



**GOVERNMENT OF THE ISLAMIC
REPUBLIC OF AFGHANISTAN**

GOVERNANCE CLUSTER

NATIONAL PRIORITY PROGRAM FIVE

Law and Justice for All

**Final Draft for Endorsement at the Governance Standing
Committee**

23 June 2013

Table of Contents

Acronyms and Abbreviations	3
A. Executive Summary	5
NPP Goal	5
Scope.....	5
Context.....	6
NPP5 Components and Structure.....	7
Links to Governance Cluster NPPs.....	9
Budget Summary	10
B. Situational Analysis.....	11
Progress and Achievements	11
Challenges.....	13
C. Management and Monitoring	16
NPP Strategic Management	16
Operational Management	16
Monitoring and Evaluation	19
D. Program Components.....	21
Component 1: Improving the legislative process.....	21
Component 2: Enhancing efficiency in the justice sector.....	25
Component 3: Increasing meaningful access to justice	33
Component 4: Building institutional capacity to strengthen justice delivery	39
Component 5: Increasing physical assets to improve justice delivery systems	51
Annex A: Indicative Implementation Plan	
Annex B: Indicative Budget	

Acronyms and Abbreviations

ACT	Anti-Corruption Tribunal
AGO	Attorney General's Office
AIBA	Afghanistan Independent Bar Association
ANDS	Afghanistan National Development Strategy
Arazi	Afghanistan Land Authority
ATI	Alternatives to Incarceration
CIP	Capital Investment Plan
CMS	Case Management System
CoM	Council of Ministers
CPC	Criminal Procedure Code
CSO	Civil Society Organisation
EVAW Decree	Decree on the Elimination of Violence Against Women
EUPOL	European Union Police Mission in Afghanistan
HOO	High Oversight Office for Anti-Corruption
IARCSC	Independent Administrative Reform and Civil Service Commission
ICPC	Interim Criminal Procedure Code
ILAB	Independent Legal Aid Board
IMWG-LD	Inter-Ministerial Working Group for Legislative Development
IT	Information Technology
JRC	Juvenile Rehabilitation Centre
JSI	Justice Sector Institution
JSICC	Justice Sector Institution Co-ordination Council
LAD	Legal Aid Department
LAGF	Legal Aid Grant Facility
LDD	Legislative Drafting Directorate
LETC	Legal and Educational Training Centre
M&E	Monitoring and Evaluation
MAIL	Ministry of Agriculture, Irrigation and Livestock
MDGs	Millennium Development Goals
MoI	Ministry of Interior
MoJ	Ministry of Justice
MoLSAMD	Ministry of Labour, Social Affairs, Martyrs and Disabled
MoWA	Ministry of Women's Affairs
NGO	Non-governmental organisation
NLAS	National Legal Awareness Strategy
NPP	National Priority Program
O&M	Operations and Maintenance
P&G	Pay and Grading
PD129	Presidential Decree No. 129
PJCM	Provincial Justice Coordination Mechanism

TDR	Traditional Dispute Resolution
TMAF	Tokyo Mutual Accountability Framework
UNAMA	United Nations Assistance Mission to Afghanistan
UNCAC	United Nations Convention Against Corruption
VAW	Violence Against Women

A. Executive Summary

Law and Justice for All, the Governance Cluster National Priority Program (NPP) for Afghanistan's Justice Sector, is based on policy documents and commitments made at the 2010 London and Kabul Conferences as enhanced in 2012 by the Tokyo Mutual Accountability Framework (TMAF), designed to facilitate a transition to self-reliance. NPP5 has been drawn up by the Supreme Court, the Ministry of Justice (MoJ), the Attorney General's Office (AGO) and the Afghanistan Independent Bar Association (AIBA), collectively referred to as Justice Sector Institutions (JSIs)¹. It has been drawn up after extensive deliberation over priorities and strategic approaches to improving justice delivery systems in Afghanistan, including through internal and inter-agency meetings and workshops. NPP5 reflects the Government's priorities as it works to improve justice delivery to its citizens, and sets out a consolidated approach by the JSIs to achieving their ambitions.

