small) Training Unit within the CJRP, in order to better coordinate the interventions in this area. This would also relieve the project staff from all the difficulties related to the time-consuming task of supervising the training activities from conception to implementation. It would also ensure consistency and complementarity of planned

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<sup>1</sup> Finding 22 of the Thematic Evaluation Report identifies the absence of a functioning management system that generates monitoring data and reports as the cause of the communication problem within UNODC and between UNODC and external partners/collaborators.

interventions. The presence of a strong national component within such a unit would also favour the process of empowerment and ownership of the project result, ensuring a deeper long-term impact.

Lastly, the evaluators believe that in delivering legislative assistance (an activity that UNODC continued to perform under project T03), particular emphasis should be placed on the ownership of the process by the national partners and institutions and, provided that they do not conflict with the international standards binding Afghanistan, support proposals that, although far from the experience of western countries, correspond better to the cultural, religious, and social features of Afghanistan. Interventions in this area should also be implemented including (mid-term) training of relevant professionals abroad, for instance financing participation to courses held at National Schools for Public Administration present in various Countries.

# 1. INTRODUCTION

## 1.1 Background and Context

Eight years after the fall of the Taliban, Afghanistan's formal justice system continues to suffer from severe and systemic problems, despite the many and significant improvements that have been registered in the last years. The fact is that more than thirty years of conflict and civil wars have severely obliterated the Country's justice system. The context in which UNODC's Criminal Justice Reform Programme (CJRP), of which project R42 is a part, was conceived in 2002 was that of a justice system in which even the most basic material (i.e. complete sets of national legislation), human resources (i.e. qualified legal and judicial personnel) and infrastructure (i.e. courts) were (and partly still are) almost non-existent. Having in mind that re-establishing the rule of law, addressing impunity, and developing a professional judicial culture is an essential pre-requisite for peace and stability, the programme was intended to promote development and ownership of judicial and rule of law standards through national, regional and interregional actions and technical cooperation activities. In developing such a programme, particular attention was given to recent Afghan history, its tradition, culture, and social mores, along with the other elements which are peculiar to any Country in transition.

In designing the CJRP, UNODC also considered the major needs, shortcomings and challenges that the international community faced in reforming the justice system in the aftermath of the long period of conflict that had just ended. Even though the situation has improved in the last years, it is a fact that the (re)building of Afghanistan's judicial system and legal apparatus remains a true challenge: not only did the conflict destroy the physical infrastructures, the public and private sectors, and the social fabric, hence facilitating the dire weakening of the judicial system; it also adversely impacted on the rule of law culture, thus creating a situation which can only be reformed by working on both facilities and people at the same time. The virtual non-existence of training facilities, limited numbers of (competent) judicial personnel in service, lack of communication and coordination among institutions, as well as between the capital and provinces, the need to revise the legal system, particularly in relation to procedural, substantive and organizational aspects, are all facets of the same problem. Last but not least, the influence that the Taliban are still able to exert through their strategy of terror, further undermines and slows down all efforts to make Afghanistan a democratic, narcotic-free Country, guided by the principles of human rights and rule of law.

## 1.2 Project Description

It was against the background illustrated above that, shortly after the fall of the Taliban, UNODC formulated a Strategic Programme Framework for Afghanistan, which was structured around three main actions:

- a) the strengthening of the operational capacity of the Ministry of Justice;
- b) the provision of ongoing support for the Ministry of Justice to improve its capacity to develop criminal laws, the rehabilitation of the prison system, and support for the establishment of an anti-corruption strategy;
- c) the training of Afghan officials working in the justice sector on international judicial standards and rules for judicial integrity, and technical assistance projects for the training of judges and prosecutors.

The programme aimed at providing advisory services and technical and material assistance at central level, as well as in selected provinces, to further strengthen the institutional capacity of the permanent judicial institutions, namely the Supreme Court (SC), the Ministry

of Justice (MoJ) and the Attorney General's Office (AGO). As a result, access to justice would have been improved, thus creating more favourable conditions for economic, social and political development in the provinces.

The genesis of the overall approach to the intervention in the Country is represented by the findings included in the Mission Report on Crime Prevention Strategy for Afghanistan issued by UNODC in 2002. This was followed by a Needs Assessment Mission fielded to Afghanistan in August of the same year. It was on the basis of these findings that, as part of a comprehensive strategy, project R42 was developed. Indeed, the various missions highlighted the fact that, despite the efforts made by the national government and particularly the international community, the establishment of essential physical infrastructure, provision of equipment, training, and provision of know-how and financial resources to extend the reconstruction of the criminal justice system to the provinces was still an urgent need.

Project R42 was officially launched by UNODC in January 2004. The project aimed at achieving the following stated objectives:

- 1) Strengthening the operational capacity of the Ministry of Justice;
- 2) Establishing multipurpose Judicial Support Centres (JSC) in selected pilot provinces;
- 3) Development of an information and web-based communication system for the Ministry of Justice and the selected provincial Centres of Justice;
- 4) Revising of national criminal law and procedure;
- 5) Strengthening the operational capacity of the Judiciary in Kabul;
- 6) Developing the legal aid programme and services including a pilot office comprised of legal professionals in Kabul.

It was initially envisaged that the project would be completed within 24 months. However, since its inception project R42 has undergone 4 revisions, in December 2005, November 2006, June 2007, and November 2008 respectively. In its consolidated version, the project lasted 77 months (until December 2009) and had a budget of US\$ 6,243,169.

The first project revision (2005) extended the duration of the project from 24 to 36 months and increased the initial budget of US\$ 46,400. The review addressed some of most urgent recommendations from the July 2004 provincial assessment missions and the April 2005 mission to Nangarhar conducted by the MoJ. These missions identified a comprehensive capacity building approach such as training, construction of infrastructure, the supply of equipment and furniture at the provincial level, the support for the revision/development of laws, and the establishment of a bar association at central level as crucial for the strengthening of the Afghan criminal justice system. The Afghanistan situation is constantly evolving, and the justice sector even more rapidly due to the assistance and guidance provided by several international organizations. In the first years of implementation of the project, the Legislation Department (Taqnin) of the MoJ prepared more than 15 laws, later approved by the ministerial cabinet, and published in the official gazette. Legislative efficiency requires that in addition to drafting new laws or revising others, judges, prosecutors, and support staff receive appropriate training as to their scope of application, interpretation, and enforcement. It ought to be said that at the time of the conception of the project there was no clear division of labour and competence amongst the international actors, partly because the structure of national institutional counterparts had not been defined yet. With the refinement of the organizational structure of the MoJ, the involvement of many international organizations, and the process of Priority Reform and Restructuring (PRR)<sup>2</sup>, new priorities and challenges arose. Having in mind that most of the international organizations concentrate their efforts, UNODC decided to divert its training, construction, and provision of equipment and furniture activities to selected provinces rather than concentrating them in the capital city.

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2 A component of the Public Administration Reform in Afghanistan.

The second revision, dated November 2006, affected both the duration and substance of the project, though the overall project strategy, as envisaged in the original project document remained unchanged. Similarly to what had happened with the previous revision, the 2006 amendment shifted the focus of the activities from Kabul to the provinces. Once again, changes were inspired by the findings of the 2004 provincial assessment missions and the April 2005 mission to the provinces mentioned above. In addition, modifications were also suggested by the appointment of UNODC as leading agency of the Criminal Committee of the Law Reform Technical Group (CLRWG) and the Anti Corruption Working Group and Cross Cutting Thematic Group, established within the framework of I-ANDS and the Afghanistan Compact. UNODC, in particular, was tasked to providing support and technical assistance to the Government of Afghanistan to review and amend the current legislative framework. Contribution to the legislative process at central level is always paired with the provision of relevant training of judicial officials and support staff, especially in the provinces, which is also a task that UNODC committed itself to. Whilst the duration of the project was extended by a further 24 months, setting the completion date at December 2007, the budget remained unchanged. Within the revision, UNODC planned to conduct a series of training courses at provincial level on "Basic Rule of Law Principles". This training would be provided in Laghman, Logar, and Kapisa provinces in favour of selected members of the Police, AGO and SC. The aim of the training was to provide a broad, though comprehensive, picture on basic principles and rights which law enforcement and judiciary officials should respect at any stage of the criminal process. From a project management perspective, the extension period would have also allowed UNODC to complete the planned Office Management and Computer Literacy training for the administrative staff of the Judiciary in Nangarhar province and to finalize the construction of fully equipped and furnished JSCs. Judicial libraries annexed to each JSC should also have been established and internet connections and web-site based communication systems finalized.

The revision that took place in June 2007 extended the duration of project R42 to 65 months (until December 2008) and increased the budget of US\$ 2,050,500. It also specifically involved a modification of Objectives 2 and 6 of the original project. The revision was prompted by the opportunity to continue the construction of JCSs, which had been praised both by the 2006 Criminal Justice Programme independent evaluations and by national institutions benefiting from them, and by the need to continue the provision of support and technical assistance to the Government of Afghanistan by training membership of the judiciary (Police, AGO and SC) at provincial level. Completion of the office management and computer literacy for the administrative staff of the Judiciary of the selected provinces was also envisaged. The adoption of the Lawyers' Law in May 2007 by the Lower House, which was a prerequisite for the development of legal aid programmes and the introduction of public defenders, also prompted the extension, so that a pilot office could be launched in Kabul.

The final revision, dated November 2008, increased the duration of the project by a further 12 months and incremented the budget of US \$ 1,009,169. Similarly to what had happened with previous revisions, the reasons of this last modification are to be found in the need to complete project objectives 2 (establishing multipurpose JSCs in selected provinces) and 6 (developing a legal aid programme and services including a pilot office comprised of legal professionals in Kabul), which could not be completed in the course of the 2008. The reasons for the delay can be found primarily in the constantly deteriorating and/or volatile security situation, as well in the limited ability of Afghan institutions to absorb assistance. In addition, as the Independent Afghan Bar Association (IABA) and the Legal Aid Department at the MoJ were only established at the end of July 2008, most of the activities (database, development of educational material and delivery of related training) had to be postponed.

### 1.3 The Structure of the Project

The strategy adopted by AFG/R42 to achieve the goals stated above is characterized by the so called “hardware and software approach”. This involves the simultaneous provision of buildings and equipment (hardware) and capacity building assistance (software) necessary for the judicial system to operate on a daily basis. In other words, the system is provided with the new or refurbished infrastructures needed for it to operate, as well as a capacity building initiative, aimed at strengthening the capacity of the system to function.

Project R42 approaches the rebuilding of Afghanistan’s criminal justice system in a holistic manner by combining a number of distinct but interrelated measures. With reference to the latter, the current evaluation team shares the concerns expressed in 2006 on the occasion of the mid-term evaluation: because of its complexity, project R42 is in fact equivalent to six sub-projects, each of its immediate objectives having the possibility of being regarded as a project on its own. In turn, this, impacted heavily on the management and the organization of the project, which would have required more workforce than was actually available, and eventually impeded the attainment of the objectives within the timeframe envisaged (which, also due to other reasons, was extended from 24 to 77 months).

In total this project identifies 6 immediate objectives. What follows are the objectives resulting from the last revision of the project.

**Objective 1** relates to the MoJ. The overall aim was capacity building, more specifically the enhancement of the operational capacity of the institution.

**Objective 2** intends to improve the delivery of criminal justice outside Kabul. The project envisages the creation of fully-equipped and furnished multipurpose Justice Support Centres (JSC), which are to accommodate provincial offices of justice, police, prosecutors, judges and lawyers. Such JSCs are to be established in the capitals of provinces identified in concert with the MoJ. Provision of training on selected criminal legislation (Law on Prison and Detention Centres, Juvenile Code, Rule of Law and Human Rights basic principles, Rules of Ethics and Professionalism) and on basic management skills is to be provided to senior specialized judicial officials (judges, prosecutors, lawyers, police) and administrative staff. The training activities are based on a train the trainers approach and mentoring.

**Objective 3** aims at establishing an information (data base) and web-based communications system for the SC<sup>3</sup>, as well as for selected pilot provincial Centres of Justice (now JSCs). This objective includes as outputs the installation of the necessary equipment (computer hardware as well as software) as well as training to familiarise end-users with the new information and web-based communication system.

**Objective 4** aims to revise national criminal law and procedures. The first main output concerns the review of the legislative provisions concerning criminal law and procedure and their adaptation to meet United Nations Standards and Norms in Crime Prevention and Criminal Justice. The second output intends to publicise the new legal provisions by providing information documents for the key stakeholders in the crime prevention and criminal justice field.

**Objective 5** is aimed at an enhancement of the operational capacity of the Afghan judiciary at central and provincial level. The first component involves the refurbishment of the offices of courts and the provision of essential equipment, whilst the second component consists of the training of senior judges and prosecutors on basic management needs, as well as on international standards and rules of integrity.

**Objective 6** relates to access to justice through the development of a legal aid programme and services, including the establishment of a pilot office in Kabul, staffed by qualified legal professionals. The attainment of this objective passes through the establishment of a legal aid database at the MoJ (later extended also to the IABA) and provision of training to lawyers on relevant criminal legislation, international standards, and professionalism and ethics.

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3 Originally it was the MoJ. The SC was chosen as end beneficiary when it turned out that the needs of the MoJ were addressed by other actors.

Each of the immediate objectives is accompanied by a list of planned outputs, activities and inputs. For each of them, the logical framework defines the assumptions and risks, the performance indicators, as well as the divisions of tasks and responsibilities among the various actors involved in the implementation. These are, in addition to UNODC, the MoJ, SC, and the AGO as institutional counterparts, UNDP, UNOPS (until 2007), and ISISC (from 2007) as associated agencies.

Each set of activities is broken down in components, which follow a logical and clear division of responsibilities and activities. Overall, we are of the opinion that the project strategy and design are coherent and logical. However, the changes introduced by the various revisions are not, in our view, immediately recognizable. Indeed, the various revised project documents only report the new or modified project objectives, outputs and activities to be integrated in the “approved project document”. Tracking the changes, therefore, becomes burdensome, whereas a simple operation such as the inclusion of comparative tables of the “new” and “original” list of objectives, outputs, and activities would have not only facilitated the work of the evaluators but also of the project management, particularly in case of a handover or replacement. Similar considerations apply to the work plan and to the logframe.

As the previous evaluation highlighted, the precision with which outputs, inputs and activities are defined stand in stark contrast with the reality of Afghanistan at the time when the project was drafted. The scenario was and still is that of a Country and of institutions (many of which either in fieri or not at all existent) marked by rapid changes of personnel, a great number of international organisations and nations active in the reform of the justice sector, and an incomplete understanding and knowledge of the Afghan legal system itself. The project document rightly acknowledges these risks, highlighting especially that the success of the projects depends on the support of the MoJ and, in general on the capacity of beneficiaries to absorb assistance, and its ability to develop or apply supportive policies.

