



UNITED NATIONS  
*Office on Drugs and Crime*

## MID-TERM EVALUATION REPORT

**Project Number:**  
AFG/T03

**Project Title:**  
Criminal Justice Capacity Building  
Extension to the provinces

**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
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
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
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
WJ	Wolesi Jirga

### **Evaluation Team:**

**Paul Garlick**  
**Ivana Roagna**  
Criminal Justice Experts

#### 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.

## EXECUTIVE SUMMARY

### 1. Summary Table

FINDINGS: IDENTIFIED PROBLEMS/ISSUES	SUPPORTING EVIDENCE/EXAMPLES	RECOMMENDATIONS
<b>Project design</b>		
<p>1. Project T03 was able to guaranteed continuity with previous UNODC projects (namely Project R42), ensuring sustainability of the interventions, capitalization of know-how, increasing impact of interventions, fostering synergies, and building trust with counterparts.</p>	<p>Project T03 builds and expands on the results achieved by Project R42, though with particular emphases on the area of fight against drug-related crimes.</p> <p>Project T03 benefited from the lessons learned and recommendations issued under its predecessor and represented an opportunity to show the commitment of the Organization to the achievement of the identified Rule of Law benchmarks.</p>	<p>The approach adopted so far by UNODC whilst implementing its projects, that is to conceive follow-ups to given interventions by expanding (geographically or thematically) a previous project, should be maintained, particularly in environments such as Afghanistan where dynamics are rather complex, require huge investments in terms of time and human resources, and where project results are significantly influenced by the level of trust that implementing agencies are able to establish with national institutions.</p>
<p>2. UNODC was able to maintain an excellent legislative support tool build around a participatory consensus-building mechanism</p>	<p>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</p>	<p>As already recommended under Project R42, the operational modalities of the CLRWG, which are key to its success, should be exported and adapted into other activities whenever possible.</p>
<b>Project management</b>		

<p>3. UNODC’s ability to coordinate with other international actors working in the same geographical areas proved to be a key to maximise the effectiveness of the project activities.</p>	<p>The coordination established by UNODC with UNAMA’s Provincial Justice Coordination Mechanism (PJCM) in 5 of the 8 regions where Project T03 will be implemented deserves special mention. Though not foreseen by the project, UNODC was able to identify the need for coordination</p>	<p>The overlapping and duplication of efforts and activities is common in many countries where the international community is engaged in post-war reconstruction. Though time-consuming, efforts to promote coordination of activities and funding, sharing and exchange of</p>
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<b>FINDINGS: IDENTIFIED PROBLEMS/ISSUES</b>	<b>SUPPORTING EVIDENCE/EXAMPLES</b>	<b>RECOMMENDATIONS</b>
	with the UN Mission and was able to avoid duplication and overlapping of activities, thereby maximising effectiveness and efficiency of project activities.	<p>experience should be encouraged. The evaluators recommend that UNODC takes the lead in setting up, promoting and maintaining coordination meetings with national and international actors working in the field of criminal justice.</p> <p>The organization should ensure that, at the time of project design and of definition of the workplan, time and resources needed to ensure coordination are fully taken into account and that internal staff receive appropriate training on effective coordination tool and inter-agency dynamics.</p>
4. Internal monitoring obligations placed on implementing partners were insufficient to enable UNODC to assess real impact of activities and allow for timely interventions to address problems.	UNICRI and ISISC had annual/final reporting obligations only.	When concluding agreements for the implementation of projects activities, UNODC should request partners to provide quarterly reports.
5. The project suffered from lack of transparency and systematic communication with donors.	<p>Information gathered by evaluators during the field mission.</p> <p>No (regular) Board meetings with donors were held.</p>	<p>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.</p> <p>Organisation (and follow-up) of such meetings must be clearly included in the project document and implemented accordingly.</p>
6. 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

FINDINGS: IDENTIFIED PROBLEMS/ISSUES	SUPPORTING EVIDENCE/EXAMPLES	RECOMMENDATIONS
		others, COAFG, is fully complied with.
<b>Staff</b>		
7. 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.
8. 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.
9. 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>
<b>Training</b>		
10. Systematic outsourcing of training by UNODC does not provide value for money.	Training outsourced to ISISC proved to be rather expensive and not always consistent with other training initiatives implemented by UNODC under different projects.	UNODC should consider the possibility of creating a (small) Training Unit within the COAFG's CJP, tasked with the identification of training needs, development of relevant curricula, and of the

<b>FINDINGS: IDENTIFIED PROBLEMS/ISSUES</b>	<b>SUPPORTING EVIDENCE/EXAMPLES</b>	<b>RECOMMENDATIONS</b>
		<p>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>
<p>11. 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.</p>	<p>Review of project documents and activity reports.</p>	<p>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.</p>
<b>Legislative assistance</b>		
<p>12. The legislative assistance provided by UNODC suffered from an excessive western-centric approach.</p>	<p>Information and perceptions gathered by the evaluators during the field mission.</p>	<p>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.</p>
<p>13. The CLRWG represented the only tool UNODC put in place to provide legislative assistance.</p>	<p>Project document.</p>	<p>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</p>

FINDINGS: IDENTIFIED PROBLEMS/ISSUES	SUPPORTING EVIDENCE/EXAMPLES	RECOMMENDATIONS
		National Schools for Public Administration present in various Countries.

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

Project T03 responds to the need of the Afghan Government to comply with the Rule of Law High-Level benchmarks to be achieved in accordance with the timelines identified in the Afghanistan Compact adopted at the London Conference of 2006. It was conceived as a follow up to the project R42 “Criminal Justice Capacity Building”, providing continuity to the support of the international community to Afghanistan in its endeavour to establish a fully functioning judicial system based on the rule of law. In more detail, this project represents one of the tools, developed within UNODC’s Strategic Programme Framework for Afghanistan, by which the organization contributes to the achievement of the Compact benchmarks in the field of the fight against drug crimes.

In order to respond to the needs of the justice system as identified, the drafters of the project adopted a three-step approach. First, the provision of the necessary infrastructure, which would not only provide suitable premises for justice to be exercised (and seen to be exercised), but also increase the level of public trust and confidence in the formal judicial system, notoriously marked by rampant corruption and therefore an easy prey for the warlords. Secondly, the project supports the Afghan Government in its commitment to build up the national capacity comprehensively to address serious drug related offences in the country, through the strengthening of institutional capacity to arrest, investigate, prosecute and convict criminal offenders, in cases of drugs related crime. Thirdly, by reviewing the existing national legislation concerning criminal law and procedure and suggesting amendments in line with the United Nations Standards and Norms on Crime Prevention and Criminal Justice, the legal reform process would be strengthened.

Project T03 was officially launched by UNODC in September 2007. During its 48-month duration, it aimed at achieving the following stated objectives:

- 1) to construct offices for members of the justice sector and new provincial Justice Support Centres (JSC), including providing the necessary equipment, furniture;
- 2) to strengthen the institutional capacity of prosecutors and judges to arrest, investigate, prosecute and convict criminal offenders, in cases of drugs related crime, through specific training and mentoring courses on criminal law and procedure at central and provincial level; and
- 3) to assist the legislative department of the Ministry of Justice in the revision of selected national criminal laws and procedures.

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

By the standards outlined in the project document, and having in mind that this is an intermediate evaluation; the evaluators reached a rather satisfactory impression on the way the project has been implemented.

Immediate objective 1 (Construction of courts and multipurpose Justice Support Centres (JSCs), which accommodate provincial offices of justice, police, prosecutors, judges and lawyers, shall be established and fully functional in selected provincial capitals), representing the so- called hardware component of the project, was implemented smoothly, despite some contingent difficulties. UNODC proved able to establish full coordination with the SC, the AGO and the MoJ benefitting from the infrastructures. Institutional counterparts welcomed such multi-purpose, fully equipped facilities providing, amongst other things, a safe haven to all justice professionals and accommodation for visiting Judges, Prosecutors, Lawyers/Legal Aid providers, as well as legal, management and computer trainers.

Immediate Objective 2 (Support to improve the professional skills and delivery of judges, prosecutors, and police in selected provinces), representing the so-called software component of the project, represented probably the most problematic aspect of the project.

The contribution commissioned to UNICRI was never implemented and although ISISC provided the training it was tasked for, the evaluators are not fully convinced of the results of their effort, also due to poor reporting. On the other hand, the technical and material assistance provided by UNODC to the AGO for the training program known as “Stage” for newly hired prosecutors deserves a special mention, together with the provision of IT material and training to the AGO, the SC both at central and provincial level.

Immediate Objective 3 (Legislative documents concerning criminal law and procedure (i.e. 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), carried out by UNODC through the CLRWG represents one of the major successes of the project. The number of laws and regulations reviewed, commented and/or proposed is huge, ranging from Extradition and International Legal Assistance, to Terrorism, Juvenile Detention Centres, Prisons, Abduction and Trafficking in Human Beings, High Office of Oversight of Corruption, Elimination of Violence Against Women, Penal Code Amendments, and Medical Forensics, not to mention the over year long process involving the draft Criminal Procedure Code.