NPP5 sets out a framework for a fully operational system for delivering justice services in Afghanistan, one that is capable of protecting citizen's rights while maintaining order and the rule of law. It recognises that a properly functioning and accountable Justice Sector strengthens public confidence in the Government and its institutions, enhances personal safety, and is fundamental for social and economic development. Failure by the Justice Sector in Afghanistan to achieve these aims will only undermine efforts by the Afghan Government to transition to sustainable and domestically funded governance in the coming years.

NPP Goal

The **Goal** of NPP5 is:

To restore the trust of Afghan citizens in the ability of the justice system to protect and defend their personal, economic, social and national interests through its demonstrated and faithful adherence to the rule of law.

Scope

NPP5 sets out specific, realistic, and time-bound deliverables to achieve a variety of results within the program's timescale. It is recognised that the ambitious scale and general complexity of the issues addressed by the NPP5 means that not all elements of the programs can be accomplished within three years. Nonetheless, it is necessary for the Government to describe its justice sector gaps and needs comprehensively, knowing that domestic or international funding for specific programs will involve more detailed discussion and planning.

The priorities identified here are the result of a deliberative process by JSIs to target judicial, prosecution, and legislative drafting and legal aid delivery reform efforts. The priorities expressed focus either on areas where progress has been demonstrably evident as a result of past or existing internationally assisted programs, or where particular functions or requirements, fundamental to managing complex institutions and delivering justice effectively, still need to be addressed. In line with Government commitments under TMAF and elsewhere, interventions to increase gender equality

¹ The responsibility for providing justice services in Afghanistan rests primarily with the JSIs, but police and prison services under the Ministry of Interior are also an integral part of the justice system.

and JSI integrity are included regardless of whether there is an existing program or a foundation of demonstrable success.

In developing the NPP5, each JSI has devoted significant time to ensure that their goals are aligned with the ANDS and the principles agreed at major international conferences. These strategic approaches are reflected in NPP5, which consolidates the efforts by the JSIs to assess their current capacity to deliver justice services and to identify the gaps and weaknesses in their institutions. As with other NPPs, NPP5 does not describe all the sectoral programs in place or planned by the international community, nor is it intended as a fully developed map of all adjudicative, law enforcement, correctional, or public/private legal aid entities currently providing services to the population. Over time, however, it is intended that such stand-alone programs be assessed to determine their degree of alignment with the Governance Cluster NPPs.

The JSIs recognise that achieving the high level objectives set out here for their justice system is a long-term goal. Therefore, the activities and results shown are primarily foundational in nature, designed to build upon successes achieved with international support over the past decade. Throughout the development of this NPP, Justice Sector implementing agencies have sought to maintain a balance between aspirational outcomes and recognition of the multiple constraints in Afghanistan that will frustrate efforts to achieve these outcomes.

Context

At the 2012 Tokyo Conference, the Afghan Government and the international community set out mutual commitments in the TMAF to consolidate their partnership, recognising that international support will continue to be necessary as Afghanistan transitions to self-sustaining governance over the next decade. Participants reiterated their respect for the Afghan Constitution, including its human rights provisions, notably on the rights of women².

The TMAF outlines the goal of the Government to ensure that the Constitution and other fundamental laws are enforced expeditiously, fairly, and transparently, and to ensure that women can fully enjoy their economic, social, civil, and political rights. It establishes specific indicators for progress related to ensuring respect for human rights for all citizens, and seeks continued enforcement of the provisions contained in the Presidential Decree on the Elimination of Violence against Women. The Government will renew its efforts to codify many of the provisions of this Presidential Decree through the passage of a revised version of an EVAW law that still comports with its international obligations and the Constitution. These commitments build on those made at the 2010 London and Kabul Conferences, and respond to the needs identified in the ANDS. The ANDS, as well as the Millennium Development Goals (MDGs), set out milestones of progress conditioned upon improved access to justice by the poor, transparency and accountability of Government officials to the rule of law, gender equality and inclusiveness, judicial protection of human rights, and the administration of justice free from corruption and discrimination. While significant challenges remain, Afghanistan has made important and demonstrable advancements towards achieving these goals over the past 10 years, as outlined in the Situational Analysis.