Overall, the project strategy is clearly formulated, coherent and logically structured. It identifies the end results as well as the outputs and activities functional to their attainment. The strategy also identifies the inputs required from the relevant Afghan stakeholders and counterparts. The project document includes a detailed budget, a precise statement of the required specific inputs by UNODC for the implementation of the project activities, as well as risk assessment pertaining to the project.

#### **1.4 Executing Modality**

Project R42 has been executed by UNODC in partnership, as associated agencies in the projects, with UNDP, UNOPS (until 2007 only), and, since 2007, ISISC (tasked with the project's training element in the provinces). With regard to the infrastructure component of this project, namely the construction of JSCs in several provincial capitals, the Afghanistan UNOPS Office provided financial and administrative services in accordance with an UNOPS-UNODC agreement, which also applies to the infrastructure components of other two projects within the CJRP. UNDP provided administrative and financial support throughout the project life.

As far as staffing of the programme is concerned, the Crime Programme Coordinator (L5) (a position which remained vacant for 2007) is tasked with the overall responsibility of the CJRP. Until December 2008 the project has been implemented by the International Project Expert. From 2009 onwards the daily implementation of the project was ensured by the

National Project Coordinator..<sup>4</sup> The staff can also count on 1 national project assistant and 1 database officer. Further support is provided by the interpretation unit.

### **1.5 Purpose and Objective of the Evaluation**

The “Criminal Law and Criminal Justice Capacity Building” project is part of a package of initially three projects implementing UNODC’s CJP in Afghanistan<sup>5</sup>. The latter represented the first-of-its-kind technical assistance offered to the Government of Afghanistan after the fall of the Talibans, in order to assist in the re-establishment of the judicial and penitentiary systems, which had been identified as a main priority areas of intervention for the UNODC. R42 is the last of the above mentioned three projects to be concluded and it is due to end in December 2009. The final evaluation of the project anticipates its formal completion in December 2009. Considering that at this time the mid-terms evaluations of projects T03 and R86 had been scheduled, it was sensible to join the three exercises, especially having in mind that the UNODC staff, interlocutors, counterparts, stakeholders, co-implementing international agencies and institutions, and beneficiaries of the three projects coincide. In addition, all evaluated projects share similar objectives and outcomes regarding their envisaged support to the same three government institutions. In addition to being cost and time effective, the evaluation of R42 at this particular time offered the evaluation team the possibility to gain a broader understanding of the pertinence of the projects vis-à-vis the needs of the beneficiaries, the rationale of the interventions, the logic of the envisaged activities, and the coherence of the outputs.

Having in mind the stated objectives of the project, the evaluators focused their work on the following 4 areas where results were expected:

1. Revision and development of key legislative documents to support the establishment of criminal justice systems in accordance with international conventions and standards;
2. Rehabilitation or construction of JSCs and their infrastructure, including provision of equipment and furniture;
3. Development of training material and curriculum for members of the justice sector, including organizing courses and training sessions, to form a new professional category of skilled and qualified judicial personnel.
4. Legal aid.

This evaluation addresses the general objectives of an independent UNODC evaluation, namely to examine the mandate, strategies, objectives, relevance, effectiveness, results, impact, sustainability and added value of project R42. In particular, the exercise examines the progress achieved against the above-stated objectives, but also in relation to the wider impact of the project on the justice reform process in the country, taking into account the conditions under which implementation has occurred.

### **1.6 Scope of the Evaluation**

This evaluation of project R42 focuses on the project’s concept and design, the implementation, results, outputs and outcomes. In respect of project concept and design, this evaluation analyses whether and how the project has contributed to a priority area for UNODC. The evaluation reviews the problems identified by the project and the corresponding strategies chosen by the UNODC to address these. In particular, the evaluation assesses the relevance and the attainability of the objectives and planned

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<sup>4</sup> R42’s National Project Coordinator left the COAFG just before our arrival for the evaluation mission and, therefore, it was not possible to interview him.

<sup>5</sup> In addition to project R42 these were projects R41 on Prison reform and R40 on Juvenile Justice Reform.

outputs, activities and inputs, as compared to other cost-effective alternatives. At a more fundamental level, the evaluation analyses the clarity, logic and coherence of the project. In respect of objectives, outputs, impact and sustainability, the evaluation seeks to determine whether results have been achieved or, alternatively, whether there has been progress towards their achievement. In this regard, the likely sustainability of results and benefits, as well as this project's contribution to human and institutional capacity building, will be addressed. Furthermore, the evaluation will assess how effectively and efficiently programme planning and implementation have been carried out. In this regard, the evaluation assesses the extent to which the organisational structure, managerial support and coordination mechanism used by UNODC was appropriate for the support and implementation of the project. Finally, the evaluation will identify the lessons learned from the concept, design, and implementation of the project.

### **1.7 Evaluation Methodology**

The evaluation methodology involved a review of existing documents, such as project documents and progress reports. The rule of law thematic evaluation conducted by the UNODC's IEU in 2007 (issued in 2008), though not directly related to the project, was also examined and used as benchmark to assess the extent to which the organisation has been able to internalise lessons learned and recommendations. Primary data was collected through interviews with stakeholders and from observations made during the mission. Qualitative and quantitative indicators were used to assess the project. The main qualitative indicators were obtained during the interviews conducted with the national and international UNODC staff, national and international stakeholders (including donors), and on site observation.

### **1.8 Limitations to the evaluation**

Fieldwork in Afghanistan was conducted over a period of 15 days in late July and early August 2009. The period was used to cover all activities related to the evaluations the evaluators had been tasked with. It was preceded by preparatory activity, namely reading of documents, conducted independently by each evaluator.

During the fieldwork, the independent evaluators were accompanied and assisted by staff of the UNODC's COAFG, which provided logistical support and expert advice throughout the evaluation. During the mission, security was always an important consideration. Movement of United Nations personnel in Afghanistan was conducted only in official United Nations vehicles driven by trained drivers. The security situation had an impact on the evaluation, as tension had increased as a result of the upcoming presidential elections, preventing free movement. Consequently, field missions and site visits to the JSCs in Mazar-e-Sharif, Herat and Jalalabad, originally envisaged in the ToR, were cancelled. All visits, therefore, were confined to Kabul.

One of the main difficulties encountered by the evaluators in performing their functions concerned the collection of indicators. The available quantitative indicators were often fragmentary and existed primarily in relation to indicators of inputs, process and outputs (e.g. input costs, number of persons trained, quantity of furniture and extent of construction). For the area of legislation, which is particularly difficult to assess, the evaluators took into account, in addition to the qualitative indicators mentioned in the previous paragraph, the quantitative indicator represented by the number of suggested revisions eventually adopted by the Government. Though no primary data is available, the evaluators tried to gain this knowledge during the interviews conducted with the various stakeholders.

## **2. OUTCOMES, IMPACTS AND SUSTAINABILITY**

### **2.1 Attainment of objectives, production of outputs, and implementation of activities**

Given the length in time and the complexity of project R42, it seems reasonable to assess the attainment of individual objectives one by one before proceeding to the overall performance assessment. In doing so the evaluators adopted the following approach: instead of listing all the activities and outputs that have taken place and have been produced under each objective since the inception of the project, the focus has been placed on the attainment of the objective as a whole, as well as the quality of the activities and outputs, their timing, and impact. The objectives, outputs and activities considered and listed below for easy reference are those resulting from the consolidated version of the project, as previously illustrated.

#### **Immediate objective 1 – Operational capacity of the Ministry of Justice with focus on Legislation and Publication Departments enhanced.**

**Output 1.1. - A restructured and reorganized Legislation department has senior specialized trained staff, equipment, and books for the professional members of the legislative department to complete the research, essay, and articles of the institute.**

**Output 1.2 - Offices are refurbished and well equipped**

**Output 1.3. - A restructured and reorganized publication department has senior specialized trained staff, equipment, and books for the library and publication section. A database for library and web-site of the Ministry of Justice is developed**

Partly sharing the position expressed by their colleagues on the occasion of the 2007 evaluation, the current evaluators believe that the immediate objectives 1 and 4 were the most appropriate for the enhancement of the operational capacity of the MoJ. Indeed, the ability of the MoJ's Taqin to draft criminal legislation which is both responsive to the needs and conditions of Afghanistan and in compliance with international standards must be regarded as the first, necessary step in the process of establishing the rule of law in the Country. In the light of the already mentioned almost non-existent judicial and legal culture and of the low capacity of the MoJ, it was appropriate to foresee (and conduct) an initial assessment of the organization of the Legislative Department and to develop a strategy for its reorganization. The use of working groups for the achievement of the result ought to be regarded a sensible choice: indeed, the reorganization of an institution is a delicate process which can very quickly cause resentment and the impression of undue interference and pressure.

During the field mission the evaluators had the opportunity to appreciate the high level of trust and confidence that mark the relationship between the Taqin and UNODC, which has been built since the establishment of the COAFG and which has been nurtured also under the present project. The assessment of UNODC's contribution to the legislative reform efforts of the Government of Afghanistan focussed upon the technical assistance provided by UNODC in the last two years under immediate objective 4, rather than on the materials support received before, which had already been evaluated in 2007. In order to avoid repetition, the assessment of the work carried out and of the results achieved by UNODC until 2007 under this immediate objective will not be conducted. For easy reference, however, it is possible to briefly mention some of the main results, such as the provision of books to the Legislative Department, the supply of furniture and basic equipment to the MoJ also at provincial level, the refurbishment of the HQ of the MoJ, AGO and SC, and the recruitment of a national consultant to assist the MoJ in the renovation task, the creation of a

(computerized) library and provision of books, the training (including international seminars in Egypt and Nepal, the latter in cooperation with UNICEF) of more than 150 central and provincial staff of the MoJ, AGO and SC in basic management needs, English language, computer literacy, international standards and rule of integrity, provision of a bi-lingual database for the Data Analysis and Analysis and Evaluations Sections. As an indirect result of the project, it is worth mentioning the development of the Publication Department's website in Dari and English. Though thankful for the invaluable support that UNODC had provided so far, the Taqin highlighted how the Department could benefit from additional, in-depth capacity building assistance targeting training on legislative technique, and the comparative analysis of legislation conducted on site through, for instance, study visits.

One of the last achievements of project R42 was the initiation, in April 2008, of a concerted programme to establish judicial libraries in selected provinces. Following comprehensive research conducted within existing legal libraries in Kabul, a list of over 900 books was finalized. UNODC selected one of the publication companies and purchased approximately 6,000 legal manuals and texts to be distributed among 5 JSCs' libraries. The distribution was initially envisaged for 2007, and then postponed to 2008 and eventually took place between April (JSCs in Mazar, Kunduz, Jalalabad and Laghman) and July (Gardez) 2009. The main reason for the delay was the inability of the selected publication company to honour the contract, which was eventually terminated. The original plan to hire a national library specialist, to help nominated employees of the SC librarians by training them in relevant skills and to organize their library also suffered from the above mentioned delays and in the end was not pursued. In addition to the creation of legal libraries, UNODC also reprinted and distributed to each Appeal Court in 34 provinces 4 sets of laws, including the Criminal Law, the Constitution, the Police Law, Detection and Discovery, Law on Public and International Security, Anti Narcotic Law, Human Traffic Law, and the Criminal Procedure Code.

UNODC completed an assessment report at the Supreme Court for the establishment of a sustainable mechanism of data collection and inventory. More specifically, the purpose of the database is to support the activities of the Department of Audit and Research at the Supreme Court of the Islamic Republic of Afghanistan, by establishing a sustainable mechanism of data collection and inventory, establishing a long-term mechanism that would, at later stage, play a fundamental role in conducting a comprehensive assessment of crime, as well as by providing necessary expertise, hence contributing to the development of a knowledge-based approach.

Of the outputs initially envisage, the third underwent an important modification: the awareness raising component was dropped in the course of the second revision of the project (2006) when it became clear that the Taqin had no responsibility for disseminating information on the rights and responsibilities of the Afghan population in relation to the legislation reform process. Unfortunately, as it will be discussed later, no explanation for the change in the planned output was included in the project revision document.

**Immediate objective 2: JSCs which accommodate provincial offices of justice, police, prosecutors, judges and lawyers, shall be established and fully functional in selected provincial capitals**

**Expected output 2.1 - Construction of Justice Support Centres (JSCs) in selected provinces, including the provision of necessary equipment and furniture**

**Expected output 2.2 - Senior specialized judges, prosecutors, lawyers, police and administrative staff have been trained on the Law on Prisons and Detention Centres, Juvenile Code, Rule of Law and Human Rights basic principles, Rule of Ethics and Professionalism, and basic management skills**

As already observed during the 2007 evaluation, the output foreseen under immediate objective 2 underwent several changes. First of all, the original Multipurpose Centres of

Justice became the present JSCs offering a variety of facilities for all branches of the administration of justice. Secondly, the initial number of 5 was raised to 8. UNODC built two different kinds of JSCs: the smaller version (constructed under the present project in Laghman and Baghlan provinces) is spread over one floor only, whereas the bigger version (built, for instance in Mazar, Kunduz, Gardez and Jalalabad) stretches over two floors. Generally the first floor hosts 2 court rooms, 1 meeting/training room, 2 small chambers for private consultations of judges and prosecutors, 1 judicial library, 1 kitchen and toilets for the public. When present, the second floor is divided in 8 rooms where members of the justice sector can be hosted on a temporary basis. These centres are set up as multiple purpose facilities so that, among other aims, they provide a safe base for all justice professionals, and accommodation for visiting Judges, Prosecutors, and Lawyers/Legal Aid providers. In addition, the JSCs provide extra court space, workshop and training rooms, and a conference centre.

JSCs were constructed by companies selected through bids, with planning and design carried out in-house by UNODC. All JSCs were built on land owned by the SC which, according to a MoA with UNODC, would also retain supervision over them.

The construction of the JSCs is by far the most visible result achieved under R42. The output has been welcomed and extensively praised by stakeholders and users. The few delays registered in the implementation of this immediate objective, mainly due to external factors such as adverse weather conditions or security concerns, cannot be attributed to a failure on the part of UNODC.

The revised project document foresaw the recruitment by UNODC of an international consultant to assist with the development of a management structure for the new Centres and to adapt the mentoring system to the Centre's situation. This never happened and no formal explanation was ever given to us for this omission; nor was any explanation included in any of the reports and documents provided to us.

In parallel with the construction efforts, UNODC also invested in training legal and justice professionals. This activity complements and partly overlaps, in the view of the evaluators, that foreseen under immediate objective 6, at least in the yearly reports produced by the UNODC. In this respect, it is also opportune to note how the description of the activity as embodied in the costed work plan for 2008 and 2009 has changed (and so has the budget, as will be explained later). At a later stage, the activity was also modified so as to include the hiring of an international consultant. We retain the impression that the introduction of this international expert served as an attempt to redress the previously mentioned failure to recruit an international expert for the management/mentoring of the JSCs. This feeling is corroborated by the fact that mention of international consultants such as those recruited under this immediate objective – output 2.2, only appears for the first time in the last revision of the work and monitoring plan, without specific mention or explanation in the narrative part of the project. Apparently, the material to be used for the achievement of the second output foreseen under this immediate objective will be partly the same used for the achievement of the achievement of output 6.2 illustrated below.