The UNODC-lead mixed (national/international) forum tasked with the legislative support also made it possible to achieve a satisfactory level of coordination amongst stakeholders and donors operating in the field of justice, thus helping to maximise all interventions, also by reducing duplications.

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

Despite some criticism, the evaluators believe that Project T03 represents an inspiring example of project design, as it was able to apply a long-term approach to a short term project, as well as a good example of UNODC’s capacity to capitalize results of previous projects. With the intervention under review, UNODC was able to build on the results already achieved under Project R42, providing the needed continuity in its technical assistance, reinforcing the trust with counterparts and interlocutors which is key to success in complex and unstable environments.

Sustainability is therefore the most distinctive features of the project under review. When thinking about it, probably the “hardware” component of the project is what comes to mind first. But although infrastructures remains the most tangible (in real terms) aspect of the project, Project T03 will definitely be remember for the legislative support it was able to provide through the work of the CLRWG<sup>1</sup>. The latter can definitely be regarded as the most sophisticated legacy Project T03 will leave after its completion. Since its establishment in 2006, the CLRWG has become the key institution able to impact on national actors involved with legislation, as well as to coordinate international community members active in the Country. Now the Group is regarded by all stakeholders as the compass guiding legislative activity.

UNODC national and international staff in Afghanistan enjoys enviable reputation for personal dedication, deep familiarity with local conditions and access to local decision makers. The reasons for this welcome state of affairs lie partly in the high competence of national project coordinators, availability of exceptional support staff, particularly of

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<sup>1</sup> The CLRWG, whose success is undoubtedly linked to UNODC, is first and foremost a forum where all national and international stakeholders and players convene to discuss legislative initiatives, issuing relevant, concerted recommendations. Its influence, however, went well beyond: as all significant legal text are submitted to its scrutiny, the CLRWG played a pivotal role in significantly reducing the pressure put on the Executive to adopt urgent legislation under the menace of funds being cut.

translators, and the above average length of in-country service of international staff. The latter are also to be commended for their open, pro-active working relationships with other organizations involved in justice reform, both from within the UN family and outside.

In the course of the project life, UNODC has shown a great ability to adapt project design and implementation flexibly to changing external conditions. As a general managerial principle, such flexibility is indispensable in fast-changing post-conflict scenarios.

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

Having reviewed the project, assessed its results, identified its best practices and lessons learned, heard opinions, and collected comments from the live voices of stakeholders, beneficiaries, partners and UNODC staff, the evaluators have identified five areas bearing implications to UNODC.

The first area concerns the project design. Considering the capitalization of results of previous project R42 that the present project was able to ensure, the evaluators believe that the practice of UNODC to conceive follow-ups to given interventions (expanding them geographically or thematically) should be maintained. Considering the very complex and difficult environment where project T03 was implemented, it is clear that it could have not reached the results it did without the foundations that previous project R42 was able to build, particularly in terms of trust with the institutional counterparts. The same applies to the legislative support provided, which benefited from the continuity given by the organization to the consensus-building mechanism represented by the CLRWG.

In terms of project management whilst UNODC staff must be praised for its restless efforts to foster coordination and avoid duplication in the actual implementing phase of the projects, the assessment of T03 showed some flaws in what is that the organization was not able to ensure that implementing partners effectively monitored their activities, thus impeding timely redress interventions, did not ensure the necessary level of transparency in the relationship with donors (for instance no Board meetings, though foreseen by the project document, ever took place), and did not detect and address the conflict of interest between evaluators and those under scrutiny, as the latter were charged with the actual recruitment of the evaluators.

When it comes to staff of the organization, the evaluators considered that training of internal staff still needs to be properly addressed, together with adequate staffing of the office (also in terms of presence of support staff to senior management, which eventually ensure that institutional memory of activity is preserved in line with the organization's standards) and a more coherent interpretation of functional roles, based on the actual position rather than on personal inclinations.

In terms of training delivered under the project, the evaluators considered that systematic outsourcing of it to ISISC did not provide value for money (also because of the many flaws in the monitoring of the training provided by the implementing partner) and recommend the creation within the COAFG of a (small) training unit, where the presence of a strong national component would also favour the process of empowerment and ownership of project results.

In relation to the legislative assistance provided under the project the evaluators, whilst praising the sophisticated consensus-building mechanism represented by the CLRWG, which should be exported, adapted and replicated whenever possible, underline the need that the Organization pays more attention in order to ensure that the process remains culturally-sensitive and respectful of the national legal values, promoting a genuine sense of ownership by the national component of the CLRWG not only of the final results but also of the whole process. Whilst adhering to the international standards, UNODC should promote a bottom-up approach that, at times, seemed to lack.

Presence of the above mentioned forum was eventually not considered sufficient to ensure full empowerment of its national component: interventions in the field of legislative assistance, therefore, should be expanded as to encompass study visits to foreign Schools for Public Administration.

# 1. INTRODUCTION

## 1.1 Background and context

Eight years after the fall of the Taliban government, 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. Project T03 forms part of UNODC's Criminal Justice Reform Programme (CJRP). This was launched in 2002 as the first, immediate response to the needs of a Country whose formal justice system was almost non-existent, and lacking 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). 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 the recent history of Afghanistan, its traditions, culture, and social mores, along with the other elements which are peculiar of 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 term conflict period that had just ended. Even though the situation has improved in the last years, and notwithstanding the continuous support that UNODC has been able to provide since the fall of the Taliban, 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 remedied 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, rampant corruption, and the influence that money derived from narcotics and warlords are able to exert on the Country's structures, are all facets of the same problem, which Project T03 tries to tackle with a comprehensive response.

## 1.2 Project Description

Project T03 responds to the need of the Afghan Government to comply with the Rule of Law High-Level benchmarks to be achieved in accordance with the timelines identified in the Afghanistan Compact adopted at the London Conference of 2006. It was conceived as a follow up to the project R42 "Criminal Justice Capacity Building" and provides continuity to the support of the international community to Afghanistan in its endeavour to reach, in the area of rule of law, the following results by the end of 2010: 1) the legal framework required under the constitution, including civil, criminal and commercial law, will be put in place, distributed to all judicial and legislative institutions and made available to the public; 2) functioning institutions of justice will be fully operational in each province of Afghanistan, and the average time to resolve contract disputes will be reduced as much as possible; 3) a review and reform of oversight procedures relating to corruption, lack of due process and miscarriage of justice will be initiated by end 2006; subsequent reforms will strengthen the professionalism, credibility and integrity of key institutions of the justice system (the Ministry of Justice, the Attorney General's Office, the Supreme Court, and the Ministry of Interior) and 4) justice infrastructure will be rehabilitated.

In more detail, this project represents one of the tools, developed within UNODC's Strategic Programme Framework for Afghanistan, by which the organization contributes to the achievement of the Compact benchmarks in the field of the fight against drug crimes. According to the Compact, by the end of 2010: 1) the Government will strengthen its law enforcement capacity at both central and provincial levels, resulting in a substantial annual increase in the amount of drugs seized or destroyed and processing facilities dismantled, and effective measures, including targeted eradication as appropriate, that contribute to the elimination of poppy cultivation; 2) functioning institutions of justice will be fully operational in each province of Afghanistan; 3) reforms will strengthen the professionalism, credibility and integrity of key institutions of the justice system; 4) the Government will increase the number of arrests and prosecutions of traffickers and corrupt officials and will improve its information base concerning those involved in the drugs trade, with a view to enhancing the selection system for national and sub-national public appointments.

In order to achieve the project's stated overall objective of contributing to the reform of the criminal justice system in Afghanistan, the project followed the now established consolidated "software and hardware" approach. This means that, similarly to its predecessor project (R42), Project T03 adopts a comprehensive approach, where provision of infrastructures goes hand in hand with revision and development of laws crucial to the strengthening of the Afghan criminal justice system, with particular emphases on counter narcotics, together with capacity building in the form of training. In constructing or refurbishing courts, extending Justice Support Centres (JSCs) to additional selected provinces, and conducting capacity building for legal professionals and legal staff, this project constitutes an important step forward towards remedying the insecurity which reigns in the formal justice system.

In order to respond to the needs of the justice system as identified, the drafters of the project adopted a three-step approach. First, the provision of the necessary infrastructure, which would not only provide suitable premises for justice to be exercised (and seen to be exercised), but also increase the level of public trust and confidence in the formal judicial system, notoriously marked by rampant corruption and therefore an easy prey for the warlords. Secondly, the project supports the Afghan Government in its commitment to build up the national capacity comprehensively to address serious drug related offences in the country, through the strengthening of institutional capacity to arrest, investigate, prosecute and convict criminal offenders, in cases of drugs related crime. Thirdly, by reviewing the existing national legislation concerning criminal law and procedure and suggesting amendments in line with the United Nations Standards and Norms on Crime Prevention and Criminal Justice, the legal reform process would be strengthened.

Project T03 was officially launched by UNODC in September 2007 for a period of 24 months. Its stated objectives, unchanged by the various revisions, are:

- 1) to construct offices for members of the justice sector and new provincial Justice Support Centres (JSC), including providing the necessary equipment, furniture;
- 2) to strengthen the institutional capacity of prosecutors and judges to arrest, investigate, prosecute and convict criminal offenders, in cases of drugs related crime, through specific training and mentoring courses on criminal law and procedure at central and provincial level; and
- 3) to assist the legislative department of the Ministry of Justice in the revision of selected national criminal laws and procedures.