The interventions needed to achieve the commitments and goals described above are described in the NPP5, which lays out the programmatic and institutional strategies needed to achieve these goals.

² Tokyo Declaration, Partnership for Self –Reliance in Afghanistan, From Transition to Transformation, July 8 2012

NPP5's provisions for increased judicial efficiency and institutional capacity development are a pre-requisite for enhancing the rule of law and improving the delivery of justice services. Program components outline specific measures to enhance access to justice, particularly for women, and also provides for expedited drafting of laws, which is essential to passing priority legislation.

The Government maintains its commitment to working with the international donor community to observe the principles of Aid Effectiveness by incorporating sustainability and local participation into the design and implementation of justice sector reform programs. In addition, the NPP5 reflects the Aid Management Policy adopted by the Government and development partners during the Tokyo Conference, calling for an 80 per cent alliance of donor funded programs with Government priorities, and for 50 per cent of funding to be provided on budget.

Addressing public concerns

The Government needs to achieve visible and demonstrable progress in the justice sector before perceptions and public trust in the justice sector improves. Targeted outcomes for the NPP5 therefore include:

- Increased predictability and finality of legal decision making
- Reduced opportunities for corruption throughout the justice sector
- Speedier resolution of cases
- Equal treatment of all Afghans without regard to their gender or social status
- Demonstrated commitment to abide by international humanitarian principles
- Access by poor and rural citizens to the formal justice system
- Justice sector actors properly compensated and safe while performing their duties
- Traditional dispute resolution mechanisms incorporated into the national justice approach in ways that conform to fundamental standards of fairness, human rights and enacted laws of Afghanistan
- Well drafted, timely and easily understandable laws that are harmonized with other domestic laws and compliant with international treaties and the Constitution.

NPP5 Components and Structure

The NPP5 has five Components designed to achieve the program goal and high-level objectives:

1. Legal reform and legislative effectiveness
2. Enhancing efficiency of the Justice Sector
3. Increasing meaningful access to Justice
4. Building institutional capacity to strengthen Justice delivery
5. Increasing physical assets to improve Justice delivery systems

The selection of Components has enabled JSIs to organise their reform priorities in a logically connected way, allowing for the incorporation of cross-cutting issues such as gender equality, integrity enhancement, human resource and structural improvements. Within each Component, Sub-Components address specific challenges and set out indicative results to be achieved and deliverables.

The tasks set out in this NPP will largely be undertaken by the following:

- Supreme Court

- Ministry of Justice (MoJ)
- Attorney General’s Office (AGO)
- Ministry of Interior (MoI)
- Afghanistan Independent Bar Association (AIBA)

Specific activities contemplated by the Government are set out in the Implementation Plan (Annex A) and reflected in the Indicative Budget (Annex B). A Summary Budget appears at the end of this section.

Component 1: Improving the legislative process

Component 1 considers the development needs of the General Directorate of the Institute for Legislative Drafting and Legal Research (LDD), formerly the Taqin Department, the MoJ agency responsible for drafting proposed legislation and other official documents of the Government. LDD’s duties also include ensuring that all legislative documents are compliant with the Constitution, Sharia law, international conventions to which the Afghan Government is a signatory, and existing legislation and regulations. NPP5 lays out priority measures necessary for improved responsiveness of the LDD, including training on research and drafting, providing research tools, improving internal organizational structures, and improving coordination between the LDD and ministries requesting legislation.