The second international consultant recruited under output 2.2 of the present immediate objective was tasked by the UNODC to assess the situation of juvenile justice in the Country and provide tailor-made training material for judges, prosecutors, police, and social service provider. As in the case of the previous international consultant, whose pace of work has not been consistent with the timeframe envisaged for it, the second consultant too has been behind schedule in providing her inputs and outputs to the project. Apparently, the reasons for this has been the lengthy process needed to gather, through an in-depth survey, detailing information on the situation of the juvenile justice in Afghanistan, including the submitting of lengthy and details questionnaires to the juveniles in conflict with the law. The evaluators, as

will also be illustrated below, are far from convinced that the submission of these questionnaires was an appropriate step for the development of the material on juvenile justice. Not only did this approach involve high costs, but it also intervened, without the due caution, in the very sensitive area of entering into direct contact with juveniles in conflict with the law. Establishing a relationship with children who have undergone traumatic events such as those which put them in conflict with the law requires, in addition to special skills and knowledge, a length in time for the relationship to develop and for a trust to be established that was not (understandably) available under the project. Furthermore, we believe that the information which was already available on the issue of juvenile justice in the Country (which is being monitored by authoritative institutions such as UNICEF), though considered limited by both the UNODC and the international expert, was more than sufficient as background research for the development of a training manual serving the purpose of training legal and judicial professional entering in contacts with children in conflict with the law.

**Immediate objective 3: an information (data base) system for the Ministry of Justice and for selected pilot provincial Centres (intranet) has been developed, providing the Ministry of Justice with access to selected international databases**

**Output 3.1 - The information system has been installed and necessary equipment provided.**

**Output 3.2 – Training has been provided to familiarise end-users in the MoJ and in the selected provincial JSCs with the information and web-based communication system (output dropped)**

Output 3.1. was completed by mid-July 2007, for unspecified reasons behind the schedule originally envisaged. The implementing partner selected by UNODC was the IO Global Company. Information technology systems were set up in each JSC and since then each Centre has been enjoying fast and sustainable communication between decentralized national institutions and their respective headquarters.

As far as the second envisaged output is concerned, training on database design was provided to selected staff of the Publication Department of the MoJ. According to the 2005 Annual Project Report, the training enabled the Department to computerize the library, which is considered the first step for the development of the MoJ's web-site, from where all national laws and other legal documents related to Afghanistan can be accessed. In the same period, training courses on Office Management and Computer training were conducted in 3 provinces for the administrative staff of the MoJ, dealing with Arbitrary, Prison, Legal, and Juvenile Rehabilitation Centres. As a result of the training, computers were introduced in provincial offices, starting the conversion of the judicial sector to computerization. As already highlighted in the 2007 mid-evaluation report, this output had already disappeared after the first revision of the project, though many training activities related to the subject have been implemented under other immediate objectives. No clear explanation of the reasons behind the change, however, can be found in the documents submitted to the experts for review.

**Immediate objective 4 - National criminal law and procedure provisions revised**

**Output 4.1 - Legislative provisions concerning criminal law and procedure (the Penal Code, the Criminal Procedure Code and other relevant laws and regulations) have been reviewed and adapted to United Nations Standards and Norms in Crime Prevention and Criminal Justice**

If the construction of JSCs can be regarded as the most visible result of the project, because of their real nature, the establishment of the legislation review system under immediate objective 4 of R42 is, by far, the most pervasive contribution that, also in terms of building a judicial culture, the project has produced. Wherever we went and whoever we met, we heard words of praise for the efficiently functioning mechanism set up by UNODC, gathering

national and international legal experts who review proposed legislation and recommend amendments in line with the international standards to the Taqin of the MoJ. This praise was only diminished by minor criticism, shared by us, which will be elaborated further below.

The involvement of UNODC in the coordination mechanisms set up in the area of rule of law dates back to early 2006, when it joined the Justice Sector Consultative Group created in 2003. The latter meant to be a forum in which the government, donors, international organizations and implementing partners could discuss the strategies and policies proposed by the government within a national programme or sector. The main goal of the Group was that, through on-going consultations, key decisions on programme design, prioritization and resource allocation were made in a transparent manner and guided by the government's vision.

Within the above mentioned Consultative Group, UNODC has actively participated in 3 working groups, namely the Law Reform (Technical) Working Group (LRWG), chaired by Director Halim of the Legislative Department of the MoJ, the Anti Corruption Sub Working Group and the Cross Cutting Thematic Groups. Within the LRWG, and under the present immediate objective of project R42, UNODC has taken the lead (acting as co-chair with JSSP, organizer, host, moderator, main reviser/drafter) of the Criminal Law Committee of the LRWG (CLRWG). Together with its co-chair, the CLRWG performed outstandingly in terms of both quality and quantity of work. By meeting 1-2 times a week (averaging 1.5 days/week), the CLRWG was able to revise draft laws submitted by the Taqin, and to propose changes based upon what would be presented as a national-international expert consensus<sup>6</sup>. With the CLRWG UNODC was able to create a system whereby all members of the group (experts representing the permanent justice and human rights institutions such as the SC, the AGO, MoI, AIHRC, and international justice implementers and donors) would meet, on a regular basis, once or twice a week (depending on the workload – twice a week had become the rule when the group was reviewing the Code of Criminal Procedure) and review, in a concerted atmosphere (facilitated by the use of technical strategies such as working in parallel on two computers whose screens were shown on the wall and where the English and Dari versions of a given provision were amended in real time) the various pieces of legislation under examination. Among the laws reviewed, article by article, by the CLRWG since its establishment are the laws and regulations on Extradition and International Legal Assistance (accompanied by an explanatory note to the draft law), Terrorism, Juvenile Detention Centres, the draft Criminal Procedure Code, the Law on High Office of Oversight for the Implementation of the Anti-Administrative Corruption Strategy, and the Counter Narcotics Law, just to name a few. However, as mentioned above, we have one criticism to be made of the work of the CLRWG, and this pertains to its effectiveness.

According to information gathered during meetings with participants to the WG, the evaluators learned that the suggestions put forward by the Group are accepted by the Taqin only to a minimal extent.<sup>7</sup> This was attributed mainly to the fact that the proposed formulations issued by the Group reflect de facto the position of its international component, rather than being mediation between its two different components (national and international). In particular, some interlocutors lamented that the proposals coming from the national experts were frequently challenged and often rejected on the grounds of their distance from the perceived good examples coming from western countries and/or old democracies. This last point will be not challenged by the evaluators, who did not spend sufficient time in Afghanistan to draw their own conclusion. The issue, however, needs to be examined from the perspective of the effectiveness of the CLRWG. In this respect, the

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<sup>6</sup> Although formally presented as “consensus”, the evaluators have reservations on its substance, as outlined in the following paragraph.

<sup>7</sup> Two reliable interlocutors set at 20% the level of acceptance of the proposals put forward by the CLRWG.

evaluators would like to express the following. Taking into account that Afghanistan is the “Islamic Republic of Afghanistan”, this definition embodying deep cultural, political, social, and religious implications, (legislative) changes must not be forced upon Afghanistan in the name of the good practices which have proved effective in western countries (but which might be unacceptably premature in Afghanistan). Compliance with the minimum international standards set up by the conventions or treaties Afghanistan is a party to is one thing; it is quite another thing to pursue changes that, because of the background of the Country, are never going to work. We are of the view that the low impact, in real terms, that the CLRWG has been able to achieve in legislative reform seems to corroborate some of the voices heard. According to the latter, the international component of the CLRWG, whose genuine good intentions are undisputed, is intransigent on most issues in the name of what is the best solution in absolute terms, thus dismissing without a thorough examination the less “high-impact” proposals put forward by the national experts. Having in mind that no international, no matter how long she/he has been in the Country, bears the profound knowledge (and sentiment) of the socio-political-religious context in which the legislation will exist, the evaluators conclude that the “small step” approach is probably the best one to pursue. In the light of the information gathered, the evaluators underline the need that the CLRWG focuses on the empowerment of its national component, favouring the process of ownership of the legislation as much as possible. The ultimate goal is that the majority of the proposals put forward by the CLRWR are eventually accepted, without betraying the international standards; in this way being able to bring about changes.

Within the present immediate objective, UNODC also provided the MoJ's Legislative Unit with copies of the English and Dari versions of the Model Law on International Judicial Cooperation in connection with the illicit traffic in narcotic drugs, psychotropic substances and precursors. This model law was drafted by UNODC HQ in cooperation with a group of experts to facilitate the work of developing countries wishing to supplement and update their own legislation on international judicial cooperation in combating the illicit activities and crimes. Being a legal sample, this model law is a versatile tool which can be used as reference whenever legislation on criminal matters is being considered. UNODC's input under R42 also took the form of study visits and participation in international seminars. This has already taken place in 2006 (in the form of the Regional Seminar on International legal cooperation in Turkmenistan for members of the SC and the AGO) and was scheduled again in 2009.

It would be impossible to list all the activities that UNODC performed under this immediate objective since 2006. All of them, however, shared a common denominator: creating synergies between the international community working on legal/criminal issues and the Government of Afghanistan. The ultimate goal was to create places where the knowledge and standards applicable to a given topic would meet and work together in order to identify the best way to tackle or manage a certain issue. UNODC achieved all of this by participating, in the various meetings organized in the area of Criminal Justice. Some examples of such participation are: the Consultative Group for Reforming the Afghan Justice Sector, where legislative work plans and matrix were completed in order to identify priorities and strategic activities to be conducted for achieving the Afghanistan Compact High Level Benchmarks; the various seminars organized by the Government; and the permanent MoI-AGO Commission, created to develop and endorse a common understanding of procedural and legislative provisions that would foster technical and professional cooperation between the two institutions.

Amongst the outputs produced by UNODC, the following are worthy of mention: the Legislative Agenda for the year 2007 and a discussion paper on the legislative process in Afghanistan to be circulated among the technical experts of the “Legislative process” panel at the Rome Conference in July 2007; the comparative analysis between the provisions of the United Nations Convention against Corruption, the Afghan Constitution and the current

legislative framework, which was distributed to the Taqin and the Legislative Commissions of the Lower and Upper Houses of the National Assembly.

**Immediate objective 5 - Operational capacity of the judiciary enhanced in Kabul and in selected provinces.**

**Output 5.1 - Judiciary Offices in selected provinces are refurbished, equipped, and their administrative personnel have been trained.**

**Output 5.2 – A restructured and reorganized judiciary has senior judges and prosecutors in Kabul trained on basic management needs as well as on international standards and rules of integrity (train the trainers concept) (output dropped)**

Of the two outputs initially foreseen under immediate objective 5, the second was dropped in the course of the 2006 project revision, when it was decided that the project should impact more at provincial level rather than at central level. This meant that the project's training component was maintained and coupled with the interventions foreseen from the beginning, under immediate objective 2, in favour of the judicial offices in the selected provinces.

In line with the timeframe envisaged, provision of material assistance under this objective took place in the first years of implementation of the project. By providing essential equipment, furniture, and training to the administrative staff of the target judicial institutions (SC, MoJ, AGO), the working environment and conditions have been improved and institutional operational capacity reinforced. The number of contributions made by UNODC is impressive. Over 130 judiciary administrative staff received training (lasting an average of 3 months) on various topics, such as English language, computer literacy, office management, databases and managerial skills. Almost 40 Departments of the MoJ had their furniture repaired by inmates in Pol-e-Charki prison. The Training Centre of the SC was equipped and furnished and hosted 3 refreshers' courses for about 120 judges. The library of the MoJ was renovated and technical staff of the publication department trained. The SC and AGO received computers, printers, UPS, cameras, photocopy machines, fax machines, office desks and chairs, related stationery, and furniture. Office equipment (including computers, desks, and chairs) were also provided to the participants in the office management and computer courses held in the provinces. The material reached the Prosecutor's Office, the Juvenile Rehabilitation Centre, the Arbitration Department, the Appeal Court, and prisons.

In addition to material support, UNODC organized study tours for the staff of the MoJ in Italy and the UAE (2004). UNODC also organized an international seminar in Egypt, offering a comparative analysis of the criminal and penitentiary justice systems (2005), as well as a study tour in Egypt organized by ISISC.

The training component of the immediate objective targeting legal professionals was implemented since 2007. ISISC was the executing agency of this limb of project R42, charged with providing justice professionals with basic training on the criminal legislation. The task was performed by ISISC as part of the programme Provincial Justice Initiative (PJI). The PJI in Afghanistan started in December 2004 and on by March 2009 reached 17 provinces with basic and advanced training on the criminal legislation. The training funded within project R42 was offered both at provincial (Logar, Laghman, and Kapisa) and central (Kabul) level. Six training sessions, targeting judges, prosecutors, police officers and penitentiary were organized, with more than 150 participants trained. All training were conducted by ISISC staff, including two international coordinators and 15 national trainers who were responsible for lecturing, moderating and interpreting when necessary. Courses focused on the Interim Criminal Procedure Code, the Constitution and various relevant Laws such as the Counter Narcotics Law, the Police Law and the Juvenile Code. All participants were provided with relevant material prepared by ISISC.

As a result of project R42, a training centre of the Supreme Court was created. The Centre, that has capacity for 40 trainees, was fully equipped and furnished and has become immediately operational.

In addition to a manual for justice professionals, UNODC developed two educational and information tools on the theme of trafficking in human beings. According to the 2008 Annual Project Report such outputs should fall under immediate objective 5 of the project. However, in the light of their inclusion under immediate objective 6 of the costed work plan for 2009, they will be examined below.

**Immediate objective 6 - A legal aid programme and services including a pilot office comprised of legal professionals in Kabul shall be developed**

**Expected Output 6.1 - Establishment of a data-base at the MoJ**

**Expected Output 6.2 - Lawyers have been trained on applicable laws, including the Penal Code, Criminal Procedure Code, Juvenile Code, Rule of Law and Human Rights basic principles, Rule of Ethics and Professionalism, and basic management skills**

The goal to develop legal aid programmes and services in Afghanistan remains a work in progress. The enacting of the Advocates' Law on 17 December 2007, pursuant to Article 31 of the Constitution of Afghanistan 2004, was in order to comply with the ANDS Compact Rule of Law Benchmark for 2007. However, much more preparation and discussion should have preceded the establishment of a truly operational independent Bar Association. In this area, activities envisaged by UNODC under this immediate objective were halted by the prevailing circumstances, as in the absence of a legal framework disciplining the legal profession, it was both impossible and inopportune to proceed.