Initially, it was envisaged that Project T03 would be implemented over a period of 24 months, ending in August 2009. However, it was revised twice during its lifetime.

The first project revision, in November 2008 increased the initial budget from US\$ 2,734,400 to the current US\$ 3,505,875. UNODC justified the revision in the light of the need to conduct additional capacity building activities as well as to ensure that additional professional staff and criminal justice experts were recruited in order to contribute to a successful and timely

implementation of the project. Probably taking into account the general recommendation highlighted by the 2007 mid-term evaluation of project R42 and the thematic evaluation of 2008, regarding the lack of sufficient project staff, the revision was prompted by the need to recruit an Expert on Criminal Justice to act as Deputy to the Senior Criminal Justice Programme (CJP) Advisor, and to provide advisory services and technical assistance on a variety of criminal justice issues.

The last revision also reflected the presence of a new associated agency, namely UNICRI, charged with developing tailor-made training material to be used with law enforcement officials. This entailed a modification of activity 2.2.1. The initially envisaged “national and international consultants responsible for developing and/or adapting existing UNODC training materials in support of arresting, investigating, prosecuting, and sentencing alleged drugs and other serious crime offenders” became the current “development of a training manual for Afghan judges and prosecutors on handling narcotic cases”. We presume that UNODC concluded a MoU with UNICRI for the performance of the above mentioned activities; however, no such document was included in the material put at the disposal of the evaluators.

The second project revision took place in 2009. It concerned both the project's budget and the project's duration. The increased disbursement of US\$ 2,499,093 and the 24-month prolongation were motivated by the need to undertake additional capacity building activities, as well as to ensure that additional professional staff was recruited. In addition to the International Programme Advisor (L5), International Advisor (Criminal Legislative Reform) (L5), and National Project Coordinator, whose recruitment was finalised in February 2008. From January 2009 onwards the position of Criminal Justice Expert (L4) was also created.

According to the project documents, a Programme Coordinator (L4) was also to be recruited. The revised project documents identifies the following as the tasks of the additional staff member, based in Vienna: support to the EWCAU and the COAFG in the running of drug control and crime prevention; technical cooperation, in the development of drug control and crime prevention strategies, programmes, and priorities in the formulation of the Country Programme of Afghanistan.

### **1.3 The Structure of the Project**

Project T03 represents a follow up to project R42, which UNODC ran between 2002 and 2009 (and which is due to end in December 2009). Project T03 borrows from its predecessor the hardware and software approach already mentioned. This involves a simultaneous provision of buildings and equipment (hardware) and capacity building assistance (software) necessary for the judicial system to tackle criminal offenders, particularly in the field of counter-narcotics. Project T03 responds to the increased awareness of the Government of Afghanistan of the necessity to reform its criminal justice system at provincial level. The planned technical assistance activities in selected provinces aim to further strengthen the institutional capacity of permanent judicial institutions, creating more favourable conditions for the provincial economic, social and political development.

In total this project identifies 3 immediate objectives. What follows is the list of objectives according to the last revised project document:

**Objective 1:** Enhanced access to justice in the country through the construction of courts and multipurpose Justice Support Centres (JSCs), which accommodate provincial offices of justice, police, prosecutors, judges and lawyers, in selected provincial capitals and through the training of their staff.

**Objective 2:** Support to improve the professional skills and delivery capacity of judges and prosecutors in selected provinces

**Objective 3:** Selected national criminal law and procedure provisions revised in line with priority areas indicated by the Taqin (legislative department of the Afghan Ministry of Justice) in its legislative calendar.

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 primarily the Ministry of Justice (MoJ) in its capacity as governmental executive authority in the field of criminal justice matters, and the MoI as counterparts and UNDP and UNICRI as associated agencies.

Each set of activities is broken down into components, which follow a logical and clear division of responsibilities and activities. Overall, the project strategy and design are coherent and logical. Contrary to what the current evaluators found with other projects reviewed by them, project document revisions are complete. The reader is provided every time with full details concerning the project, including revised logframe, consolidated budget and work and monitoring plan. Outputs, inputs and activities are defined with sufficient clarity and precision and identify the organization responsible for them. Risk assessment pertaining to the project was also conducted.

#### **1.4 Executing Modality**

Project T03 has been implemented by UNODC in cooperation with UNDP, tasked with the provision of administrative and financial assistance.

According to a project revision document agreed in October 2008 UNICRI was given the task of developing training material on investigation, prosecution and adjudication of drug offences. The revision document stated (paragraph 2) as follows: "While the immediate objectives remain the same, Activity 2.2.1 (Recruit national and international consultants responsible for developing and/or adapting existing UNODC training materials in support of arresting, investigating, prosecuting, and sentencing alleged drugs and other serious crime offenders) will be amended, as this will now be implemented through UNICRI, as associated agency in execution. The project revisions document also stated (paragraph 4) that: UNICRI, as associated executing agency, will in a timely manner develop the training manual for Afghan judges and prosecutors on handling counter narcotics cases as per Activity 2.2.1. Any hindrance will delay the achievement of immediate objective 2.

As far as staffing of the project is concerned, the Criminal Justice Programme Coordinator (referred to as Manager and Senior Advisor) (L5) (a position which remained vacant during 2007) is tasked with the overall responsibility of the CJRP and its three areas of Penal Reform, Criminal Justice, and Anti-Corruption. The Criminal Justice Programme Coordinator was recruited to strengthen UNODC's delivery of expertise and services. The recruitment process was eventually finalized in February 2008. In addition to the above mentioned personnel, in January, 2009, a Criminal Justice Expert (L4) was recruited to strengthen UNODC's delivery of expertise and services. Daily implementation of T03 is tasked to the National Project Coordinator. The Senior International Legal Expert (L5) focuses only on the legislative support activities, thus primarily dealing with the Ministry of Justice and Parliament. The staff has the support of three Administrative/Finance Officers, one Building/Civil Engineer as well as Translator/Interpreters, embedded in the internal interpretation Unit. The evaluators were informed that it is anticipated that a national lawyer will be recruited by the end of the year 2009 to provide additional support.

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

As this is a mid-term evaluation, the evaluators are not in a position to formulate a conclusive assessment as to the impact and sustainability of the project. Their views on this, therefore, will necessarily be limited and the position regarding impact and sustainability will be susceptible to change. The evaluators, however, were able: (a) to draw conclusions as to whether activities as envisaged in the project documents were timely implemented; and (b) to identify factors responsible for the success or failure of a particular activity, specifying the results achieved and any lessons that could be learned. This includes determining whether or not the goals and projects being undertaken by UNODC were appropriate and whether the activities were efficiently implemented.

The terms of reference for the evaluation are attached at Annex 6. A list of the visits and interviews conducted in the course of the evaluation is attached at Annex 3. The evaluation covers the period from April 2007 to August 2009. As indicated by the attached terms of reference, the evaluators' task covered three different projects, only one of which (project R42) had been completed at the time of the evaluation. Project T03 was conceived as the natural continuation of project R42, though considerably reduced in its scope. Consequently, the transition of some of the comments and observation made with respect to R42 to the present project is, therefore, inevitable; particularly as the UNODC staff, interlocutors, counterparts, stakeholders, co-implementing international agencies and institutions, and beneficiaries of the two projects are almost totally coincident.

Considering the stated objectives of the project, the evaluators focused their work on the following 3 areas where results were expected:

1. construction of offices for members of the justice sector and new provincial Justice Support Centres (JSCs) in selected provinces, including Kandahar, and to render them operational by providing the necessary training sessions as well as equipment and furniture;
2. enhancement of the institutional capacity of prosecutors and judges to fairly, effectively and efficiently detain, investigate, prosecute and adjudicate upon the cases of alleged criminal offenders, in particular those committing illicit drugs related crime, through specific training and mentoring courses on criminal law and procedure and investigative skills at central and provincial level;
3. assistance to the Legislative Department (the "Taqnin") of the MoJ in the revision of selected national criminal laws and procedures, with particular attention to capacity building and revision of current substantive and procedural legislation.

## **1.6 Scope of the Evaluation**

In line with the attached terms of reference, the evaluation of Project T03 focuses on the project's concept and design, the project's partial 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 those problems. In particular, the evaluation assesses the relevance and the attainability of the objectives and planned 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, at this stage, results have been achieved in line with the work plan. 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, though only to a limited extent, as clarified earlier. 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

so far can be considered 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. 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

Evaluation of the attainment of individual objectives will precede the overall performance assessment. The objectives, outputs, and activities considered and listed below for easy reference are those resulting from the consolidated version of the project, as previously mentioned.