Component 2: Enhancing efficiency in the justice sector

Component 2 recognises that an inefficient justice sector undermines public confidence in governance, and constrains economic development and social stability. Proposed efforts to increase efficiency include expanding the use of Afghanistan’s Case Management System (CMS) to include more courts and detention facilities, and to make CMS commonly used by more JSI *tashkeel*³. Prisoner tracking systems also need to be improved. A properly functioning CMS will also allow JSIs to timely provide important documents to the public in non-criminal matters and increase transparency and accountability within the JSIs. Incarcerating inmates is often an inefficient and expensive process for resolving criminal matters; this NPP therefore prioritises the expanded use of alternatives to incarceration and pre-trial detention, as well as providing vocational and literacy training to reduce recidivism, increase public safety and advance the Government’s ambition to treat all prisoners humanely and in accordance with international standards. Component 2 also addresses institutional inefficiencies that create bottlenecks and drain resources from the justice system, such as the high rate of *in absentia* cases and prosecutor appeals.

Component 3: Increasing meaningful access to justice

Component 3 outlines measures to increase access to justice by increasing the quality and quantity of legal aid delivery, and by providing more qualified justice delivery *tashkeel* in more areas. The NPP proposes steps to increase the presence of prosecutors, Huquq offices⁴ and competent legal aid providers across the country. While the establishment of the Afghan Independent Bar Association (AIBA) has been a notable benchmark of progress, efforts to increase its role in society are needed. The Legal Aid Department of the MoJ provides many of the indigent criminal defence services in

³ *Tashkeel* are official civil service positions.

⁴ The *Huquq* is a department within the MoJ that provides mediation, arbitration and other dispute resolution services in non-criminal matters.

Afghanistan; this Component seeks to increase its capacity to serve more accused and provide better representation. To increase the ability of the Justice Sector to protect women, this Component seeks to add to the numbers of Violence Against Women (VAW) Units in regional prosecutor and police offices, and to build the capacity of police officers and prosecutors to recognize and combat gender-based violence. It also includes measures to inform women and men of Afghanistan of the right of women to be free from gender-based violence, and their right to enjoy the privileges of citizenship, such as property ownership and legal competence to determine their own fate.

Component 4: Building institutional capacity to strengthen justice delivery

Component 4 seeks to improve the oversight, recruitment, and skills of the women and men who constitute the formal justice system in Afghanistan. It addresses the professional human resource management within JSIs, and the need for regular training to improve professional skills. Establishing appropriate pay and grade scales, setting out minimum qualifications and terms of reference for JSI *tashkeel* are needed, as well as a renewed effort to strengthen the ability of police and prosecutors to coordinate their work and build stronger cases based on physical evidence. This Component seeks to update the curricula and teaching materials used by Stage⁵ programs to address, among others, international human rights principles, the rights of women, domestic and international commercial law, to benefit future generations of legal professionals. The Huquq is a priority for additional resources and capacity building because of its demonstrated ability to provide justice services across Afghanistan. Component 4 also responds to concerns over the safety and security of JSI professionals, and seeks to address the rising number of juveniles in detention and the condition of Juvenile Rehabilitation Centres (JRCs) by increasing the rehabilitation capacity of the *tashkeel* who supervise juvenile facilities.

Component 5: Increasing physical assets to improve justice delivery systems

Component 5 sets out specific infrastructure needs for the Justice Sector, and sets forth the Operations and Maintenance (O&M) systems currently in place to keep buildings functional. Given the complexity of funding mechanisms for infrastructure and the relatively large costs associated with constructing and maintaining courts, prosecutors' offices and other buildings, Component 5 describes Government priorities in general terms, with a commitment to completing a Capital Investment Plan (CIP) for infrastructure projects commencing in 2014. Developing the CIP will help JSIs learn internationally accepted methods for prioritizing expenditure on infrastructure against fixed amounts of funds that can be applied across the board to NPP5 infrastructure projects.