Support for the establishment of the IABA is included as a goal in the MoJ's five year strategy. The first obligation resting on the MoJ in this respect was the adoption of the necessary steps to establish the IABA within three months from the law's entry into force. Given the prevailing circumstances and the very tight timeframe, the establishment of the IABA was a true challenge, which could not have been achieved without the fundamental contribution of UNODC. The latter, in cooperation with the International Bar Association (IBA), provided fundamental support to the MoJ in meeting its primary obligation to organize and host the IABA's first General Assembly meeting, which took place in July 2008. UNODC, with the facilitation of IBA, bore all the costs of invitation, transportation and accommodation of all the 480 invited advocates. These were all the lawyers registered with the MoJ. Importantly, among their number were around 80 women. They were hosted for four days in Kabul to vote on the IABA's By-Laws, which also included the Code of Conduct, and to elect its leader. Upon approval of the By-laws by the first General Assembly, the IABA was formally established as a legal entity. Support to the IABA by UNODC in the form of material provision of furniture and other office equipment, as initially envisaged in the costed WP 2007 was not pursued.

The awareness raising activities foreseen by the project were pursued through two kinds of public service announcements, broadcast on the occasion of the General Assembly. They were aimed at providing information to: a) the general public on the Law; b) the advocates about the General Assembly meeting. The announcements were produced by Internews and broadcast on Radio Salam Watandar, the largest national radio station, in Dari and Pashto. Roundtable discussions and interviews were also held on all the major radio stations including RTA, Salam Watandar, Radio Killid and Radio Azadi. Television announcements were broadcast on Tolo TV the week before the meeting. Announcements were also distributed in the print media. For the General Assembly meeting, banners, conference materials, photographer and cameraman were provided.

The support to the MoJ in the area of legal aid was fundamentally assisted by the provision by UNODC of a series of databases, to be used by both the MoJ and the IABA to collect relevant information about legal aid providers and legal aid case management. In December 2007, before the development of the database, a database Officer was selected and during the early months of 2008 he conducted a comprehensive analysis of the Advocates' registration documents at the MoJ. He prepared a preliminary list of fields and tables for the database, and he identified key-valued fields and end user demands. In addition, he prepared a detailed guide, to help users to operate the database in a friendly manner. In May, 2008, a presentation on the development and structural aspects of the database was provided to the Legal Aid and Access to Justice working group at the Ministry of Justice.

Within this objective, UNODC was also able to develop a database for the Country Task Force Monitoring and Reporting Mechanism (CTFMRM) on Children and Armed Conflict, lead by UNICEF. The database aggregates information on incidents and criminal proceedings involving minors from 2004 onwards. Although the process of handing over the final product, accompanied by relevant training, has experienced some delays vis-à-vis the originally stipulated timeframe, having in mind the huge efforts involved in the elaboration of such a complex tool, the delays can be considered acceptable. The theme of juvenile justice was also tackled by a joint UNODC/UNICEF initiative, during an international event held in Kathmandu in November 2008. The workshop gathered key members of Afghanistan's judicial system (AGO, MoJ, Mol, SC), which sat around the table with fellows from other South Asian countries to discuss the value and use of the UNODC/UNICEF juvenile justice indicators

The development and delivery of all the multilingual databases produced under the project recorded some delays. However, this delay is very much compensated for by the high quality of products which are virtually everlasting and can be easily upgraded and shared in the future. The delays were mainly attributed to two factors: the length of the recruitment process of the database Officer, and the workload that the newly-recruited database Officer had to perform, as well as the need to carry out continuous consultations in order for the final product to be tailor-made and to respond to all the needs of the beneficiaries and final users. Together with the output, UNODC provided relevant training within the institutions for the database to be run autonomously. With regard to the IABA and the MoJ, training was delivered to a total of 4 staff members (2 for each institution). At the time of the evaluation mission, and on the basis of the information gathered by the experts, only the staff of the IABA was able to run the database autonomously. The fact that this has not happened within the MoJ cannot, in our view, be attributed to UNODC.<sup>8</sup> Instead, it seems to us to be a consequence of the lack of adequate human resources and technological culture highlighted earlier in this report.

During 2009 UNODC finalized the recruitment process for an international consultant to develop training material for lawyers and legal aid providers. The idea was to create a versatile tool to be used to train trainers in 4 different areas (juvenile law, anti-corruption, human trafficking, and counter-terrorism). The last topic was dropped at some point (apparently due to the obstruction of the SC) and therefore the outputs will only relate to the first 3 problem-areas mentioned above. At the time of the evaluation, the project had been experiencing some delays, probably due to the limited timeframe allocated for what resulted in being a very demanding task. Prior to the development of the manuals, a systematic review of the current situation of Afghan defence lawyers was conducted. This work consisted of various components, including collection and review of a previous assessment of the criminal justice sector, meetings with other international organizations concerned with legal training and the provision of legal aid as well as national institutions, and the

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8 The legal officer who had benefited, together with the administrative officer, of the 6-week training was no longer working for the MoJ.

preparation of a written assessment of legal aid training needs. A “Manual Template”, representing the core structure of the training manual series, was then developed. The skeletons of all the 3 manuals was available to the experts for review. Undoubtedly, they represent high-value outputs of the project. The delays that this activity registered (which might place the envisaged training based on the manual outside the project's life) is regarded by us as another indicator of the difficulties that the national and international staff of the COAFG experience in managing the project, which in our view is caused primarily by a lack of human resources.

As far as training is concerned, it is worth mentioning that UNODC organized in Kandahar, in November 2008, a roundtable for legal practitioners (lawyers, police, and prosecutors) on the topic of “Legal Professionalism”. The event represented an occasion to explore what makes a defence lawyer or prosecutor professional and linked adherence to the written law and official rules to the concept of professionalism. The laws creating legal and ethical duties for defence lawyers and prosecutors, including the Interim Criminal Code for Courts (ICCC), were distributed and reviewed. The workshop was the first introduction of Defence lawyers and Prosecutors in Kandahar to the recently completed Afghan Independent Bar Association (AIBA) Code of Conduct. Afghan television videotaped and broadcast the distribution of completion certificates to the participants by the Deputy Governor. Relevant material, prepared by the UNODC's international consultant mentioned above was distributed. Although IABA's leadership from Kabul was not involved in the event, all the lawyers invited to participate were registered with the Association.<sup>9</sup>

The last two outputs produced under this immediate objective (at least according to the costed work plan for 2009, as according to the 2008 yearly report these outputs fall under immediate objective 5) were a high-value manual on trafficking in human beings for members of the Afghan National Assembly and a docu-film (composed of three different short movies) on human trafficking in Afghanistan. The handbook, which was in the process of being translated into local languages at the time of the evaluation, provides an overview of specific actions parliamentarians in Afghanistan can take to combat trafficking in persons and ensure its prevention, the prosecution of perpetrators, and the protection of the rights of the victims. The docu-film, which we viewed during the evaluation, is a high-quality, high-impact production which examines with the appropriately needed crudity the issues of internal and transnational human trafficking, using stories where internal and transnational trafficking, trafficking for sexual and labour exploitation and forced marriages are elaborated. This film is intended to contribute significantly to raising awareness among members of the Afghan National Assembly (Wolesi Jirga and Meshrano Jirga), and it aims at strengthening UNODC's policy and advocacy for prompt ratification by Afghanistan of the Trafficking Protocol. Its production and dissemination encountered some resistance within UNODC COAFG itself: the objections being founded upon, in particular, the political-correctness of the film. We are of the view that, although the film is undoubtedly tough, it is of exceptional impact. We are also convinced that, as similar examples in the past and in other parts of the world has shown (see, for instance, the case of the film “Lilja forever”, dealing with the trafficking of women for sexual purposes from post-soviet countries to Europe; and which was distributed without charge all over the Balkans), its impact could be amplified if the tool could be used throughout the Region to reinforce the actions of the International Community in general, and UNODC in particular, relating to human trafficking.

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9 The evaluators believe that involvement of the IABA's leadership in the organization of the event would have been instrumental to strengthen the impact of the outputs foreseen under 6.2 of this immediate objective.

## **2.2 Overall Performance Assessment (Appropriateness, Relevance, Effectiveness, Efficiency)**

R42 falls within UNODC's Criminal Justice Programme launched in 2002. It represents one element of a wider intervention, through which UNODC was able to provide, over the years, tangible support to the overall restructuring and (re)building of a justice system based on the rule of law. There is no doubt that the timing chosen by UNODC to provide technical assistance to the judicial institutions of Afghanistan was perfect, also from an institutional perspective. A high-impact contribution for the creation of a Country whose structures and institutions are compliant with the rule of law was not only needed, but also in line with the goals set for Afghanistan by the Compact and the I-ANDS. As stated in the introductory part of this report, the assessment of the appropriateness and relevance of project R42 can only be carried out considering the broader framework under which it was conceived. The project shares its stated general objective, that is contributing to the reform of the criminal justice system in Afghanistan (as stated in the Logical Framework embodied in the project document) with all the other initiatives that UNODC has been launching since its entry into the Country and which have impacted on specific aspects of the justice system, namely the areas of juvenile justice and penitentiary reform. Fully in line with its mandate, and with the main areas of its activities in Afghanistan, UNODC developed a series of projects which are, eventually, all intertwined and have made it possible for UNODC to provide continuous assistance the Country's nascent institutions. The overall strategy of UNODC was to start new projects building on the results achieved with previous projects; thus never allowing the legacy of each intervention to die with the formal completion of the project. Though sad to admit, this is the fate encountered by many activities carried out by international organizations, which are more interested in pleasing the donors by ticking a "to do list", rather than working towards the attainment of comprehensive, durable, and viable results. If one looks at the types of project that form part of the criminal justice programme, one can clearly see the red thread connecting all of them. Whilst this observation may seem trivial, as one would consider it obvious that all projects implemented within a programme complement each other and develop in sequence, so that the results achieved are maximised. However, a quick look at the way the international community works demonstrates that not all interventions are implemented with the same spirit. We note that sustainability (also guaranteed by the so called "hardware and software" approach) was not the only aspect that was taken into account by UNODC whilst developing and implementing the project. Priority was also given to the coordination and cooperation with other members of the international community engaged in the same field (not so numerous but sometimes very powerful, also in terms of financial means), as well as to the creation of fruitful synergies with projects run by other organizations. In this respect, it ought to be said that despite being low in number, UNODC staff were able to keep abreast of the changing landscape of Afghanistan and adapting the project so that, despite the variation in the circumstances, it would still be able to serve the purpose for which it was originally conceived.

Project R42 tackles the ambitious goal of improving the quality of the administration of the criminal justice system in Afghanistan by adopting a three-fold approach: first, institution building, including enhancement of operational capacity and physical infrastructures; secondly, policy advice and support of legal reform; and, thirdly, capacity building, particularly needed in a Country where lack of appropriate human resources is endemic. In our view, there was no best way to reach the overall stated objective other than operating on the three lines mentioned above. At the same time, the choice of having one single project dealing with them at once, though, represented a positive and a critical element. The positive aspect of such a comprehensive and complex project ("the beauty of it", as this has been defined by one of the evaluators' interlocutors) is the fact that it allows the implementers to respond both pro actively and reactively to the real needs of the criminal justice system as they occur. An example of this is represented by what occurred in relation with the development of an information and web-based communication system for the MoJ, as

originally envisaged in the project document. The activity had to be terminated because a similar contribution had been already guaranteed by another international organisation. The focus, therefore, was shifted to the SC, which was then lacking such a system. It is also true that such a flexible and comprehensive approach represented a good business card to enter in contact with the beneficiaries and the implementing institutional bodies, who were presumably also attracted by the global change that the intervention could make.

However, at times the holistic approach adopted limited the project itself, as each of its components (as rightly pointed out in the previous evaluation) could have well been implemented as an individual project. The managerial and organizational inputs involved in the implementation of the overall project stood in stark contrast with the human resources available for it. The staffing level of the Office was raised as an issue of concern in the evaluation in 2007 and we are pleased that the recommendation of the evaluators in 2007 was eventually implemented. However, the situation still presents critical aspects in terms of sufficient personnel available for the amount of work that the project required. In the view of the evaluators the insufficient (direct and indirect) reporting mechanism recorded under the project, the inability to organize project board meetings on a regular basis are clear indicators not of unqualified or uncommitted staff, but of staff who are asked to perform too many tasks and, therefore, focus on those which are immediately necessary for the success of the project.

Despite the lack of human resources, the Country office was able to offer a stable and effective implementation of the project. However, this put an excessive and wearying burden on the staff which, in our firm view, cannot be regarded as acceptable or desirable. This is especially the case having in mind the difficulties (additional to the ones normally related to a “regular office job”) that life and work in Afghanistan presents. The security situation of the Country is based on a fragile balance that is almost never kept and which affects the implementation of all activities, from the apparently easiest such as planning a meeting to a very complex one such as building a JSC. Activities which one would expect to perform as routine in a normal context, such as an on-site visit or a bid, might take a very long time, with the result that the time envisaged for a given activity cannot be respected.

Cultural differences and personality clashes can also play a major role in hindering the smooth implementation of a project. In general, we are of the view that UNODC was able to create, within the project, a solid relationship of trust with all interlocutors, beneficiaries, and implementing bodies. Whenever UNODC was mentioned, words of true appraisal for its work and for the dedication and competence of its staff were spent. However, as the evaluators experienced themselves during the mission, the relationship of service established among the stakeholders can very easily revert to a relationship of power. For instance, the meeting with the SC suffered from the consequences of an “incident” related to the payment to the Chief Justice of the per diem related to a study visit implemented under a different project. The negative aura that the delay in the payment had produced over the Chief Justice pervaded the whole meeting, during which only the most problematic aspects of the relationship with UNODC (mainly related to the delays in the construction process of the JSCs and the refusal by the organization to provide the SC with equipment and furniture already supplied by other donors) were highlighted. The consequences of the “incident”, however, went even further, with the SC officially informing the UNODC in writing of their “impossibility”, due to excessive workload, to participate in the CLRWG.

There is no question that project R42 was not only appropriate and relevant to the context, but also efficiently and effectively implemented, despite the flaws in human resources that it recorded. All in all, the implementation of the project involved a variety of different activities such as training, study visits, provision of equipment, constructions, general advice and technical assistance on a number of different issues such as legislative drafting, office organization, and management that were good value for money. From a financial

perspective, recourse to external consultants was sensible and necessary for the achievement of the aims of the project.

### **2.3 Impact**

From all what has been said on the projects and its various components, it is evident that R42 was able to significantly impact on the administration of criminal justice. The project approached the goal from a very practical, yet fundamental, perspective: by providing all material tools, including buildings, furniture, legal texts and other reference material which are needed to perform the judicial functions effectively. The dilapidated judiciary of Afghanistan needed this, in the first place, and UNODC was able to provide it. Just like in Maslow's pyramid of needs, UNODC went further and climbed the next step: having fulfilled the material need, providing capacity building in all areas involved in the management of an office and of cases was the only logical thing to do. The fact that the capacity building activities were conducted both at central and provincial level amplified their impact, recognizing the need of a balanced growth of all components of the system. The tailor-made production of training tools and awareness-raising material, among which an outstanding video on trafficking in person, represented the natural, yet sophisticated, completion of the engagement taken by UNDOC with the launch of project R42.