#### **Immediate objective 1<sup>2</sup>:**

**Construction of courts and multipurpose Justice Support Centres (JSCs), which accommodate provincial offices of justice, police, prosecutors, judges and lawyers, shall be established and fully functional in selected provincial capitals**

#### **Expected output 1.1:**

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

#### **Expected output 1.2:**

**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**

The construction work initiated by UNODC under Project R42 continued within the framework of Project T03. In implementing its obligation to build the necessary infrastructure, UNODC coordinated very closely with representatives of the SC, the AGO and the MoJ. The continuation of the “hardware” efforts were highly welcomed by the institutional counterparts, which were in clear need of suitable places to accommodate prosecutors and local staff of the MoJ. The list of provincial capitals where construction of JSCs ought to be regarded as a priority was provided to UNODC by the SC, the AGO and the MoJ. Works entailed either construction or refurbishment of existing infrastructures. Assessment missions for building purposes were conducted by UNODC between December and February 2008 in the following provinces: a) Herat, for the construction of an office for the AGO; b) Bamyan, for the construction of an office for the AGO and a JSC; c) Nangarhar, for the construction of an office for the Ministry of Justice; d) Kunduz, for the construction of an office for the AGO. Currently, UNODC's Criminal Justice Programme is supervising construction works in a total of 6 sites (Nangarhar, Kunduz, Bamyan, Ghor, Herat and Baghlan).

Following a pattern similar<sup>3</sup> to that used for the building components of Project R42, JSCs were conceived as multi-purpose facilities providing, amongst other things, a safe haven to all justice professionals and accommodation for visiting Judges, Prosecutors, Lawyers/Legal

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- 2 The wording used to describe “immediate objective” is not always consistent throughout the project documents: for instance, the original project document (at page 9) gives the following definition of immediate objective 1: “Enhanced access to justice in the Country through the construction of courts and multipurpose JSCs, which accommodate provincial offices of justice, police, prosecutors, judges, and lawyers in selected provincial capitals and through the training of their staff”.
  - 3 Whilst under the Project R42 UNODC only build JSCs, under Project T03 the building components suited the specific, different needs of the provincial staff of the MoJ and AGO.

Aid providers, as well as legal, management and computer trainers who otherwise would not be able to find accommodation. Extra court space, workshop and training rooms, a legal library, internet facilities, and a conference centre are also always included. All Centres are equipped and fully furnished by UNODC.

UNODC selected its co-implementing partner for the realisation of the infrastructures following a bidding process. At the end of it the following companies were selected: Brotheran Afghan Construction Company and Nero Engineering Construction Company. Their task was the construction of premises for the AGO's in Kunduz and Herat provinces respectively. Wrono Construction Company was selected to construct a JSC and a premise for the AGO in Bamyán province as well as an office for the MoJ in Nangarhar province. All above construction activities were carried out in a manner compatible with the security constraints and the environmental difficulties (namely bad weather) and in a timely fashion. They will be completed by the end of 2009. The design and maps for the construction of a JSC in Kandahar province were also finalised. The plan was approved by the SC and UNODC started the bidding process for the selection of a co-implementing partner. However, because of lack of funds, the bidding process which was expected to be finalized by mid 2009 could not take place. In any event, construction works could have not been initiated due to the absence, within UNODC COAFG, of an international engineer (as requested by UNDP), whose recruitment is on-going.

#### **Immediate Objective 2:**

**Support to improve the professional skills and delivery of judges, prosecutors, and police in selected provinces**

##### **Expected Output 2.1**

**Specialized training will be provided to judges and prosecutors in selected provinces. Mindful of the constitutional requirement for separation of prosecution and judiciary, separate training sessions will be conducted for judges, while prosecutors and CNPA investigators will be given joint training, which will foster desired working level collaboration**

##### **Expected Output 2.2**

**Training material in support of arresting, investigating, prosecuting, and sentencing alleged drugs and other serious crime offenders will be developed**

##### **Expected output 2.3:**

**Enhanced operational capacity (including working conditions) of judges and prosecutors in selected provinces**

As mentioned earlier, the second revision of the project was prompted by the need to include a sister UN Agency as implementing partner of the project. UNICRI had been chosen by UNODC to develop training manuals and curricula for judges and prosecutors on counter-narcotics law and practice for AFG/T03 and AFG/R86 (Strengthening anti-corruption measures in Afghanistan) on countering corruption. For this purpose, a letter of Agreement between UNODC and UNICRI was signed on 17 February 2008. The first draft of the manual "Prosecution and Handling on Drug Related Cases" was finalized during the period under review, though with considerable delay vis-à-vis the project works plan and the agreed deadlines.

UNICRI, however, was not the only agency tasked with the implementation of the training component of the project. ISISC, who had previously been a partner to UNODC, was also involved in the capacity building efforts. UNODC tasked ISISC with the organisation and implementation of a series of training sessions falling within a wider project called "Provincial

Justice Initiative (PJI)", which the organisation had carried out in the past (also, partly, under Project R42). The activity focused on the province of Kandahar. This choice was based on the consideration that this province had been neglected in the provision of aid and technical assistance in the justice field. Under the previous PJI training, 16 provinces (Kunduz, Paktia, Balkh, Herat, Nangarhar, Badakshan, Baghlan, Wardak, Faryab, Jawzjan, Ghazni, Parwan, Laghman, Logar, Kapisa and Ghor.) had been provided with training over a period of three years (2005-2008). These training sessions were conducted by ISISC staff, which included 15 national trainers in charge of lecturing, moderating and interpreting, when necessary. Trainers work under the supervision of ISISC International Resident Representative. The courses focused on, inter alia: the Constitution; the Interim Criminal (Procedure) Code for Courts; the Criminal Procedure Code 1974 (as part of this is still applicable); the International Covenant on Civil and Political Rights (especially articles 9 and 14 regarding detention and fair trial rights) as made applicable to Afghan law through Constitution Art. 7; the Police Law 2005; the Counter-Narcotics Law; and various other relevant laws such as the Prison Law 2005 and the Juvenile Code 2005. Training was also given on the following topics: criminal case management; judicial interpretation and reasoning; and police-prosecutor coordination and collaboration in the discovery, detection and investigation of crimes.

Specific, in depth sessions each lasting one week are also part of the programme. They examined the following issues: police-prosecutor coordination and cooperation workshops to encourage collaborative investigations; investigative techniques for prosecutors and police "CID" investigators; fair investigation and trials for prosecutors and judges; Criminal Procedure and Penal Code issues in connection with the investigation, prosecution and adjudication of the crimes involving narcotics and human trafficking, internal and external security (terrorism) and corruption.

The first phase of training course started on 21 December 2008 and was completed by 13 January 2009. These training sessions were attended by 68 professional staff of judicial institutions, including judges, prosecutors, police officers and penitentiary staff. The second phase of the training started on 24 January and was completed by 15 February 2009. This phase encompassed practical aspects of training by using a number of moot court exercises, Multiple Choice Questions (MCQs), and case studies. A third phase, related to the selection of trainers for future training, was completed in April 2009. The training was attended by 49 professional judicial staff.

Finally, UNODC provided technical and material assistance to the training program ("Stage") for newly hired prosecutors at the AGO. This Stage lasted for approximately 9 months and consisted of lectures and classes on applicable Afghan criminal and civil laws as well as a mentoring programme. Unfortunately, also because of a lack of funds<sup>4</sup>, a new "Stage" could not be activated as requested by the AGO.

In conjunction with the Stage, UNODC provided 15 computers, 15 UPS, 15 stabilizers and one multimedia projector for basic as well as advanced computer training courses for the participants of the Stage at the AGO and also at the SC. Computer training were also offered to the administrative staff of the Prosecutor's Office and of the Appeal Court in Kandahar province.

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4 Funding, however, is only one of the elements involved in the activation of a "Stage". Indeed, such a complex programme requires huge human and material resources in order to develop suitable material, identify qualified trainers and candidates, supervise on a continuous basis the training of around a hundred prosecutors/prosecutors - to be. After the first, successfully completed programme, UNODC COAFG could no longer professionally provide such support.

**Immediate Objective 3<sup>5</sup>:**

**Legislative documents concerning criminal law and procedure (i.e. 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**

**Expected Output 3.1:**

**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**

**Expected output 3.2:**

**Concerned stakeholders (parliamentarians and policy makers) are aware of need of the adoption of the legislative reforms/amendments.**

UNODC is the depository of the UN Convention against Corruption (UNCAC), the Transnational Organized Crime Convention (TOCC), and the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. Implementation of such international instruments, therefore, falls within its mandate. In this capacity, and within the present immediate objective, UNODC provided support to national institutions as lead drafter/revision proposer and co-chair of the Criminal Law Committee of the Law Reform Working Group, known as the Criminal Law Reform Working Group (CLRWG). This Committee constitutes a permanent consultative process involving Afghan institutions and major experts within the international community. It represents the last step of a work on legislative reform started in 2002, that UNODC joined the year after<sup>6</sup>, which took its current shape in 2006, when a ToR between the MoJ and the CLRWG was signed. Since then, the Director of the MoJ's Legislative Department (Taqnin) and the Minister of Justice himself have publicly praised the value and support of the CLRWG.