Links to Governance Cluster NPPs

The Governance Cluster's policies, strategies and priorities embody the principles established at the national level. These priorities are more fully described at NPP level and their constituent elements. The Components and Sub-Components of this NPP, like the other Governance Cluster NPPs, are directly influenced by national priorities relating back to the Afghanistan National Development Strategy (ANDS) and the Millennium Development Goals (MDGs). The NPPs in the Governance Cluster, while they address different areas of governance, are designed to complement each other and to leverage resources towards achieving common goals of good governance.

⁵ Stage is a post-graduate course of study for graduates of the Faculty of Law or Sharia to prepare them for careers as prosecutors, lawyers, or judges.

Since some Governance Cluster NPPs are well advanced while others await endorsement, the experience from functioning NPPs has informed the development of this NPP, particularly with NPP management and reporting structures. This is an evolving process, and it is likely that revisions to management and reporting structures will continue after endorsement during 2013.

Budget Summary

NPP5 Budget (USD '000s)	Year 1	Year 2	Year 3	Total
Component 1: Law Reform and Legislative Effectiveness	3,470.8	3,898.6	2,866.9	10,236.3
Of which secured				550.0
Total Requested				9,686.3
Component 2: Improved efficiency and inter-agency communication in the justice system	19,924.0	22,592.0	22,837.5	65,353.5
Of which secured				0.0
Total Requested				65,353.5
Component 3: Increasing Access to Justice	3,708.5	3,869.5	3,823.7	11,401.7
Of which secured				2,000.0
Total Requested				9,401.7
Component 4: Institutional capacity building to strengthen justice delivery	4,843.6	6,104.4	4,914.4	15,862.4
Of which secured				0.0
Total Requested				15,862.4
Component 5: Increasing physical assets to improve Justice Delivery Systems	90,685.3	66,944.0	65,207.5	222,836.8
Of which secured				24,817.0
Total Requested				198,019.8
Grand Total				325,690.7
Of which secured				27,367.0
NPP5 Administration Costs	86.1	81.6	81.6	249.3
Total Requested				298,573.0

B. Situational Analysis

The nature and the acute depth of structural and institutional deficits among Afghanistan's JSIs are widely recognised, but the challenges to achieving a functioning justice system capable of delivering the quality of services demanded by the population are not confined to the institutions themselves. Social, historical, economic, and political constraints outside the control of JSI officials and policy leaders also hinder reform. Further, Afghanistan's justice sector, like those of most other countries, is tasked on a daily basis to decide matters of profound importance to individuals and society with a mix of religious, familial, community, economic and security consequences. The justice sector has perhaps the most intimate relationship with the population of any area of government; as a result, while the capacity needs and measurements for determining progress are not easy to quantify, the Government's ambition in relation to the sector can be more clearly articulated. In January 2013, for example, Justice Minister H.E. Habibullah Ghalib re-stated the Government's intention to persevere with on-going efforts to create a "fair, impartial, and accessible justice and judicial system based on Islamic principles and standards and values of the Constitution, ensuring the rights and freedoms of individuals." The international community has provided significant financial and technical assistance to the Justice Sector over the past decade to help realize that long-held goal.

Progress and Achievements

At the structural level, the adoption of Afghanistan's Constitution in 2004 set the course for law reform and established new terms of reference for the Justice Sector. The MoJ has prioritized laws for review and passage by Parliament, and the Council of Ministers (CoM) has approved a program of drafting, revision, enactment and implementation of key legislation, including an Interim Criminal Procedure Code (ICPC), a Code of Conduct for Public Servants, and a Code of Civil Procedure. Revisions to pending bills, and the drafting of key new legislation is under way in response to emerging needs and challenges. The status of relevant draft legislation, which further demonstrates priorities of the Government, is shown in the table below.