In 2007 the evaluators considered that the impact that project R42 had been able to produce had been less dramatic in the area of legal aid. They also noted that it would have been premature to assess the impact of the JSCs and of the data management system provided to the SC. Many changes have occurred since then, particularly in the area of legal aid. In 2007 the evaluators were not in a position to provide any assessment as nothing had yet happened. Two years and six JSCs later, it seems possible to complete the sketch that was started in 2007. JSCs had been defined in the project documents as structures providing "safe haven" to justice professionals. We believe that no definition could have been more appropriate. In a Country where, despite conspicuous efforts and investments, the landscape is still far from acceptable standards, JSCs are regarded by all stakeholders as the principal contribution that UNODC has made under project R42. The impact related to the construction of JSCs has been amplified by their cross-cutting nature, serving a variety of different actors, including the general public, who can see the "law in action" regardless of how far the place is from Kabul. There is no question that without the UNODC the MoJ would have never been able to establish IABA within the limited time frame envisaged by the Presidential Decree concerning the enforcement of the Advocates' Law (three months from its entry into force). In terms of impact, this is one of the activities of R42 that attained outstanding results: for the first time ever, all advocates registered with the MoJ were hosted in Kabul from all over Afghanistan to vote on the IABA's By-Laws and to elect its leader. In addition to the material support necessary for the establishment of the IABA, UNODC, in close consultation with the end-users, developed virtually ever-lasting legal aid and case management databases eventually handed over to the IABA and the MoJ. Relevant training was also foreseen as part of the database package.

The results are even more dramatic considering that UNODC supported the establishment of the IABA insofar as it was functional to the development of a legal aid policy and strategy at the level of the MoJ (as UNODC never had the intention providing support to the IABA as such, the latter not being an institutional part of the criminal justice system targeted by R42). Also having in mind the time within the project in which IABA was established (as well as the project's budget) UNODC's inputs focused primarily on the provision of the database and on the development of thematic training manuals addressed to defence lawyers. Ideally, given the pivotal role that the Bar plays in the life of legal practitioners, bearing in mind that training is probably one of the most available commodities in Afghanistan, and considering that the effective right to defence through legal aid passes inevitably through the understanding of the public and social functions of lawyers as guarantors of the correct

administration of justice, the evaluators believe that UNODC could have invested more in the creation and nurture of a legal culture amongst legal professionals. We are of the opinion that this cannot be achieved with spot interventions, such as the roundtable that was organized in Kandahar (in which the IABA was involved at all, even though the activity was presented by UNODC as one of the first activities run for legal professional after they established their own association), or training which, among other issues, tackles the legal ethics. The evaluators believe that what the IABA needed in the first place was the possibility to provide to all its members the opportunity to develop a full understanding of the strategic role that advocates play for the rule of law. We understand, however, that this probably required project revisions which were no longer possible or a variety of international donors which, in the given circumstances, were not present.

## **2.4 Sustainability**

One of the distinctive features of project R42 (which seems to share this element with a number of other projects implemented by the COAFG) is its sustainability.<sup>10</sup> This is not only true for the construction and training components of the project (which have already been commented under the previous evaluation), but also for most of the other activities, which are conceived and implemented having in mind the need that the results achieved do not disappear after the project has come to its natural conclusion. This is, in the eyes of the evaluators, what is meant by UNODC's long-term approach applied to short-term projects.

Among the outputs produced under R42 the production of a variety of databases deserves special mention. They have been conceived as versatile tools which can be easily upgraded and are, therefore, virtually everlasting. Possibly, the value of UNODC's contribution in the computerization of the administration of justice is not fully understood or appreciated by the end-users and final beneficiaries. However, the fact is that UNODC was able to supply tools and relevant computer literacy training which, elsewhere, would be worth a fortune to the state budget. The databases developed by UNODC are not even available in many so-called industrialized countries: their availability by the national institutions, therefore, will also help strengthen their excellency vis-à-vis outside interlocutors. Not to mention, obviously, the services that such tools (and skills) will be able to provide, when fully operational.

Amongst the lost opportunities in terms of sustainability, the evaluators must mention the training conducted by ISISC. Amongst the various activities that the UNODC conducted under R42, this is probably the one that the evaluators consider to be of less value for money. The training-of-trainer (ToT) aspect of it, praised under the previous evaluation, was not found to be convincing. The criticism does not concern the quality of the training itself, which was kept at high level, in line with the fame of the institution, but the approach. Apparently, the ToT activities implemented in a total of 21 provinces served the purpose of training, in each location, trainers who will eventually only train on one occasion. The insufficient reporting mechanism by the organization, coupled with lack of material in English (the material used during the training is only available in local language and was not translated due to budgetary constraints, though one of the budget lines for the activity was translation) made the assessment of the work of ISISC rather difficult. Certainly, this aspect of the project, which had a very high potential in terms of sustainability, did not produce the lasting results that one would have expected. Outcomes in this respect were represented by

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10 The 2008 Thematic Evaluation Report harshly criticized UNODC COAFG for the non-sustainability of many components of its projects, particularly in the area of infrastructure development. With due reservations, as mentioned in this report, we do not share the position expressed by the 2008 evaluators.

figures, rather than by the tangible outputs which are common denominators of UNODC's activities."

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<sup>11</sup> It appears that the recommendation issued under the 2008 Thematic Evaluation Report, to the effect that "UNODC should build impact measures into its projects (in particular sample surveys of trainees) to facilitate future evaluation" has not yet been implemented.

## **3- BEST PRACTICES AND LESSONS LEARNED**

### **3.1 Good Practices**

In addition to the good practices identified and elaborated in the 2007 evaluation report (hardware and software approach, use of the “train the trainers” technique, working groups, administration and internal management of justice institutions, recourse to study tours ), the current evaluators would like to highlight the following points, each of which bearing implications to the organization, as also illustrated in the matrix of findings.

#### **Legislative support**

There is no doubt that under project R42 UNODC was able to establish one of the most efficient working groups in Afghanistan. The organization, in its capacity as co-chair of the CLRWG, set up an innovative and highly performing routine, whose high efficiency was the result of both the practical application of an operational methodology and high commitment and dedication of the staff responsible for it. The example of the CLRWG proved that the presence of a full-time, truly dedicated staff member (not absorbed by thousand other tasks) is pivotal in ensuring the smooth attainment of a project objective. Though working in Afghanistan requires a certain flexibility and adaptability, in order to ensure that the Office effectively responds to the various inputs unexpectedly coming from the actors and institutions populating the Afghan scene, the time and dedication that the International Legal Expert was able to put into the WG are unquestionably the key of its success. The fact that the WG was not able to achieve, in the eyes of the evaluators, the desired impact does not at all diminish the importance of the operational modalities set up by UNODC, which the evaluators hope can be used as a model, whenever possible, for further UNODC activities.

#### **Capitalization of UNODC human resources to provide additional innovative automated procedures**

UNODC proved, under the present project, to be able to fully capitalize its internal resources to produce, at virtually no cost for the project, additional innovative automated procedures in the form of databases for the SC, the ABA, and the Task Force on Children in Armed Conflicts. As already mentioned in the previous pages, the databases so created are probably the most valuable outputs produced under R42. The versatility, perfect adherence to needs of end users, and virtually everlasting nature of the databases that UNODC developed for the various institutional actors involved in the project have been already been amply praised. The peculiar aspect that needs to be emphasised in relation to such products is the huge value that the UNODC was able to produce with very limited investments, in addition virtually simply recognizing and capitalizing human resources already available. Indeed, the work related to the development of the databases figures in the budget as an in-house contribution, thus weighting very little on the overall expenditure. Considering the high value for money of this experiment, the evaluators share the decision of UNODC to proceed with the recruitment of an additional database Officer shortly before the evaluation took place. An additional database Officer will provide the necessary support for the present sole database officer, on whose shoulders the workload has increased dramatically, because of the increased demand following the success of the product. The evaluators hope that the experience accumulated by UNODC with the production of these first five database is used to perfect the production of software to support justice institutions in all areas (for instance that of execution of penalties) in which efficient management of data can serve the protection of human rights and the establishment of the rule of law.

#### **Synergies**

One distinctive feature of UNODC's approach to the implementation of project R42 is its ability to create synergies with other members of the International Community. Thanks to the extreme dedication and commitment of the staff, particularly of the International Criminal

Justice Expert, UNODC proved extremely attentive in identifying activities, falling into the scope of the project but never formally identified, and which had the effect of maximising the results of the project. The cooperation with UNICEF and the development of a database serving the Task Force on Children in armed conflict, or the one designed for the IABA are only two of the many examples of synergies created by UNODC during the life of the project. The evaluators wish to emphasise this feature as this, once again, confirms the competence, long-sightedness and commitment of the UNODC staff, whose efforts, despite all the difficulties, are genuinely oriented towards making a change. Under these circumstances, it is clear that the keyword best defining the approach of UNODC in the attainment of its goal is “complementarity” rather than “competition”.

### **Flexibility and timeliness of interventions**

One of the most distinctive features of R42 is that it was a sufficiently broad a project to allow the organization and its implementing agencies to enjoy flexibility of interventions. The final objectives, in other words, could be achieved in a variety of non-predetermined ways. This also meant that the project activities could be modified and adapted so as to respond to the needs as they arose. Though this “advantage” is probably inherent in the nature of the project, UNODC deserves special credit for having been able to play a constructive part in the flexible way in which the project has been administered. Indeed, the risk that because of its distinctive nature R42 became an empty container did not materialise thanks to the strong focus on the immediate objectives and the final goal, and to the intense relationship with beneficiaries and interlocutors that UNODC was able to maintain throughout the project life. A typical example of the way UNODC played with the flexibility of the project is represented by the decision to switch the activities in support to the MoJ/SC from central to provincial level. This not only allowed UNODC to pursue the stated objective, but most of all prevented waste of resources and duplication of efforts, as other international actors were playing in the same area.

## **3.2 Lessons Learned**

In addition to the lessons learnt identified and elaborated in the 2007 evaluation report (complexity, interim assessment, translations, coordination, pilot projects, train the trainers) the current evaluators would like to highlight the following, each of which bearing implications to the organization, as also illustrated in the matrix of findings.

### **Monitoring of the project**

In the view of the experts the project's greatest flaw is the absence of a regular monitoring system. The criticism affect both the monitoring functions that, in the form of progress report, UNODC staff should have been produced, as well as the absence of Board meetings.<sup>12</sup> As indicated earlier, discontinuous project monitoring cannot be considered effective, no matter whether the donor is happy with it. Regular board meetings should have also been organized to ensure the appropriate, correct and smooth delivery of project outputs as well as implementation of project activities. There is no need to elaborate here on the opportunity to have all the stakeholders sitting around a table to discuss how things are proceeding and whether actions are needed to redress any problems. This, in the view of the evaluators, cannot be replaced by one-to-one contacts such as those that UNODC constantly maintains during the project. Nor can the decision to not implement project board meetings as monitoring tools be justified by the explanation that that coincidence of most of the stakeholders of UNODC projects would make it practically impossible to organize such gatherings.<sup>13</sup>

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12 The Tripartite Review Meeting which took place was held in December 2005 and focused on the revision of the project's duration and budget.

13 The need for transparent and regular communication with donors had already been underlined by the 2008 Thematic Evaluation Report.

### **3.3 Constraints that Impacted Project Delivery**

A number of constraints have hindered punctual project delivery. Most of them are, after eight years of presence in the Country, rather obvious. As the major constraints, already addressed and elaborated in the previous evaluation report, remain unvaried, the evaluators believe that it is enough to briefly mention them. The inability of the institution to absorb assistance remains, though less accentuated than in the past. The lack of coordination among international agencies, though also successfully addressed by UNODC, for instance with regard to the area of the reform of the criminal law, persists. The changing landscape of the Afghan Institutions and their personnel also places an additional burden on UNODC; though the situation has reached a certain degree of stability which was unknown in the early days. The fragile security situation of the Country does not need further elaboration. This, together with environmental difficulties related to the weather, seem to be one of the most difficult hurdles UNODC staff must cope with whilst implementing the projects, particularly those involving construction (as was the case with the JSC in Bamyān). The extra burden represented by the difficulties related to working in an environment where most people do not speak English have been partly overtaken by the creation within UNODC of an interpretation department. The interpretation department, which was highly recommended by the previous evaluators (a position shared also by the current ones), eventually saw the light in 2008.

In addition to the issues mentioned above, the evaluators would like to highlight one management issue which impacted negatively on the project. Staffing of the CJP has been an issue for quite some time. It was only in 2008 that this problem was partly resolved with the recruitment of a Crime Programme Coordinator and an International Legal Specialist. The recruitment, however, did not fully solve all problems related to staffing. As stated above, UNODC relies on UNDP for all recruitment procedures and administrative issues related to contract and procurement. When the recruitment process of the Database Officer began, highly needed within the project to implement the many activities related to the production of databases and the provision of relevant training, it appears that UNDP set the requirements for the position too high. This led to a first recruitment drive with basically no candidature. Following the circulation of a second announcement, requiring 3 years' of professional experience as opposed to the 5 years initially required, only 4 candidates applied for the position. Though we are not in a position to comment on the rules followed by UNDP for the issuance of the announcement, we would like to highlight how the difficulties in recruitment created delays within the project and how such delays could have been avoided if a more realistic approach as to the requirement (and possibly on the availability of suitable candidates) had been adopted from the beginning, in close concert with UNODC.

## 4. CONCLUSIONS

### 4.1 Recommendations

In the light of all the above comments, and in addition to the best practices and lessons learned, the evaluators would like to formulate the following recommendations.

### 4.2 Project Management/Implementation

#### Reporting system

In order to serve its purpose as a management tool, the monitoring system put in place for each project must receive constant, regular implementation. Considering the pace of the activities in Afghanistan, probably by-monthly reports should suffice. The original project document, under the heading “Monitoring and Reporting”, does not detail the frequency of monitoring outputs and simply mentions the mid-term and final project evaluations. The Project's revised Logical Framework, however, mentions quarterly, semi-annual and annual evaluations (rectius, reports) as means of verification of achievement of results. UNODC COAFG reported on the project in compliance with the instructions received by the HQ which, at some point during the project, decided to discontinue quarterly reports and limit obligations on an annual and semi-annual basis. The frequency of reporting as established by the HQ is, in the eyes of the evaluators, insufficient to provide for sound project management. In this respect, the current evaluators share the opinion already expressed in the 2008 Thematic Evaluation.<sup>14</sup>

Particular attention should be devoted to the fulfilment by implementing agencies of their regular reporting obligations. A discontinued monitoring system cannot perform its function of management tool and does not allow for timely interventions should they be required.

Project Board meetings should be organized on a regular basis throughout the life of the project, in order to gather around the same table all stakeholders, facilitating a de visu the flow of information otherwise fragmented, and tackling problems as they arise, offering concerted solutions. Organization (and follow-up) of such meetings must be clearly included in the project document.

#### Revision of project documents

Whilst drafting revised project documents, attention should be paid to the possibility of people external to the project to track all the changes. This objective could be pursued, for instance, by introducing comparison tables between the old and new version of the project. The mention of only the elements under modification cannot be regarded as satisfactory.