The CLRWG consists of national experts representing the permanent justice and human rights institutions (Supreme Court, Attorney General's Office, Ministry of Interior, MoJ, Afghan Independent Human Rights Commission) and international justice implementers and donors, including UNODC, US Embassy (Department of Justice), US State INL/JSSP, UK Embassy, Italian Embassy/International Cooperation Project, UNDP, UNAMA; and, regarding the year-long Criminal Procedure Code project, experts from US Institute of Peace, EUPOL, CSTC-A, UNIFEM, and others. As co-chair and, in practice, lead revision drafter of the CLRWG, UNODC (previously under Project R42 and now under Project T03) facilitated and contributed to the revision of laws and regulations on Extradition and International Legal Assistance, Terrorism, Juvenile Detention Centres, Prisons, Abduction and Trafficking in Human Beings, High Office of Oversight of Corruption, Elimination of Violence Against Women, Penal Code Amendments, and Medical Forensics, not to mention the over year long process involving the draft Criminal Procedure Code.

One of the major undertakings of the CLRWG was the revision of the draft Criminal Procedure Code (CPC). To "kick-start" this endeavour, involving massive resources and punctual international and national coordination, UNODC, in partnership with the United States Institute for Peace (USIP) and the International Institute of Higher Studies in Criminal

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5 Similarly to immediate objective 1, also immediate objective 2 is worded differently in the various documents. On page 12 of the original project documents, it reads "Selected national criminal law and procedure provision revised in line with priority areas indicated by the Taqnin (legislative department of the Afghan MoJ) in its legislative calendar".

6 UNODC's increased over the years the number of staff working on the CLRWG. Since March 2008, UNODC provides the CLRWG with one full-time, dedicated Legal Specialist.

Science (ISISC) organized a Workshop on Law Reform in Afghanistan which was held in Siracusa, Italy, from 22 to 28 April, 2008. This workshop focused on: a) Criminal procedure reform challenges and issues; b) addressing serious crimes challenges through criminal reform; c) covert and technical means of investigation; d) international (mutual) legal assistance and extradition; e) implementing international criminal justice and human rights instruments; f) resource needs when implementing new laws. The highest levels of legal policy-making officers participated, including the Director of the MoJ Taqin, a Senior Advisor to the Afghan Government on Rule of Law, Justices of the Supreme Court, the Deputy Attorney General, the Legal Advisor to the Minister of Interior, as well as the US Embassy Rule of Law Coordinator and top UN representatives. The event served to reach a wide national and international consensus as to the major policy issues of concern to both Afghanistan and the International Community, which was then implemented by the revision and drafting process.

Since May 2008, the CLRWG has been revising and drafting, article by article, the MoJ's draft CPC, which when finalised will unify the current mixture of overlapping and sometimes conflicting laws enacted between 1965 and 2008. The draft CPC, whilst keeping the civil law base of the law, makes use of modern methods and techniques used in effective civil law and hybrid criminal procedures. Attention was also devoted to the conformity of the draft with the Afghanistan social and cultural environment, as well as the Islamic principles founding the Country. At the end of its effort, CLRWG provided substantive and significant revisions to most of the articles in the draft CPC, which can now be said to meet modern international standards and norms. Despite its outstanding efficiency, the system created is not immune from criticism. These criticisms concern, in particular, the low impact in terms of the number of proposals eventually being adopted by the Taqin<sup>7</sup>. There are also criticisms regarding the CLRWG's management, and the crucial issue of empowerment of local representatives. Given the fact that the activities of the CLRWG were previously carried out under Project R42, the concerns that the evaluators have expressed regarding Project R42 are repeated, below, for the current project.

Based on the suggestions and proposals elaborated by the CLRWG, the draft CPC now provides for the initiation of prosecutor investigation before arrest, and the implementation of covert and technical means of investigation, including monitoring and surveillance, undercover and plain-clothes operations. Human rights and constitutional principles are streamlined throughout the text. Victims and witnesses' protection measures have been added, together with the provision of incentives for pre-trial cooperation through testimony of co-suspects and accused. The rights of detainees are ensured through the application of judicial review with specific standards of detention after arrest, requiring judges rather than prosecutors to make the decision within usually 3 days (a maximum of four), instead of the previous 18. The draft CPC now also provides for alternatives to custody for pre-trial and post-conviction detainees and prisoners, as well as modern requirements and recognition of scientific and technical expertise and evidence. Use of evidence during the trial phase has been modernised, and trials as well as appeal hearings have been made more accessible to suspects/accused, defence attorneys, and to witnesses and victims.

In addition to the CPC, the CLRWG provided its expert advice on a number of different laws. In February and March 2008, by specific request of the MoJ Taqin, UNODC and the CLRWR examined the draft law on "Abduction and Trafficking in Human Beings". UNODC first performed a desk review of the law as part of its mandate under the TOCC's Additional protocol on Trafficking in Human Beings (THB) and in the light of UNODC's work on human trafficking in Afghanistan. UNODC then convened the CLRWG to consider UNODC's proposed revisions to the draft to ensure its successful and effective application in Afghan

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

circumstances and culture. The CLRWG accepted most of UNODC's proposals and, subsequently, the Taqin accepted the majority of the CLRWG's proposals. The President then decreed the Legislative Decree in late June 2008, which took immediate legal effect as the National Assembly was then in recess (pursuant to Article 79 of the Constitution). UNODC and the CLRWG is now in consultation with both the upper and lower houses (Meshrano and Wolesi Jirgas) of the National Assembly, through the chairpersons of the relevant legislative Commissions (committees) in the Assembly in order to follow through with its expert advice and to explain any issues unclear to the parliamentarians. The Law on High Office of Oversight for the Implementation of the "Anti-Administrative Corruption Strategy", which became law in June 2008, upon the President's signature, and the Counter Narcotics Law decreed in 2005 by the President were also subject to the review of the CLRWG, both whilst being before Parliament, and again when it was with the Taqin.

In the area of counter narcotics and narcotics-related legislation, UNODC continues to play a leading role. As the "Law on Extradition and Mutual Legal Assistance", which would establish the first procedural mechanisms for regional cooperation outside the existing bilateral agreements, is currently under examination by the National Assembly, the Chairpersons of the Legislative Departments of the Wolesi Jirga (WJ) and Meshrano Jirga (MJ) requested UNODC to provide technical assistance and welcomed the provision of advice. Despite the strong concerns expressed, in relation to this law, by the US Embassy and other representatives of the International Community, it was agreed that UNODC would lead the process of reaching an international consensus as to the technical advice to be provided. The 2005 "Counter-Narcotics Law" as then decreed by the President remains in effect, but amendments have been approved by the National Assembly, and after passing through the Ministry for Counter-Narcotics, the Law is now before the MoJ Legislative Department for further refinement. It will then either be approved by the Government and take effect, or if the Government adds any further amendments it will then be sent for approval to the Assembly. UNODC has been asked on several occasions to provide written and oral comments and advice on revision and did so in May, November and December 2008, as well as March and April 2009. The Taqin has accepted most of the proposed revisions. In addition, UNODC has had several revision meetings with the MoJ on the language, and has in the last five months been coordinating through meetings with other international actors such as the US and UK Embassies, the Italian Cooperation Project, and EUPOL.

In March and April 2009, UNODC was asked by the MoJ Taqin to mobilize the CLRWG to provide advice on revisions of the draft law on "Elimination of Violence against Women". UNODC did so, and with the unanimous consensus of the Afghan representatives to the CLRWG, successfully proposed and had accepted changes to the draft, including the definitions of rape, sexual assault (touching without consent for a sexual purpose), battery by husbands and domestic violence, as well as the recurrent crimes of throwing acid or poison on women and girls. In addition, the crimes of stalking and the remedy of restraining orders (ordering one person to stay away from another person to ensure separation of victims from suspects in pre-trial situations), were also accepted. The agreed revisions and reasoning for leading to the proposed revisions were delivered to the Taqin. UNODC has been informed that the proposed revisions will be sent to the Supreme Court and the AGO for further approval before being considered by the Council of Ministers and President. Words of appreciation for UNODC's leadership were expressed by UNIFEM and the UK Embassy.

The technical support provided by UNODC to the legislative institutions is not limited to work done by UNODC via the CLRWG. In addition, events fostering discussion and debate are organised by UNODC. The two-day workshop organised in August 2008 by UNODC and the Internal Security Commission of the Wolesi Jirga (Lower House) of the Afghan National Assembly is an example of such events. This event, which took place in Kabul, was entitled "Revision of the Police Law: Accountability, Effectiveness and Human Rights". Its aim was to enable the Commission members to finalise their revision of the "Police Law", which had

been pending since 2005. Participants included senior government officials from the National Assembly, Ministries of Interior and Justice, Office of the Attorney General, the Supreme Court and the Independent Directorate of Local Governance, and Governors, as well as UNODC experts and other international partners.

At the time of the evaluation mission, UNODC was about to organise a Political Conference (lasting one or one and a half days), seeking a consensus view in relation to support of regional mutual legal assistance (MLA). The event is to be directed at MPs, SC, AGO, MoJs of Governments of Afghanistan, Pakistan, Islamic Republic of Iran, Turkmenistan, Tajikistan, Uzbekistan, and China. Vienna was chosen as the most appropriate and neutral venue. The objective of this initiative is to promote MLA, including extradition where appropriate, among Afghanistan and its six neighbouring countries. The activity will also support the continuing UNODC Afghanistan 'Triangular Cooperation' initiative aimed at developing regional cooperation to address counter-narcotics and other transnational organised crime in the region. The recent United Nations Security Council Resolution 1806 which renewed the mandate of UNAMA also urged progress in relation to this issue. Contributions by UNODC HQ included technical expertise for the envisaged workshops and training sessions provided by the Legal Advisory Section (LAS), Human Security Branch (HSB), Terrorism Prevention Branch (TPB) and Crimes Convention Section (CCS).