Legislative Commitment	Lead Ministry/ Institution	NPP	Status and Further Actions
The Law on the Campaign against Major Crimes	MoI	Gov NPP2	In late November 2011, a conference was held involving national and international experts to discuss and provide comments on a series of draft legislations, including the Law on the Campaign Against Major Crimes. Concerns were raised over the viability of the Major Crimes Task Force (MCTF) MoI. The MoJ officially requested that the MoI and NDS provide more justification and recommendations for the Law and the establishment of the MCTF.
Regulation on Governing the Preparation, Drafting, Scrutinizing and Process of Legislative Documents	MoJ	Gov NPP5	The CoM approved the regulation and was published in the Gazette.

Land Management Law	MAIL (Arazi) ⁶	Gov NPP2	The Law recently underwent public consultation in six regions (Nangarhar, Paktia, Kandahar, Herat, Balkh and Kunduz). A focus group was with 30 experts from Kabul and the provinces in October 2011. The Law will be sent to the MoJ for further legislative process after the public consultation has concluded.
The Child Law	IMWGLD ⁷	Gov NPP5	Under development by the MoJ Human Rights Unit.
Civil Code	IMWGLD	Gov NPP5	Preliminary Action taken place on Interpretation of Civil Code. The Supreme Court is waiting for the budget.
Annex 4 to the Penal Code (amendments incorporating UNCAC requirements)	IMWGLD	Gov NPP2	The Code is before the Wolesi Jirga – there is no further action on this at present.
Criminal Procedure Code	MoJ	Gov NPP2	The Code is before the Wolesi Jirga – there is no further action at present.
Law on Prisons and Detention Centres	MoI	Gov NPP5	The law has been amended and enforced based on Presidential Decree 85 and approval of the CoM
Police Law	MoI	Gov NPP5	In force
Anti-Corruption Law	HOO	Gov NPP2	The Law is currently before the Wolesi Jirga.
Law on the Elimination of Violence Against Women	All JSIs	Gov NPP5	The draft Law is before the Wolesi Jirga. The Legislative Committee of the Parliament had discussions on the draft and presented it to Parliament for approval. Following responses from Members of Parliament in May 2013, it has reverted back to the legislative Committee for sharing with other Parliamentary committees for wider discussion.
Penal Code	MoJ, MoI, AGO	Gov NPP5	In Presidential Decree 1439 (May 2010) President Karzai authorized the ongoing process of Penal Code consolidation that is being led by the Ministry of Justice with support from the Criminal Law Reform Working Group, a technical drafting committee comprising national and international experts. Throughout the consolidation process, it will be essential to ensure that the consolidated draft reflects legal framework reforms enacted since passage of the current Constitution, and that the consolidated code similarly upholds the Government's commitments pursuant to international agreements.

Certain safeguards are in place to protect judicial independence and to ensure the transparency of court proceedings, though the Government recognizes that far more are needed. Over the past decade, and with support from the international community, a number of judicial institutions have been established, including:

⁶ MAIL: Ministry of Agriculture, Irrigation and Livestock. The Land Management Law and Arazi's role as the land management authority under MAIL is discussed in detail in Governance Cluster NPP2, the National Transparency and Accountability Program

⁷ IMWGLD: Inter-Ministerial Working Group for Legislative Development

- The Supreme Court, with nine judges appointed by the President and subject to approval by the Wolesi Jirga (the lower house of Parliament);
- A Court of Appeal for each province;
- Primary courts for each district; and,
- Specialized courts in the fields of anti-corruption, national security, property issues, military issues, juvenile justice and narcotics.

To date, thousands of prosecutors, defence attorneys, judges, prison officials, police officers and support staff have received training to increase their professionalism, legal and human rights awareness, and skills. The establishment of the Afghan Independent Bar Association is an internationally recognized indicator of progress towards achieving and maintaining a democratic society. Stage programs for the judiciary have increased in duration from one year to two and are now housed at the Supreme Court. These reforms, and others, provide the foundation for a rights-based justice system.