#### Evaluation of projects

The evaluators believe that the procedure for the identification and recruitment of evaluators should be carried out by the HQ in Vienna and not by the person responsible for the project to be evaluated (in line with the ToR for the evaluation, attached to this Report, which states that “The evaluators are selected by the UNODC Vienna, in consultation with the Country office of Afghanistan. Coordination is to be sought also with the Europe, West and Central Asia Section, database/DO, and the Criminal Justice Reform Unit, HSB/DO, and the Independent Evaluation Unit, in UNODC Vienna, using the agreed criteria and drawing

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<sup>14</sup> Finding 22 of the Thematic Evaluation Report identifies the absence of a functioning management system that generates monitoring data and reports as the cause of the communication problem within UNODC and between UNODC and external partners/collaborators. It seems that the issue has not yet been fully tackled and solved.

expertise from the roster of experts”). The evaluators understand that the exercise is internal to the organization and is part of the project. However in order to ensure that their prescribed independence (not only in substance but also appearance), it is recommended that the ToR receives full application, thus also relieving the project staff of an additional burden.

### **4.3 Staff**

Though this is a recommendation of more general nature, the evaluators put it forward as it emerged as a issue during the evaluation exercise.<sup>15</sup> We believe that more attention should be paid by the senior management of the programme and/or of the Office to the training needs of the national and international staff. Similarly to the “hardware and software” approach adopted whilst implementing its projects. UNODC should ensure that newly recruited staff receive adequate induction training, both of a general and a specific nature. An assessment of the training needs of staff should also be introduced and conducted regularly and continuous training opportunities offered. Professional growth and personal/professional gratification of staff should be cared for as much as the attainment of project results.<sup>16</sup>

Senior management should enjoy the presence of dedicated support staff, so that filing of documents and recording of activities (just to mention two of the most time consuming everyday activities) are done according to common standards set by the Office, thus reducing loss of institutional memory when there is a change of personnel.

Division of tasks between staff should be respected. Substantive and protracted lack of staff should be acknowledge as a reason to revise projects. Only temporarily lack of staff can be overcome by increasing the tasks assigned to other personnel.

UNDP must take into account the specific context of Afghanistan when issuing vacancy announcements for UNODC positions, avoiding as much as possible situations in which a notice is re-issued due to a lack of candidates because the threshold set for the requirements is too high and/or unrealistic vis-à-vis the perspective applicants. The rationale of this indication is not for UNODC to be satisfied with less qualified candidates, but to avoid loss of time in looking for a suitable person.

### **4.4 Training**

Considering the high involvement of UNODC in training activity, and having in mind the numerous difficulties related to its implementation, as illustrated in this report, we are of the opinion that the Country Office should consider the possibility of creating a (small) Training Unit within the CJRP, in order to better coordinate the interventions in this area. This would also relieve the project staff from all the difficulties related to the time-consuming task of supervising the training activities from conception to implementation. It would also ensure consistency and complementarity of planned interventions. The presence of a strong national component within such a unit would also favour the process of empowerment and ownership of the project result, ensuring a deeper long-term impact.

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15 The issue of UNODC's COAFG Office management was the subject of finding 7 of the Thematic Evaluation Report. The 2008 evaluation labelled the management of UNODC's Rule of Law Programme as “excessively aggressive and non conducive to building partnerships” and it underlined, internally, how this “sourred relations [...] also within UNODC”.

16 We believe that the suggestions contained in para. 169 of the 2008 Thematic Evaluation Report, that “any future UNODC capacity-building activity should endeavour to build national staff capacity in the largest sense possible and to obtain full national input during the process”, and under recommendation 2 that “Project management needs to be less competitive with national and international partners and more consultative”, also apply internally within the COAFG.

#### **4.5 Legislative assistance**

In delivering legislative assistance (an activity that UNODC will continue to perform under project T03), particular emphasis should be placed on the ownership of the process by the national partners and institutions and, provided that they do not conflict with the international standards binding Afghanistan, support proposals that, although far from the experience of western countries, correspond better to the cultural, religious, and social features of Afghanistan.<sup>17</sup>

Interventions in this area should also be implemented including (mid-term) training of relevant professionals abroad, for instance financing participation to courses held at National Schools for Public Administration present in various Countries.

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<sup>17</sup> Finding 11 of the 2008 Thematic Evaluation Report criticized “UNODC's largely unilateral approach to the preparation of the draft penitentiary legislation”, but eventually praised the genuinely collaborative process that was later adopted. In the light of what we saw and heard during the evaluation mission, we believe that in this respect UNODC has moved backward.

## **ANNEX 1 – LIST OF MEETINGS HELD IN KABUL**

Meeting with Mr Aloko, AGO  
Meeting with Mr Basit, Program Officer, ISISC  
Meeting with Mr Carroll, British Embassy  
Meeting with Mr Davis, Criminal Justice Consultant, UNODC  
Meeting with Mr Ghourwal, National Project Coordinator (R86), UNODC  
Meeting with Dr Hakim, JSSP  
Meeting with Mr Haleem, DG of Legislative Department, Ministry of Justice  
Meeting with Mr Hamid, National Project Coordinator (R42), UNODC  
Meeting with H.E. Hashimzai, Deputy Minister of Justice  
Meeting with Mr Hartmann, Manager and Senior Advisor, UNODC  
Meeting with Ms Izumi, UNICEF  
Meeting with Mr Jalebm Deputy DG Legislative Department, MOJ  
Meeting with Mr Jenkins, US DoJ  
Meeting with Dr. Kamawi, SC  
Meeting with Mr Kamran, Database Officer, UNODC  
Meeting with Ms Klonowiecka-Milart, Criminal Justice Specialist, UNODC  
Meeting with Ms Kovac, JSSP  
Meeting with Mr Mobasher, JSSP  
Meeting with Mr Mushin, AIHRC  
Meeting with Mr Nizami, Master Trainer, ISISC  
Meeting with Mr Pasquali, International Criminal Expert, UNODC  
Meeting with Ms Peduto, UNICEF  
Meeting with Mr Ponzoni, Italian Embassy  
Meeting with Mr Qarizada, Head of AIBA  
Meeting with Mr Spera, Italian Embassy  
Meeting with Mr Tafik, UNAMA  
Meeting with Mr Taxell, UNDP  
Meeting with Head of Legal Aid department of MOJ  
Telephone conference with Mr McCrae, Consultant, UNODC  
Telephone conference with Ms Sykiotou, Consultant, UNODC  
Telephone conference with Mr Wilks, IBA

## **ANNEX 2- INTERVIEW PROTOCOL**

The evaluators did not use a questionnaire. Questions were asked covering the points in the Terms of Reference (see Annex 5).

## **ANNEX 3 – REFERENCE DOCUMENTS**

Project documents (original, revisions I, II, III, IV),  
Evaluation Report 2007  
Costed Work Plan 2009  
Annual Reports (2005, 2006, 2007,2008)  
Semi-annual Reports  
Quarterly reports  
MoU Supreme Court and UNODC  
Justice Support Centres' briefing note  
Draft Juvenile Justice Assessment  
Draft Legal Aid Training Material  
Training Manual on THB for Parliamentarians  
Training Manual on THB for Judges and Prosecutors  
ISISC Project Proposals, Budget and Reports  
Databases (ABA, SC, MoJ/Legal Aid, Children in Armed Conflicts)  
DVD on THB  
List of equipment handed over to MoJ and SC  
Matrix construction and procurement activities  
UNODC 2008 CJP Status Report  
2008 UNODC Rule of Law Thematic Evaluation

**ANNEX 4 - TABLE OF FINDINGS AND RECOMMENDATIONS OF THE 2008 THEMATIC EVALUATION, AS RELEVANT TO PROJECT R42, AND STATUS UPDATE**

Findings	Recommendations	Status update
<p>1. Drafting of legislation</p> <p>In the area of legislation, UNODC provided assistance in the development of key laws and regulations and this represents a substantial and important achievement for the Office. Key legislative activities included development of the criminal procedure code, prison law, the juvenile code and counter-terrorism law. UNODC also had an input in other legislative areas.</p> <p>Measures of outcomes and impact were difficult to obtain or assess. There was general agreement that the new legislation was a marked improvement and that, while much remained to be done, significant steps to put in place internationally acceptable standards had been made. It is not unreasonable to infer that a positive impact should be expected from improved legislation and that this will be most effective when other aspects of administration of justice were similarly improved.</p> <p>There were mixed views on the nature and effectiveness of UNODC's approach to collaboration in this area.</p>	<p>UNODC needs to recognize that "the process is a product" and that it is important to fully incorporate the development of national technical expertise into its institution development works.</p> <p>More generally, any future UNODC capacity-building should endeavour to build national capacity in the largest sense possible and to obtain full national input during the process. There is little point in the international community drafting legislation if, when the international community withdraws, there is nobody to sustain, defend, explain, promote, revise and refine that legislation or prepare related and new legislation. Completed legislation may prove unsustainable if the skills and knowledge of members of the Legislative Drafting and Review Department of the Ministry of Justice have not been adequately developed, and their input has not been sufficiently integrated during the drafting process. Where possible, such capacity-building must be institutionalised or provided within the institution to ensure continuity beyond the UNODC assistance.</p>	<p>Over the period of time under evaluation, UNODC continued to provide quality support to the legislative process as part of a wider action tackling the administration of justice. Collaborative efforts at their initial stage during the 2008 Thematic Evaluation were further developed. However, the unilateral, western-centric approach criticized by the 2008 Thematic Evaluation in part still persists.</p>
<p>2. Training</p> <p>A wide range of training sessions, including train-the-trainer sessions, has been completed during the period under evaluation. Training in Kabul and the provinces covered language, computing and management skills, at different levels of the criminal justice administration. During the period under evaluation, UNODC provided essential training to the bulk of recipients, allowing development of the criminal justice system to get under way. However, in our view the training provided was insufficient and it was provided in the hope and expectation that further training would be provided.</p>	<p>UNODC should build impact measures into its projects (in particular sample surveys of trainees) to facilitate future evaluations. If impact cannot be measured then effectiveness and efficiency cannot be determined.</p> <p>Local trainers must be full partners in project planning and implementation so that they can both learn and provide input.</p>	<p>Measures sought to measure impact of training component of projects were not built. The monitoring and reporting activity of partners charged of implementing training activities was not always satisfactory both in terms of frequency and substance.</p> <p>UNODC has not yet institutionalized a policy aimed at the development of national human capital.</p>

Findings	Recommendations	Status update
<p>Significant capacity development activities have been carried out at the Ministry of Justice, including the provision of training and equipment and furnishing and staffing of a publications unit.</p> <p>There were few indicators available of the impact of training. In an internal evaluation by the International Institute of Higher Studies in Criminal Sciences (an associated training organisation), generally positive feedback has been received from trainees, but it was not possible to extrapolate from this to other training activities. Senior criminal justice staff suggested that some training had replicated existing knowledge and had inappropriately grouped together trainees with diverse levels of experience and knowledge. It was widely suspected that record-keeping difficulties had meant that some trainees had improperly attended multiple sessions because of the associated benefits. In addition, some trained prison staff were not working in the jobs for which they had been trained. Overall, therefore, while the impact of training is likely to be positive, in many instances this was not always the case and the existing impact remained largely unmeasured.</p>		
<p>3. Infrastructure development</p> <p>The lack of any criminal justice infrastructure outside Kabul was, and continues to be, a critical problem. Multi-purpose Justice Support Centres for the provinces were designed to provide facilities located at a single site for the three key justice institutions: the Ministry of Justice, the Supreme Court and the Office of the Attorney General. Two provincial multi-purpose Justice Support Centres were close to completion, with three constructions still ongoing. Problems encountered during design and implementation stages appeared to have been overcome. It might have been useful to undertake a pilot project to build one Justice Support Centre to learn lessons before</p>	<p>UNODC should consider developing procedures for measuring outcomes and achievements (for example, measuring the level, quality and purpose of use of the facilities) and their impact (both as to the extent and quality of justice delivered) for the future.</p> <p>Consideration should be given to additional independent technical reviews by consultant experts in project design, particularly in respect of technical and engineering aspects, when UNODC does not have the relevant skills and experience in-house.</p>	<p>Despite some initial difficulties, related to the fact that construction and refurbishment work are outside the organisation's usual remit, the provision of Judicial Support Centres has proved to be a major success of UNODC. Lessons learned and recommendations formulated over the years in relation to the "hardware" component of projects were successfully assimilated by UNODC. UNODC has now reached a significant level of competence in providing infrastructures as an element of its effort in the justice field.</p>

Findings	Recommendations	Status update
<p>embarking on the others. At the time of the evaluation the multi-purpose Justice Support Centres were not operational and so had had no impact. However, a positive impact should be anticipated when they become operational.</p>		
<p>4. Relationship with implementing agencies</p>	<p>Whilst operating in cooperation with associated agencies charged with partial implementation of the project, UNODC should retaining quality control rather than fully relying on the executing partner.</p> <p>The evaluators are of the opinion that more timely and effective supervision by UNODC of the work delegated to UNICRI (in respect of the development of training manual for Afghan judges and prosecutors on handling corruption cases) would have prevented a waste of resources and a delay in implementing that part of the project.</p>	<p>UNODC Afghanistan Country Office should maintain closer and more timely scrutiny of work being carried on by partner or associated agencies.</p>
<p>5. UNODC Afghanistan Country Office management significantly influenced programme performance and relationship with the international community</p>	<p>Project management needs to be less competitive between national and international partners and should be more consultative.</p>	<p>UNODC's efforts to ensure coordination of activities with the partners operating in the justice sector deserves special mention. The same can be said for its capacity to establish synergies on-the-go.</p> <p>UNODC's work seemed all but marginalised by the international community.</p>
<p>6. Communication is crucial to strengthening partnership with development partners (including donors)</p> <p>One particular failure of communication requires particular mention. In the view of the evaluators, UNODC failed to keep donors adequately informed of the performance of one of its implementing partners, UNICRI, in connection with the preparation by UNICRI of a training manual for Afghan judges and prosecutors on handling corruption cases. It appears that, in its interim reports to donors in 2008, UNODC failed to report to donors the delays and difficulties that were being experienced in relation to the progress that had then been made by UNICRI in the preparation of the training manual. For example, in its interim report dealing with the use of Canadian funds between 1</p>	<p>Collaboration together with regular and transparent communication with the national and international community should be undertaken from the outset and throughout the life of the projects.</p> <p>Donors' representatives in Afghanistan need to be regularly informed on project progress, problems and finances. Equally, donors also need to recognise the limitations of providing only partial funding to UNODC projects, as well as the overall lack of funding that has been provided to the justice sector in Afghanistan.</p>	<p>The sought transparent and constant communication with donors, is yet to be fully achieved.</p> <p>Failure by donors to timely fulfil their financial obligations and/or their will to micromanage projects pose serious concerns for the smooth and timely implementation of activities, undermining UNODC's credibility vis-à-vis interlocutors and beneficiaries.</p>

Findings	Recommendations	Status update
<p>March 2008 and 30 September 2008, UNODC stated that: The first draft of the Manual "Prosecution and Handling on Drug Related Cases" was finalized during the period under review. Our evaluation has revealed that this was not the case and that the draft manual was far from being finalised at the date that this report was prepared. Indeed extensive and much needed revisions were still being made to the draft manual in February 2009.</p>		

# ANNEX 5 – TERMS OF REFERENCE FOR IN-DEPTH MID TERM EVALUATION OF PROJECTS T03 AND R86 AND FINAL EVALUATION OF PROJECT R42 OF THE CRIMINAL JUSTICE PROGRAMME



## United Nations Office of Drugs and Crime Terms of reference for

### In-Depth Mid Term Evaluation of Projects T03 and R86 and Final Evaluation of Project R42 of the Criminal Justice Programme

#### **Project titles of the Afghan Criminal Justice Programme:**

Criminal Law and Criminal Justice Capacity Building – AFG/R42

Criminal Justice Capacity Building – Extension to the Provinces – AFG/T03

Strengthening Anti-Corruption Measures in Afghanistan – AFG/R86

#### **1. Background**

Although some progress has been made in Afghanistan's formal justice system in the years, it continues to suffer from severe and systemic problems. In fact, Afghanistan's legal apparatus has been largely obliterated during the years of conflict and civil war. Re-establishing the rule of law, including addressing impunity, is an essential pre-requisite for peace and stability. The challenge of reconstructing Afghanistan's judicial system and legal apparatus has been a formidable one, as the armed conflict did not destroy only the physical infrastructures, but also the public and private sectors, and the social fabric, facilitating the dire weakening of an effective judicial system. Virtual non-existence of training facilities, limited numbers of judicial personnel in service, lack of communication and coordination among institutions as well as between the capital and provinces, need to revise the legal system, particularly in relation to procedural, substantive and organisational aspects, are all facets of the same problem.