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

Project T03 falls within UNODC's Criminal Justice Programme launched in 2002. Its aim was to provide continuity of the activities initiated, at a larger scale, by Project R42. In particular, it was meant to extend to the provinces the support in strengthening the permanent capacities of the judicial institutions which R42 had initially envisaged mainly at central level. The project 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 can be no doubt that the timing chosen by UNODC to implement T03 was perfect. In particular, the project was able to maximise results by giving continuity to activities and support which had already been internalised by the beneficiaries, and by keeping alive a fully functional operational network. This was the only logical choice for a high-impact contribution towards the creation and reinforcement of judicial institutions, compliant with the rule of law and 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 T03 can only be carried out in the light of the broader framework under which it was conceived. The project shares its general objective (as stated in the Logical Framework embodied in the project document to be the contributing to the reform of the criminal justice system in Afghanistan) with all the other initiatives that UNODC has launched 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.

In accordance with its mandate, and fully in line with the main areas of interventions of the organisation in Afghanistan, UNODC developed a series of projects which are, eventually, all intertwined and have made it possible for the organisation to provide continuous assistance the Country's nascent institutions. The overall strategy was to start new projects that built on the results achieved by the previous project, never allowing the legacy of each intervention to end with the formal completion of the project. Sadly, this is the fate encountered by many activities carried out by international organisations, which are often 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. This observation may seem unnecessary as one would consider it obvious that all projects implemented within a programme should complement each other and develop in sequence, so that the results achieved are maximised. However, even a quick look at the way the international community works shows that not all interventions are implemented with the same spirit. However, 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). Under T03 UNODC was able to create synergies with other subjects operating within the scope of the project. The case of the law on violence against women, analysed by the CLRWG, offers a clear example of the effort and attention constantly paid by the organization to coordination and maximisation of results: in relation with the examination of the above mentioned law, UNODC established strong coordination with UNIFEM, UNAMA and the EU, ensured that the issue was put on the TAG Committee (Gender) agenda and set up a joint approach to the Parliament Committee in order to foster discussion on controversial provisions.

Project T03 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, capacity building aimed at improving the professional skills and delivery of justice professionals (particularly needed in a Country where lack of appropriate human resources is endemic); and, thirdly, policy advice and support of legal reform. In our view, there was no best way to reach the overall stated objective, other than operating on the three lines mentioned above. In drafting T03 UNODC proved to have taken into account the recommendations issued with the mid-term evaluation of Project R42 and, accordingly, halved the number of immediate objectives. This, however, did not hinder the project's distinctive comprehensiveness and holistic approach.

Whilst the project remains complex the increase in staff made its management smooth and acceptable, although the project implementation suffered from a few flaws as outlined in para. 3.2 of the present Report. Credit, however, must be paid to UNODC as the organization was able to create, within the project, a solid relationship of trust with all interlocutors, beneficiaries, and implementing bodies, limiting to a certain extent effects of cultural differences and personal clashes. In this respect, it is worth noting that whenever the evaluators introduced themselves and the purpose of the meetings, words of true appraisal for UNODC's work and for the dedication and competence of its staff were spent.

## **2.3 Impact**

In terms of the impact of the project, the first thing that comes to the mind of the evaluators is that T03, inevitably and logically, benefits from the effects that Project R42 was able to produce over the years. Considering that one of the distinctive features of Project T03 is its continuity with Project R42, there is no doubt that T03 will be able to make a significant impact on the administration of criminal justice in Afghanistan. The project guides UNODC's efforts towards attaining goals from a very practical, yet fundamental, perspective: by providing physical premises and basic tools to enable the judiciary to perform their functions effectively. JSCs are defined in the project documents as structures providing “safe haven” to justice professionals. The evaluators believe that no definition could have been more appropriate. In a Country where, despite the conspicuous efforts and investments, the landscape is still far from acceptable standards, JSCs are regarded by all stakeholders as the principal contribution that UNODC made under Project R42, and now under T03. The impact related to the construction of JSCs has been amplified by their cross-cutting nature,

servicing 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.

Just like in Maslow’s pyramid of needs, in providing material assistance, UNODC is climbing to the next step, by enabling capacity building, particularly in the case of those members of the state responsible for the fight against trafficking in narcotics. The fact that this specialised capacity building activity comes at a point where most of the judicial staff have already benefited from basic training, is of particular value. The tailor-made production of training tools represented the natural, yet sophisticated, completion of the task of UNDOC in this area.

In terms of impact, the evaluators believe that T03 will be able to increase the capacity of the judiciary and the prosecution to investigate, prosecute and adjudicate upon drug-cases in the long term. The Project will also provide lawyers and legislators with increased know-how, skills and competencies to enhance the quality of their performances. However, we consider that this will involve a change in judicial/legal culture which may take many years to achieve. We consider the input provided by UNODC, to tackle the application of national and international legislation to be adequate to the aim pursued.

## **2.4 Sustainability**

One of the distinctive features of Project T03 (which seems to share this element with a number of other projects implemented, in the area of rule of law, by the COAFG) is its sustainability. The “hardware” component of the project is probably the first thing that comes to mind when thinking about sustainability of Project T03. Although infrastructures remains the most tangible (in real terms) aspect of the project, the work of the CLRWG can probably be regarded as the most sophisticated legacy Project T03 will leave after its completion. The centrality of the CLRWG has been highlighted already in the previous pages and needs not further elaboration, as it is undisputed. What it is important to underline, however, is how since its establishment in 2006, the CLRWG has become the key institution able to impact on national actors involved with legislation, as well as to coordinate international community members active in the Country. The CLRWG’s role increased over the year and now the Group is regarded by all stakeholders as the compass guiding legislative activity. Credit for such results have to be recognised to UNODC, who always stood behind it, and who was able to create a sustainable tool by adopting, within a short-term project, a long-term approach.

Amongst the lost opportunities in terms of sustainability, we must comment upon the training conducted by ISISC. Though the project is yet to be completed, having in mind the similar situation reviewed by the evaluators under Project R42, we have reached the following conclusions. Training as conducted by ISISC is probably one of the activities that, within all those implemented under T03, the evaluators consider to be less value for money. The benefit of the training-of-trainers (ToT) aspect of it, praised under the previous evaluation of R42, was not found to be convincing. Our criticism does not concern the quality of the training itself, which was probably kept at a high level, in line with the reputation of the institution. Rather, our criticism is with the approach. Apparently, the ToT activities implemented in the province of Kandahar under the PJI programme (which replicate those administered in a total of 21 provinces) served the purpose of training, in each location, trainers who would eventually only train others once. The insufficient reporting mechanism by the organisation, coupled with a lack of material in English (the material used during the training is only available in the local language and was not translated due to budgetary constraints, even though one of the budget lines for the activity was translation) made the assessment of the work of ISISC very 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. Meaningless figures were presented to us as indicators of the

outcome of the activities. Though interesting, they cannot, alone, prove the efficiency of the training. Though we received information from ISISC as to the generally positive feedback received by the trainees, we feel that we cannot come to a conclusive decision as to the capacity of the training to replicate itself. In this respect, the current evaluators would agree with the conclusion adopted by the thematic evaluators of 2008<sup>8</sup>

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8 See page vii and viii of the Report. There the evaluators also recommended that UNODC builds impact measures into its projects to facilitate future evaluation. Specific reference is made with regard to sample surveys of trainees. To date, this recommendation has not been implemented.

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

### **3.1 Good Practices**

In addition to the good practices identified and elaborated in the mid-term and final evaluation reports of Project R42 (which, at least partly, also apply to Project T03, as R42's successor), namely the so called hardware and software approach, the use of the train the trainers technique, and working groups, we would like to highlight the following.

#### **Capitalization of previous project results**

Project T03 was built as a follow-up of previous project R42, though with particular emphases on the problem-area of fight against drug-related crimes. The choice of the organization to providing continuity between projects proved to be winning, as it ensures sustainability of interventions, capitalization of know-how and facilitates the establishment of a situation of trust with the institutional counterparts which is a key element for the success of projects in such complex environments.

#### **Legislative support**

There is no doubt that, initially under Project R42 and later under Project T03, UNODC was able maintain one of the most efficient working groups in Afghanistan. The organisation, in its capacity as co-chair and, most importantly, lead drafter of revisions for consensus discussions 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. It is important to note the dramatic improvement in its results since the recruitment of the International Legal Specialist (whose ToR is almost exclusively focussed on technical cooperation in the field of legislation. The example of the CLRWG proves that the presence of a full-time, truly dedicated staff member (not absorbed by thousands of other tasks) is pivotal in ensuring the smooth attainment of a project objective. The time and dedication that the International Legal Expert was able to put into the CLRWG is, unquestionably, the key to its success. As highlighted in the previous pages, in quantitative terms (no. of recommendations accepted) the CLRWG was not always fully successful. From a qualitative perspective (passing of legislation now into force), however its impact was much more significant. The criticism that has been raised in the previous pages with regard to the (quantitative) impact of the CLRWG, however, does not at all diminish either the importance of the forum itself (whose centrality is undisputed) , nor the importance of the operational modalities set up by UNODC, which we hope can be used as a model, whenever possible, for further UNODC activities.