Despite efforts by the national government and particularly international community, an urgent need persists for the establishment of essential physical infrastructure, provision of equipment, training, and provision of know-how and financial resources to extend the reconstruction of the criminal justice system to the provinces. A functioning criminal justice system is a vital part of peace building in Afghanistan. Rule of law and security can only be insured if offenders are brought to justice and sentences are imposed and executed in full compliance with internationally recognized standards and norms.

Against this background, UNODC developed a Priority Action Strategy for Afghanistan to provide advisory services and technical and material assistance at central level as well as in selected provinces to further strengthen the institutional capacity of the permanent judicial institutions, being the

Supreme Court, the Ministry of Justice (MoJ) and the Attorney General’s Office (AGO), enabling Afghans including provincial populations to access the Rule of Law and creating more favourable conditions for the provincial economic, social and political development.

The selected projects form integral part of a comprehensive UNODC’s criminal justice programme. This programme was intended to promote the fundamental principles of the rule of law through national, regional and interregional activities and technical cooperation activities. In developing such a programme, particular attention was given to the near past of Afghan history, its tradition, culture, and social mores, along with other distinctive elements of a country in transition. This programme was expressly designed considering the major needs, shortcomings and challenges that the international community faced in the aftermath of a long term conflict to reform the legal and criminal justice sectors.

In particular, the three justice projects, T03, R42 and R86, all share similar objectives and outcomes regarding their envisaged support to the same three government institutions:

- 1) Revision and development of key legislative documents to support the establishment of criminal justice systems in accordance with international conventions and standards;
- 2) Rehabilitation or construction judicial centres and infrastructure, including provision of equipment and furniture;
- 3) Development of training material and curriculum for members of the justice sector, including organizing courses and training sessions, to form a new professional category of skilled and qualified judicial personnel.

Therefore, the evaluations of each of the three projects will each be required to meet with and interview the same personnel in the same three justice institutions, as well as meet and interview the same international partners, stakeholders and co-implementing international agencies and institutions. This is why the evaluations should be done together, as otherwise there would be a three-fold waste and interview-fatigue of those who must be interviewed, resulting in one or two separate evaluations being unable to gather necessary information.

**AFG/R42 – Criminal law and criminal justice capacity building in Afghanistan**

Budget (US\$)	5,234,000
Duration	6 years (2003 to 2009)
Thematic Area	Criminal Justice Reform
Source of Funds	Crime
Donor	Italy, Ireland, Germany, Japan
Funding status	Additional funding required (\$32,554)

Project activities were carried out timely and major achievements have been recorded since the inception of the project in 2003. In particular, UNODC refurbished MoJ Headquarters, the Attorney General’s Office, and the Supreme Court, and delivered training in office management, English, and computer literacy to the staff of these institutions – at both the central and provincial levels (150 trainees). At the same time, it also organized study visits and technical conferences to benefit the staff of the Afghan criminal justice system. A pilot intervention which proved to be appreciated by both government counterparts as well as international partners has been the establishment of functional Justice Support Centres initially in five provinces (e.g. Nangarhar, Balkh, Paktia, Kunduz, and Laghman), for their versatile nature and the recorded high level of usage. In addition, criminal justice practitioners were trained in relevant topics and reference libraries were established.

In 2007, AFG/R42 was revised in order to extend its scope, whereby assistance was extended to judicial institutions at the local level, in three additional provinces (Bamyan, Baghlan and Herat). In 2008, international experts were recruited to develop training material and curriculum for judges and

prosecutors on trafficking in human beings and juvenile justice. In addition, the specialist on anti-human trafficking criminal justice capacity building in Afghanistan reviewed and modified existing material to develop trafficking in persons training material for parliamentarians. Technical assistance is being provided for the creation of legal aid offices, in conjunction with the establishment of the Afghan Bar Association. In this respect, an international attorney was selected to develop training material for lawyers and legal aid providers. UNODC works with ISISC and the Independent Bar Association for the implementation of activities under this project framework.

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

Budget (US\$)	2,734,400
Duration	2 years (2007 to 2009)
Thematic Area	Criminal Justice Reform
Source of Funds	Crime
Donor	Canada
Funding status	Fully funded

This project’s execution started in last quarter of 2007. It was planned in response to an increasing awareness on the part of the Afghan government of the need to reform the criminal justice system at the provincial level and the UNODC lessons and good practices developed under project AFG/R42 (e.g. Justice Support Centre and related training). The planned technical assistance activities aim to further strengthen the institutional capacity of the permanent judicial institutions in selected provinces, in order to create favourable conditions for socio-economic and political development at the provincial level.

This project retains the main goals of AFG/R42, with an expanded scope: (a) to construct offices for members of the justice sector, to continue with the construction of justice support centers, and to equip these sites with necessary materials and furniture (Herat, Bamyan, Nangarhar, 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. In this respect, UNODC, in partnership with the United States Institute for Peace (USIP) and the International Institute of Higher Studies in Criminal Science (ISISC) organized a Workshop on the Law Reform in Afghanistan, which held in Siracusa, Italy. In 2008, construction activities started in Herat, Bamyan, and Kunduz, for the construction of an office for the AGO and in Nangarhar for the construction of an office for the local staff of the Ministry of Justice. In addition, UNODC initiated the process to select a subcontracted company for the construction of a regional Justice Support Centre in Kandahar province.

**AFG/R86 – Strengthening anti-corruption measures in Afghanistan**

Budget (US\$)	3,167,200
Duration	2 years (2007 to 2009)
Thematic Area	Anti-Corruption
Source of Funds	Crime
Donor	Canada, UNDP, Norway, Poland
Funding status	Additional funding required

(\$1,321,701)

This project's overall objective is to strengthen the capacity of the Supreme Court and the Attorney General's Office to fight corruption. It works to ensure the development of effective measures to fight corruption in Afghanistan, to monitor the implementation of the UN Convention against Corruption (UNCAC) and to strengthen key legislation. Project activities are continuing to be executed since the commencement of the project in late 2007. In particular, a training manual and related curriculum for judges and prosecutors on countering corruption is being developed by UNODC and UNICRI. The training activities will be conducted nationwide in the second quarter of 2009. UNODC also worked with Internews, a specialized international NGO, to conduct a three-month training program for local journalists and editors from a range of media organizations, including print, TV, and radio outlets. Furthermore, a preliminary survey on corruption in Afghanistan has been conducted through pilot studies on integrity in the judiciary, legal profession and public institutions in selected provinces. UNODC and UNDP are currently also finalizing a systematic review of the existing national legislation, regulations and administrative procedures, comparing them with the UNCAC's mandatory and optional domestic legislative and programmatic provisions in order to take stock on Afghanistan's legal framework as to monitor whether it is in conformity with the UN Convention. Finally, UNODC provided extensive technical advice and support to the establishment of the High Office of Oversight (HoO) for implementation of the Anti-Corruption Strategy.

The project will strengthen the capacity of the Supreme Court and the Attorney General Office also with the provision of equipment and refurbishment of premises for special anti-corruption task force as well as support the elaboration of an AC national strategy and implementation provincial plans.

## 2. Purpose of the Evaluation

The purpose of this evaluation is to determine what the identified projects have achieved and if the projects have attained their objectives successfully and efficiently. More specifically, the purpose of this evaluation is to assess how the UNODC development cooperation builds the capacity of the Afghanistan government agencies in the area of Rule of Law. The evaluation will draw lessons learned and recommend improvements. At the same time, the evaluation will address the issue of what is the net value added of UNODC's work and its strategic positioning.

The evaluation will:

- Provide an assessment of the results achieved through UNODC's support through its project activities and in partnership with other key development actors.
- Provide an analysis of how UNODC has positioned itself strategically to add value in response to national needs and changes within the specific thematic area of Rule of Law.
- Provide an assessment of design, coherence, and focus of the selected projects.
- Provide an analysis to what extent activities and results are sustainable at their respective levels (communities, intermediate or higher level institutions) and connected to local, regional and national capacities and/or other forms of external support.
- Provide accountability to the UNODC management, member states and donors

Based on the analyses of achievements and positioning above, present key findings, draw lessons and provide clear and forward looking recommendations in order to suggest effective and realistic strategies by UNODC and partners towards intended results.

## 3. Evaluation scope

The evaluation shall focus mainly on the project's concept, design, implementation, results, outputs and outcomes. The evaluation should appraise:

(a) Project concept and design:

The evaluation should analyse whether and how the project contributed or is contributing to a priority area or comparative advantage for UNODC. It should review the problems identified by the project and the corresponding strategy chosen in order to address these. The evaluation should also encompass an assessment of the relevance and attainability of the objectives and of planned outputs, activities and inputs, as compared to other cost-effective alternatives. An analysis of the clarity, logic and coherence of the project should also be conducted. Some of the questions that this evaluation should address are:

- Are the objectives of the project aligned with the current policy priorities and action plans of Government of Afghanistan, Compact, ANDS, UNODC mandates and United Nations Development Assistance Framework (UNDAF) for the Islamic Republic of Afghanistan?
- Is the design of the project technically sound? Are the project objectives clear, realistic and coherent in terms of collectively contributing to the achievements of the Strategic Programme Framework and Afghanistan Development Strategy, and other strategic instruments?
- Are response activities and implementation strategy appropriate for meeting stated objectives, with a focus on assessing project elements directly related to capacity building, coordination and sub-contract performance?
- How well do the project objectives reflect the specific nature of the problem and needs of Afghanistan government?

(b) Objectives, outputs, impact and sustainability:

The evaluation should seek to determine whether results have been achieved, and if not fully, whether there has been some progress made towards their achievement. Taking into account these factors, the overall impact of the project should be assessed. This should also encompass the likely sustainability of results and benefits as well as the project's contribution to human and institutional capacity building. The beneficiaries' perception towards the achievements should be taken into consideration, as appropriation is an important factor in determining sustainability. Another fundamental aspect in result sustainability is beneficiary capacity building (have the beneficiaries gained the necessary tools and skills?). Furthermore, financial sustainability should also be assessed (for instance, once the project is terminated, will the benefits be self-sustainable?). Some of the questions that this evaluation should address are:

- To what extent the project contributed to the achievement of Afghanistan Compact and or Strategic Programme Framework and Afghanistan Development Strategy? What are the reasons for the achievements and non-achievement of objectives?
- To what extent key skills of criminal justice practitioners and law enforcement have been enhanced?
- Have improvement of leadership skills been enhanced at institutional and individual levels in order to drive coordination and more effective actions?
- Is there any improvement in programming and acting in terms of addressing, country problem related to drug and corruption related offenders and producing results over the period of time?
- How were project internal UNODC factors affecting effectiveness, including human resources logistic support, and the predictability and regularity of resources and flexibility of the budget (UNODC constrains)?
- How are project external factors like limits on access to interventions sites, human resource constraints etc. impacted on effectiveness (security situation)?

(c) Overall implementation process:

The evaluation should assess how effectively/efficiently project planning and implementation have been carried out. This includes assessing the extent to which organizational structure, managerial support and coordination mechanisms used by UNODC effectively support the project. Efficiency should be analyzed namely as the project's capacity to achieve the desired effects at an acceptable cost when compared to alternative approaches reaching the same effects. The role played by the field office in the development and implementation of the project or programme should also be assessed. The evaluation will analyse problems and constraints encountered during implementation as well as the quality and timeliness of inputs and the efficiency and effectiveness of activities carried out. Some of the questions that this evaluation should address are:

- Were alternative less costly interventions modalities considered in designing this project? Do they exist?
- Are there less costly methods which could achieve the same outcome/impact at the beneficiary level?
- To what extent was a transparent operating environment and accountability of government established?
- To what extent have partnership been sought with other relevant actors (including UN-agencies) and synergies been created in the delivery of assistance?
- Was there effective coordination among government, UNODC and other implementing partners including donor countries?
- Is the country human resource structure appropriate and efficient? Assess quality, timeliness, effectiveness and sustainability of management arrangements, technical inputs and assistance
- Has adequate and appropriate backstopping support been provided by field and HQ staff (administrative / managerial support and coordination)? Have partner institutions fully and effectively discharged their responsibilities?
- What are the positive and negative, intended and unintended, effects of interventions on people, institutions and the physical environment?
- Do the beneficiaries and other stakeholders affected by the intervention perceive to be the effect of the interventions on themselves?
- What are the perceptions of the different stakeholders, especially government of Afghanistan, implementing partners, other UN agencies, bilateral and multilateral donors, about the overall impact of UNODC's project activities?
- Does the national government take the lead in developing and implementing frameworks and strategies for eradicating illicit drug production, trafficking and consumption of illicit drugs, monitoring and reporting on production of illicit crop and strengthening the rule of law on its territory?
- Are the UNODC supported policies and strategic issues mainstreamed into the key national development documents?
- What are the specific legal, policies and regulatory changes that were supported that incorporate issues of UNODC thematic area?
- Do the project interventions have a potential for scaling up or replication?
- To what extent have the findings and recommendations from the past project evaluations been followed up and implemented to address some of the challenges already identified.