#### **Synergies and coordination**

The evaluators reached the conclusion that UNODC is particularly attentive in creating synergies in order to avoid duplication of activities. This contrasts with the opposite view expressed by the thematic evaluators in 2008. In particular, under this project, the evaluators would like to mention the coordination that UNODC was able to establish with the UNAMA Provincial Justice Coordination Mechanism (PJCM) in five of what will eventually be eight regions, one of which is in Kandahar. The PJCM's primary goal is to identify needs in the provinces on rule of law issues and coordinate donor activities and funding for maximum effectiveness and efficiency. UNODC has collaboratively participated with the PJCM-Kandahar in the area of criminal justice to assess the needs and implement relevant activities and provision of technical support. Assessment missions were carried out in Kandahar by UNODC experts in 2008, with the aim of assessing the training and capacity needs, as well as operational capabilities and infrastructural capacity, and to propose solutions, remedies and actions.

### **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.

#### **Monitoring of the project Transparency with donors**

In our view, the project's greatest flaw is the partial implementation of the monitoring system established by the project. Whilst UNODC staff performed monitoring functions regularly, thus ensuring smooth implementation of activities (with only minor deficiencies), the same cannot be said with regard to the envisaged Board meetings. On the basis of the information gathered during the mission, we believe in fact that such meetings did not take place regularly. In our view, this a major issue of concern, particularly bearing in mind that the relationship with donors is always particularly delicate. 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 was given to us that coincidence of most of the stakeholders of UNODC projects would make it practically impossible to organize such gatherings.

#### **Management**

During the mission the evaluators had the opportunity to discuss with various UNODC staff members the issue of project management. On the basis of the information gained and the observation of the office dynamics, the evaluators have reached the conclusion that the management structure for the project within the UNODC Country Office was not adequately defined or executed. This comment concerns, in particular, the roles of the International CJ Programme Manager and Senior Advisor and the Criminal Justice Expert. It appears to us that the latter has been performing 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. This, in our view, is fundamentally bad management practice. However, we acknowledge that at the end of the day activities were actually performed and results were achieved. We consider that this situation might be a legacy of the period in which the Criminal Justice Expert acted as de facto Officer-in-Charge when the position was vacant and might be linked with the seniority of the Criminal Justice Expert in the organization. All this, however, cannot be sufficient to justify such a task swap. Nor the latter can be justified by personal inclinations. Although this might sound like a "bureaucratic" approach, we are convinced that the well-being of staff and correct implementation of projects also passes through a clear division of tasks and a situation where functions are clearly allocated. We understand that in a context such as Afghanistan it is difficult, if not impossible at times, that each member of staff sticks to his/her job description. However, this cannot go so far as to create confusion as to who coordinates the programme and who implements the project.

### **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 partly addressed by UNODC with success, 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 Bamyan). The extra burdens 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 Criminal Programme Coordinator and an International Legal Specialist.

In addition to the above, the project suffered from the delay of the donor Country (Canada) in transferring the funds pledged under a letter dated March 2007. Despite the finalisation of the project between H.E. Minister of Justice and the UNODC COAFG representative in July 2007, as of December 2007 (that is 4 months after the inception of the project and 9 months after the letter of pledge) the funds had not been received by UNODC. In order to avoid disappointing the beneficiaries, lose credibility and damage the relationship of trust that UNODC has been able to build with its institutional counterparts (always sensitive, especially when it comes to timely implementation of promised activities), UNODC deposited a symbolic US\$ 1 for recruitment of the staff needed to start the project.

Last but not least, the project suffered from the excessive restrictions that the donor had placed on UNODC upon acceptance of the grant. According to the so called "Canadian Umbrella", not only should the funds provided by Canada be spent in two years, but 60% of the funds were required to be spent in their priority area of Kandahar. As mentioned earlier, Canada delayed the payment of the first instalment by several months, thereby creating a number of problems for UNODC and its partners implemented the project. However, the delay in payment was not taken into account when determining the final date by which all project activities were required to be completed. In our view this is unacceptable, as it puts an excessive pressure on the organisation which can only be detrimental to the project. The same considerations apply to the condition that 60% of the funds must be invested in activities in Kandahar. For obvious reasons UNODC, which is an implementing agency, bends itself to such conditions. However, these conditions excessively and unreasonably restrict the work of UNODC, which has always been considered by all partners holistic and comprehensive, and undermines its credibility. We believe that such a situation, just like excessive micromanagement of the project by the donor is not acceptable. Donors should trust sufficiently well the recipient of their funds to allow them a wider margin of appreciation in serving the Countries for which interventions are planned and implemented.

## **4. CONCLUSIONS**

### **4.1 Recommendations**

In the light of all of our findings as set out above, we make the following recommendation.

### **4.2 Project Management**

#### **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. In this respect the evaluators would like to praise the UNODC for having provided its donor for Project T03 with quarterly progress report (and between October 2008 and March 2009 with monthly report) although the project document only contained annual and semi-annual reporting obligations. Unfortunately, however, implementing agencies and partners involved in the project did not exercise the same care.

This is the case, for instance, of UNICRI and ISISC whose annual/final reporting obligations cannot be regarded as sufficient management tools, as they do not allow for timely interventions should they be required. The evaluators, therefore, suggest that when concluding agreements for the implementation of project activities, quarterly reporting obligations be included.

Project Board meetings should be organised 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. Organisation (and follow-up) of such meetings must be clearly included in the project document.

#### **Evaluation of projects**

The evaluators believe that the procedure for the identification and recruitment of evaluators should be carried out by the HQ 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, 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"). 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 an issue during the evaluation exercise. 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 receives 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>9</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 on the occasion of change in personnel.

Although the peculiar working environment of Afghanistan requires a certain degree of flexibility and adaptability by staff members whilst performing their functions, the evaluators are of the opinion that division of tasks between staff and adherence to the position's ToR should be respected to the fullest. Substantive and protracted lack of staff should be acknowledged as a reason to revise projects. Only temporarily lack of staff can be overcome by increasing the tasks assigned to other personnel.

#### **4.4 Training**

Monitoring of training by UNODC's main implementing partner ISISC was not considered satisfactory, as it was narrative rather than analytical and did not provide UNODC with sufficient, timely information to allow for interventions necessary to increase impact of activities and/or avoid duplications with previous courses. Lack of availability of the training material in English was also negatively considered by the evaluators, as it obviously hinders the full appreciation of the work carried out by the partner organization.

Considering the above and 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 CJP, tasked with the identification of training needs, development of relevant curricula, and of the implementation (outsourcing trainers) of training programmes. This would 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.

#### **4.5 Legislative assistance**

In delivering legislative assistance, particular attention 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>10</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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9 The more general issue of non incorporation of national staff into project activities was criticised by the 2008 thematic evaluation report, which also recommended that project management be more consultative.

10 Finding number 7 of the 2008 thematic evaluation elaborated on the detrimental effects of aggressive management; finding number 11 tackled the issue of UNODC's unilateral approach to preparation of draft legislation; paragraph 169 suggests the need for UNODC to build national staff capacity in the largest sense possible and to obtain full national input during any capacity building activity, including the drafting of legislation. The current evaluators regret to conclude that the recommendations issued in relation to such points have not yet been fully internalized by the COAFG.

## **ANNEX 1 – REFERENCE DOCUMENTS**

UNODC Project Documents for Project T03 (original, first and second revision)  
Workplan 2009  
Annual Project Progress Reports 2007 and 2008  
Biannual Report on the use of Canadian Funds (Feb. 2007- Feb. 2008)  
Quarterly Reports  
Monthly (Oct 2008 – March 2009) Reports on the use of Canadian Funds  
Interim report on the use of Canadian Funds Expenditures (March – Sept. 2008)  
Semi annual Project Progress Report (Jan. – June 2008)  
Final Report on the use of Canadian Funds (April 2007 – March 2009)  
Canada proposal 2009-2011, Umbrella Programme  
Contribution Arrangement UNODC 2009-2011  
Justice Support Centres' briefing note  
ToR Law Reform WG  
Draft Training Material on CN for Judges and Prosecutors  
ISISC Project Proposal, Budget and Report  
List of equipment handed over to MoJ, SC and AGO  
Matrix construction and procurement activities  
UNODC 2008 CJP Status Report  
2008 UNODC Rule of Law Thematic Evaluation  
MoU UNODC and UNICRI  
UNICRI Manual on Investigation, Prosecution and Adjudication of Drug Related Cases  
Correspondence between UNICRI and UNODC