(d) Lessons learned from the concept, design and implementation of the project, as well as good practices:

Recommendations may also be made in respect of issues relating to the implementation and management of the project as well as follow up projects dealing with the same issues. The evaluation shall assess in what ways the project design and/or delivery can be improved to enhance its effectiveness. The evaluation should identify the key elements, assumptions and risks for the development of similar initiatives in other regions.

#### **4. Evaluation methods**

The evaluation will be a participatory process that will give due importance to self-assessment by stakeholders involved in programme design and implementation. All information to the largest possible extent be triangulated (use of three or more sources of information to verify and substantiate an assessment) and validated. Findings, conclusions, recommendations and lesson learned should clearly be action oriented and feed into major decision-making for future strategy and programme development.

The evaluation methods will include:

(a) Document review; this will include all major documents, such as the project documents, progress and monitoring reports, terminal narrative reports, as well as assessments, manuals developed under the project etc. (desk study)

(b) Visits to Ministry of Justice (Legislative and Publication Departments), Supreme Court, Attorney General Office, High Office of Oversight (HoO), United Nations Assistance Mission in Afghanistan (UNAMA)-Rule of Law Unit, UNAMA-Human Rights Unit, United Nations Development Programme (UNDP), International Institute of Higher Studies in Criminal Sciences (ISISC), Justice sector Support Programme/INL (JSSP/INL), EUPOL, EC, and other relevant stakeholders and interviews with key staff. It's also recommended to organize a telephone conference with staff of the United Nations Interregional Crime and Justice Research Institute (UNICRI) in Turin, Italy.

(c) Field assessment missions to Kabul, Mazar-e-Sharif, Herat and Jalalabad to visit Justice Support Centres as well as office for justice officials, if feasible and authorized by UNSECCORD.

(d) Meetings and interviews with other relevant judicial institutions.

(e) Request selected judiciary staff to complete and submit a questionnaire prepared by the evaluators.

(f) Drafting of a final report for each project.

## **5. Evaluation Team composition and requirements**

Each Criminal Justice Project is planned to be evaluated by 2 International Experts (Evaluators) who have relevant skills for the task. The Evaluators will be recruited by UNODC HQs on competitive basis and will travel to Afghanistan for the evaluation of the projects. One evaluator should have excellent knowledge in the criminal justice and capacity building of judiciary institutions in developing countries. The other Evaluator should possess extensive knowledge on anti-corruption reforms. Both evaluators should have an in-depth knowledge of projects and programme design, implementation, monitoring and evaluation.

In addition to the above, both Evaluators should:

- 1) Be familiar with the project implementation in the UN and possibly in UNODC.
- 2) Have experience in conducting evaluations.
- 3) Have at least 10 years relevant professional experience.
- 4) Have obtained a post-graduate degree a relevant area.
- 5) Possess excellent drafting and communication skills in English. Knowledge of Afghanistan local languages could be an asset.

The evaluators are selected by the UNODC Vienna, in consultation with the Country office of Afghanistan. Coordination is to be sought also with the Europe, West and Central Asia Section, PDB/DO, and the Criminal Justice Reform Unit, HSB/DO, and the Independent Evaluation Unit, in UNODC Vienna, using the agreed criteria and drawing expertise from the roster of experts.

## **6. Planning and implementation arrangements**

This evaluation will be a joint effort between the Evaluators and UNODC. As for substance, it is critical that the evaluation should be carried out independently by the Evaluators Team and they conduct a thorough evaluation covering all aspects of the project objectives, achievements, implementation and management. The Evaluators will have access to all relevant documents and the UNODC Country Office for Afghanistan will provide the required support for the Evaluators during the evolution. The UNODC officials responsible for briefing of the Evaluators are:

UNODC Country Office for Afghanistan:

- Ms. Jean-Luc Lemahieu, Representative
- Ms. Elisabeth Bayer, Deputy Representative
- Mr. Michael Hartmann, Manager and Senior Advisor, Criminal Justice Programme
- Mr. Matteo Pasquali, Criminal Justice Expert

UNODC Head Quarters in Vienna (Austria):

- Mr. Roberto Arbitrio, Chief, Asia and Europe Section, Division for Operations
- Mr. Andrea Mancini, International Project Coordinator, Asia and Europe Section, Division for Operations
- Independent Evaluation Unit if needed

UNODC Country Office will secure office space, administrative basic support, and travel arrangements for the evaluators during his/her stay in Kabul. UNODC will also assist with accommodation bookings, visa facilitation etc....

Following recruitment, the Evaluators will make preparation in 2 days to undertake a mission to Afghanistan. While in Kabul the Evaluators will received a briefing from the relevant staff of the Country Office and a desk-review of the Criminal Justice Programme documentations will be conducted by the Evaluators which will be followed by a visit to the Ministry of Justice, other relevant Departments and justice stakeholders for meetings and interviews. (5 days)

At the end of the field visits, meetings, interviews, etc. the Evaluators will prepare a draft report for each project within 10 working days and submit it to the UNODC Country Office for Afghanistan and UNODC HQs for comments.

### Time Frame & Tentative programme for the Evaluator

<b>Programme &amp; Activity</b>	<b>Days Required</b>
Preparation/travelling to Afghanistan	2
Briefing by Country office staff	2
Desk-review of documentations	5
Meetings/interviews with Ministries, Departments, UN Agencies and relevant stakeholders.	8
Field visit to the provinces	4
Preparation of the draft report	10
Returning home	2
After Termination of the Consultancy contract:	
Incorporating the UNODC comments in the report and preparing the final draft	5
<b>Total Working &amp; Travel Days</b>	<b>38</b>

**Note:** Detailed itinerary and programme will be prepared upon arrival and in consultation with the Evaluators.

### Deliverables of the evaluation

At the end of the evaluation mission, a debriefing meeting will be held at the UNODC Country Office for Afghanistan and the Evaluators will present a summary of the evaluation's findings and recommendations. Following the field visits and overall assessments, the draft report will be submitted to UNODC Country Office for Afghanistan within 10 days, which will be subsequently share with UNODC HQs and the Government Counterparts for comments.

The Evaluators are obliged to follow the UNODC standard format and guidelines for the preparation of the project evaluation report. The Terms of Reference of the Evaluators and the UNODC Format and Guidelines for the Evaluation should be annexed to the report. Other annexes to the report should be kept to an absolute minimum. Only those annexes that save to demonstrate or clarify an issue related to a major finding should be included.

Payment

The Evaluators will be issued a consultancy contract and paid as per the common UN rules and procedures. The final payment will be made only after the acceptance of the final draft of the evaluation report by UNODC HQs and the Country Office for Afghanistan.

## ANNEX 6 – LOGICAL FRAMEWORK

	Description	Objectively verifiable performance indicators	Sources and means of verification	Assumptions and risks
<u>Overall objective</u>	The over all objective of the project falls in the framework of the larger Criminal Justice Reform Programme in Afghanistan	Contribution for reform of the criminal justice system in Afghanistan	Judiciary institutions and the judicial set up system in Afghanistan	Lack of effective coordination of activities in the justice sector and little communication among institutions on criminal justice reform
Immediate objective 1	Operational Capacity of the Ministry of Justice with focus on Legislation and Publication Departments enhanced	Both the Legislation and the Publication departments provide legal support for enhancing operational capacity of criminal justice	- Development and revision of criminal laws and their publication in official gazettes; - Series of trainings and seminars on the laws.	Relevant departments in the justice sector may not introduce qualified professional to participate in trainings and seminars. Materials and equipment provided may not be used in a correct and appropriate manner.
Expected output 1.1	A restructured and reorganized Legislation department has senior specialized trained staff equipment, and books for the professional members of the legislative department to complete the research, essay, articles of the institute.	- Specify essential equipment of the Legislative department; - Identify legislative books ; - Identify the incomplete research and essay; - Introduce professional staff for training to attend professional training courses on legislatives.	The Legislative Department of the MoJ is the main resource and its set up can be used as a means of verification	The relation of functions between the Legislative Department and the newly established Parliament is still unclear..
Expected output 1.2	A restructured and reorganized publication department has senior specialized trained staff, equipment, and books for library and publication section. A database for library and web-site of the Ministry of Justice developed.	-Introduction professionals to a study tour to visit publications and distribution mechanism of laws; -Training of librarians in library training and professionals in database and in web-site training courses; - Provision of essential equipment and stationary for the department.	The Publication Department of the MoJ is the main resource and its set up can be used as a means of verification	The department may not print and distribute texts of applicable laws in a timely manner throughout the country.
Immediate Objective 2	Justice Support Centres, which accommodate provincial offices of justice, police, prosecutors, judges and lawyers, shall be	The existing procedures that are agreed by local judiciary institutions and governmental authorities	SC and AGO offices in the provinces	Lack of support by the local judiciary institutions and insufficient public legal awareness

	Description	Objectively verifiable performance indicators	Sources and means of verification	Assumptions and risks
	established and fully functional in selected provincial capitals			
Expected output 2.1	Construction of Justice Support Centres (JSCs), including the provision of necessary equipment and furniture	The assessment report of selected provinces;		
Expected output 2.2	Senior specialized judges, prosecutors, lawyers, police and administrative staff have been trained on the Law on Prisons and Detention Centres, Juvenile Code, Rule of Law and Human Rights basic principles, Rule of Ethics and Professionalism, and basic management skills	Number of trained professionals and staff	National counterparts	Low level of education of state justice officials in most the provinces
Immediate objective 3	An information (data base) system for the Ministry of Justice and for selected pilot provincial Centres (intranet) has been developed, providing the Ministry of Justice with access to selected international databases	<ul style="list-style-type: none"> <li>- Utilise set-up of the information system;</li> <li>- Utilise the computers that have been already provided;</li> <li>- Facilitate recruitment of international consultant to set-up the computerization Programme and the information at the Ministry of Justice and the provincial justice centres.</li> </ul>	Provincial departments of the MoJ	Lack of electricity in some provinces and difficulties in providing technical assistance for keeping the system fully functional
Expected output 3.1	The information system has been installed and necessary equipment provided.	The provision of equipment and training to the administrative staff	Staff and required offices available in each provincial department of the MoJ	Inability in maintaining the system efficient and operative
Immediate objective 4	National criminal law and procedure provisions revised	<ul style="list-style-type: none"> <li>- Conduct the legislative provisions concerning crime prevention and criminal justice,</li> <li>- Convene a law reform Commission composed of relevant Afghan institutions;</li> <li>- The drafted reviewed and updated rules and regulations as outcome of the sessions of the</li> </ul>	Technical support of national and international experts to the Legislation Department of the Ministry of Justice	

	Description	Objectively verifiable performance indicators	Sources and means of verification	Assumptions and risks
		Law Reform Commission; - Participation in training courses.		
Expected output 4.1	Legislative provisions concerning criminal law and procedure (the Penal Code, the Criminal Procedure Code and other relevant laws and regulations) have been reviewed and adapted to United Nations Standards and Norms in Crime Prevention and Criminal Justice	The support of the national and international expert to the Legislation Department of the MoJ	- Sessions of the International and National experts; - Legislation Department of the MoJ.	Ministry Of Justice may not rely on technical assistance and expertise provided by international and national legal experts
Immediate objective 5.1	Operational capacity of the judiciary enhanced in Kabul and in selected provinces	- Provision of training courses for admin staff of the judiciary sector in selected provinces; - Provision of essential equipment and furniture in selected provinces; - Provision of training courses on the newly developed or revised laws in selected provinces.	Judicial institutions in each province; Essential materials and equipment;	Absence of adequate facilities in most of the provinces
Expected output 5.1	Judiciary Offices in provinces are trained, refurbished, and well-equipped	The support of provision of training, equipment, furniture, and construction	Judicial institutions and international support	Low level of education of state justice officials in most the provinces
Immediate Objective 6	Developing a legal aid programme and services including a pilot office comprised of legal professionals in Kabul	Develop a law for an Independent Afghan Bar Association; Provision essential equipment and furniture; Develop a criterion for selection of lawyers associations.	International legal organisations supporting the establishment of an Afghan Independent Bar Association	Untimely establishment of an Afghan Independent Bar Association.
Expected output 6.1	Establishment of a data-base at the Ministry of Justice (MoJ)	Data/information collected (age, academic background, profession, +others), data-entry clerk trained and data entered in the data-base	National counterparts	Low number and low level of education of lawyers at both at central and provincial level
Expected output 6.2	Lawyers have been trained on applicable laws, including the Penal Code, Criminal Procedure Code, Juvenile Code, Rule of	Number of trained professionals and staff	National counterparts	Low level of education of lawyers at both at central and provincial level

	Description	Objectively verifiable performance indicators	Sources and means of verification	Assumptions and risks
	Law and Human Rights basic principles, Rule of Ethics and Professionalism, and basic management skills			

## Annex VII. Evaluation assessment questionnaire

Project/programme title: Criminal Law & Criminal Justice Capacity Building

Project/programme number: R42

The evaluators are required to rate each of the items shown below on a scale of 1 to 5 (1 being the lowest and 5 being the highest), as follows:

5 = Excellent (90-100 per cent)

4 = Very good (75-89 per cent)

3 = Good (61-74 per cent)

2 = Fair (50-60 per cent)

1 = Unsatisfactory (0-49 per cent)

These ratings are based on the findings of the evaluation and thus are a translation of the evaluation results.

A.	Planning	Rating				
		1	2	3	4	5
1.	Project design (clarity, logic, coherence)			X		
2.	Appropriateness of overall strategy					X
3.	Achievement of objectives			X		
4.	Fulfilment of prerequisites by Government			X		
5.	Adherence to project duration			X		
6.	Adherence to budget			X		

B.	Implementation	Rating				
		1	2	3	4	5
7.	Quality and timeliness of UNODC inputs				X	
8.	Quality and timeliness of government inputs			X		
9.	Quality and timeliness of third-party inputs			X		
10.	UNODC headquarters support (administration, management, backstopping)				X	
11.	UNODC field office support (administration, management, backstopping)				X	
12.	Executing agency support			X		

C.	Results	Rating				
		1	2	3	4	5
13.	Attainment, timeliness and quality of outputs				X	
14.	Achievement, timeliness and quality of outcomes				X	
15.	Programme/project impact				X	
16.	Sustainability of results/benefits				X	

D.	Recommendations	Rating				
	The evaluator should choose ONE of the four options below.					
	Continue/extend without modifications					
	Continue with modifications					
	Revise project completely					
	End project	X*				

E.	Comments
	<p>Provide relevant explanations and comment on issues such as clarification, replicability, best practices etc.</p> <p>*Note: project already ended</p> <p>The consensus-building mechanism of CLRWG should be widely replicated, though the organization must promote a less western-centric approach of the forum, together with increased empowerment of its national component. Outsourcing of training to ISISC did not provide value for money and the establishment of a training unit within the COAFG should be considered. Wellbeing and professional growth of internal staff must receive increased appreciation by the organization. UNODC should ensure that monitoring obligations of project activities by implementing partners are fully adhered to.</p> <p>See Matrix for further details.</p>