## **ANNEX 2 – LIST OF MEETINGS HELD IN KABUL**

Meeting with Mr Mohammad Ishaq Aloko, AGO  
Meeting with Mr Mohammad Basit, Program Officer, ISISC  
Meeting with Mr Carroll, British Embassy  
Meeting with Mr Davis, Criminal Justice Consultant, UNODC  
Meeting with Mr Mohammad Suhail Ghourwal, National Project Coordinator (R86), UNODC  
Meeting with Dr Abdul Hakim, JSSP  
Meeting with Mr Sayed Yousof Haleem, DG of Legislative Department, Ministry of Justice  
Meeting with Mr Radifullah Hamid, National Project Coordinator (R42), UNODC  
Meeting with H.E. Mohammad Qasim Hashimzai, Deputy Minister of Justice  
Meeting with Mr Michael Hartmann, Manager and Senior Advisor, UNODC  
Meeting with Ms Izumi, UNICEF  
Meeting with Mr Mohammad Ashraf Jaleb Deputy DG Legislative Department, MOJ  
Meeting with Mr Jenkins, US DoJ  
Meeting with Dr. Abdul Malik Kamawi, SC  
Meeting with Mr Mohammad Zabi Kamran, Database Officer, UNODC  
Meeting with Ms Klonowiecka-Milart, Criminal Justice Specialist, UNODC  
Meeting with Ms Marry Alice Kovac, JSSP  
Meeting with Mr Mohammad Javed Mobasher, JSSP  
Meeting with Mr Mohammad Farid Mushin, AIHRC  
Meeting with Mr Nizami, Master Trainer, ISISC  
Meeting with Mr Matteo Pasquali, International Criminal Expert, UNODC  
Meeting with Ms Peduto, UNICEF  
Meeting with Mr Ponzoni, Italian Embassy  
Meeting with Mr Rohullah Qarizada, Head of AIBA  
Meeting with Mr Spera, Italian Embassy  
Meeting with Mr Tawfik, UNAMA  
Meeting with Mr Taxell, UNDP  
Meeting with Head of Legal Aid department of MOJ  
Telephone conference with Mr Douglass McCrae, Consultant, UNODC  
Telephone conference with Ms Athanassia Sykiotou, Consultant, UNODC  
Telephone conference with Mr Wilks, IBA

### ANNEX 3 -INTERVIEW PROTOCOL

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

**Annex 4 - TABLE OF FINDINGS AND RECOMMENDATIONS OF THE 2008 THEMATIC EVALUATION, AS RELEVANT TO PROJECTS T03, AND STATUS UPDATE**

Findings	Recommendations	Status update
<p>1. Drafting of legislation                      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. 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. 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. 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                      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</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. 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. UNODC has not yet institutionalized a policy aimed at the development of national human capital.</p>

Findings	Recommendations	Status update
<p>provided was insufficient and it was provided in the hope and expectation that further training would be provided. 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</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-</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</p>

Findings	Recommendations	Status update
<p>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 embarking on the others.</p> <p>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>	house.	element of its effort in the justice field.
4. Relationship with implementing agencies	<p>Whilst operating in cooperation with associated agencies charged with partial implementation of the project, UNODC should retain 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>	UNODC Afghanistan Country Office should maintain closer and more timely scrutiny of work being carried on by partner or associated agencies.
5. UNODC Afghanistan Country Office management significantly influenced programme performance and relationship with the international community	Project management needs to be less competitive between national and international partners and should be more consultative.	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. UNODC's work seemed all but marginalised by the international community.
6. Communication is crucial to strengthening partnership with development partners (including donors). 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	<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</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-a-vis interlocutors and</p>

Findings	Recommendations	Status update
<p>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 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>	<p>funding to UNODC projects, as well as the overall lack of funding that has been provided to the justice sector in Afghanistan.</p>	<p>beneficiaries.</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 serve 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
<p><b>OVERALL OBJECTIVE:</b> The over all Objective of the project falls in the framework of the larger Criminal Justice Reform Programme in Afghanistan</p>	Contribution for reform of the criminal justice system in Afghanistan	Quarterly, semi-annual and annual evaluation reports of the project and the justice institutions.	<p>Deterioration of the security situation in the country.</p> <p>The Islamic Government of Afghanistan may fail, due to financial difficulties, to provide adequate support and national inputs for the operation and sustainability of the Secretariat.</p>
<p><b>IMMEDIATE OBJECTIVE 1:</b> Construction of courts and multipurpose Justice Support Centres (JSCs), which accommodate provincial offices of justice, police, prosecutors, judges and lawyers, shall be established and fully functional in selected provincial capitals</p>	<p>Number and quality of constructed premises and offices</p> <p>Existing procedures that are agreed by local judiciary institutions and governmental authorities</p>	<p>Quarterly, semi-annual and annual evaluation reports of the project and the justice institutions.</p> <p>SC, AGO, MoJ offices as well as JSCs in the provinces</p>	<p>Deterioration of the security situation of the country.</p> <p>Deterioration of weather conditions</p> <p>Lack of support by the local judiciary institutions and insufficient public legal awareness</p>
<p>Expected output 1.1: Construction of courts and Justice Support Centres (JSCs) in selected provinces, including the provision of necessary equipment and furniture</p>	<p>The assessment report of selected provinces</p> <p>The approved architectural plans and designs of courts and Justice Support Centres</p>	Follow the approved methodology for construction of courts and Justice Support Centres	<p>Security constraints may either delay or hamper timely completion of justice buildings</p> <p>Deterioration of weather conditions</p>
<p>Expected output 1.2: 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</p>	<p>Provision of training courses for specialized judges, prosecutors, lawyers, police and admin staff of the judiciary sector in selected provinces</p> <p>Provision of training courses on the newly developed or revised laws in selected provinces.</p>	<p>Judicial institutions in each province</p> <p>Essential materials and equipment;</p>	Absence of adequate facilities in most of the provinces
<p><b>IMMEDIATE OBJECTIVE 2:</b> Support to improve the professional skills and delivery of judges, prosecutors, and police in</p>	Number of staff trained, evaluation of the training, quality and relevance of the training programme and materials.	Quarterly, semi-annual and annual evaluation reports of the project and the justice institutions.	

selected provinces			
Expected Output 2.1 Specialized training will be provided to judges and prosecutors in selected provinces. Mindful of the constitutional requirement for separation of prosecution and judiciary, separate training sessions will be conducted for judges, while prosecutors and CNPA investigators will be given joint training, which will foster desired working level collaboration	Provision of training courses for specialized judges, prosecutors, lawyers, police 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	Deterioration of the security situation of the country.
Expected Output 2.2 Training material in support of arresting, investigating, prosecuting, and sentencing alleged drugs and other serious crime offenders will be developed	Training material and curricula developed and available for judges and prosecutors	Quality of training material (e.g. (handbook) and curricula developed and available for judges and prosecutors  Evaluation of training material and curricula developed	Deterioration of the security situation of the country.
Expected output 2.3: Enhanced operational capacity (including working conditions) of judges and prosecutors in selected provinces	Report by working groups and national counterparts.  Number of arrest, and level of implementation of new legislation	Assessments and evaluations of assistance provided (e.g. reports)	Deterioration of the security situation of the country.
<b><u>IMMEDIATE OBJECTIVE 3:</u></b> Legislative documents concerning criminal law and procedure (i.e. 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	Conduct legislative review concerning crime prevention and criminal justice  The drafted reviewed and updated rules and regulations as outcome of the sessions of the Criminal Law Committee  Participation in training courses.	Quarterly, semi-annual and annual evaluation reports of the project and the justice institutions.  Technical support of national and international experts to the Legislative Departments of the Ministry of Justice as well as the National Assembly.	Deterioration of the security situation in the country.  Supreme Court and AGO may not rely on technical assistance and expertise provided by international and national legal experts
Expected Output 3.1: Legislative provisions concerning criminal law and procedure (the Penal Code, the Criminal	The support of the national and international expert to the Legislative Departments of the Ministry of Justice as well as the National Assembly	Sessions of the International and National experts  Legislation Department of the Ministry of Justice.	Limited technical capacity as well as legal knowledge of the staff of the Legislative Department of the

<p>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</p>			<p>Ministry of Justice</p> <p>Ministry of Justice may not rely on technical assistance and expertise provided by international and national legal experts</p>
<p>Expected output 3.2: Concerned stakeholders (parliamentarians and policy makers) are aware of need of the adoption of the legislative reforms/amendments.</p>	<p>Quality of awareness sessions delivered and material distributed aimed to inform on priority, substance and needs related to the legislative agenda (with particular reference to UNODC mandated areas)</p>	<p>Level of attendance to the awareness sessions.</p> <p>Legislative agenda timeliness and level of awareness of parliamentarians and policy makers.</p>	<p>Limited political will as well as legal knowledge of parliamentarians and policy makers</p>

## Annex VII. Evaluation assessment questionnaire

Project/programme title: Criminal Justice Capacity Building - Extension to the provinces

Project/programme number: AFG/T03

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			X		
	Revise project completely					
	End project					

E.	<p>Comments</p> <p>Provide relevant explanations and comment on issues such as clarification, replicability, best practices etc.</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.</p> <p>Outsourcing of training to ISISC did not provide value for money and the establishment of a training unit within the COAFG considered.</p> <p>Wellbeing and professional growth of internal staff must receive increased appreciation by the organization.</p> <p>UNODC should ensure that monitoring obligations of project activities by implementing partners are fully adhered to.</p> <p>See Matrix for further details.</p>
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