Challenges

It is recognised that organisational and individual commitment to developing a truly human rights-based, transparent and accountable justice system is not yet firmly embedded within JSIs and their staff. For example, instances continue to arise where Justice Sector officials commit illegal acts without corresponding remedial action being taken by senior officials with the authority to discipline them. Failure to hold state actors and influential private citizens to account for corrupt or illegal activities, the use of Government resources to arrest and prosecute persons, particularly women and girls, for activities that are not illegal, all contribute to widespread concern within Afghanistan and beyond. As international financial and technical assistance reduces over time in response to the global economic crisis and other development priorities, the Justice Sector recognises that an environment of impunity and misdirected law enforcement assets is rapidly closing the political space international leaders must have in order to convince their constituents that Afghanistan's Justice Sector merits the support it clearly needs.

The JSIs have been making progress on internal efforts to police themselves, but trust in the formal justice system remains low. To counter the perception that judges and prosecutors can be influenced unlawfully, there must be a safe way for members of the public, and for the *tashkeel* of the JSIs, to report corruption they encounter or witness. The fear of retribution by high-ranking officials can be offset with protection mechanisms, such as whistleblowing rules to allow anonymity or the promise of a transfer to another jurisdiction.

Increasing public awareness about the justice system will also help reduce corruption. Simple measures, such as publicly displaying the official prices for filing cases or clearly posting that paying fees is not required and could be considered a crime, would enable the JSIs to begin taking preventative measures to reduce corruption. Other low-cost and practical steps towards this goal include requiring all *tashkeel* working in courts or offices and face-to-face with members of the public to wear numbered ID badges. Under this NPP, the Government will work proactively with the international community to identify best practices from other jurisdictions that can be adopted into Afghanistan's Justice Sector.

Traditional Dispute Resolution

The majority of Afghans involved in disputes over property, inheritance, family issues and, in some cases, criminal matters rely on community-based traditional dispute resolution (TDR), commonly known as peace councils or *shuras*. A legislative effort was made recently to establish a legal framework to allow some decisions made by peace councils to be recognized by government institutions and to direct resources to ensure that decisions are made in compliance with official laws and according to international human rights standards. The MoJ discussed the need for this legislation with other ministries, including Ministry of Women Affairs (MoWA). The Government will renew efforts under NPP5 to pass TDR legislation through a more consultative process with the JSIs and other ministries to alleviate their concerns.

There is strong consensus by the JSIs, and local and national leaders, that recent efforts to raise awareness among members of peace councils and *shuras* about basic legal and Sharia principles on the rights of individuals have been successful. Knowledge raising sessions about official commercial and inheritance laws, including international human rights standards, and especially those concerning women and children, have also been well received by the peace councils and *shuras*. These efforts to bring traditional dispute resolution processes and outcomes in line with formal laws, Sharia, legal principles of fairness, and the rights of the individual will continue under NPP5.

The MoJ needs enabling legislation before it can interact more directly with TDR mechanisms. The *Huquq* is a good resource for the Government to establish linkages with TDR, and efforts by the Government will be considered that would allow certain outcomes decided by *shuras* to be accepted as binding in the public and private sector. For example, if a *shura* were to determine custody of a child in a dispute among family members, a process can be created, possibly with the involvement of the *Huquq*, to ensure it meets domestic and international human rights standards and allow the prevailing family member to be officially recognized as the child's custodian. Similarly on property disputes, peace council decisions could be used to obtain titles to land, or to resolve commercial disputes that require the private sector to recognize the decision. Legislation will be pursued and these possible linkages and others between the formal and the TDR systems will be seriously explored.

Many efforts by the Government to improve the TDR process can be made without the need for legislation. In addition to continued training of TDR actors on formal law and human rights, women's peace councils (*spinsary*), can be targeted for official support. The Government can assist peace councils to communicate with each other about trainings they received and to facilitate more consistent outcomes that conform to the individual rights standards of Sharia and formal laws. Efforts to register peace council decisions with local district officials and courts have been successful and should continue. Raising the awareness of community members about their rights under Sharia, formal law, and international treaties will increase public demand to improve the quality of peace council resolutions and decrease the number of outcomes that violate basic tenets of the law.

Anti-corruption

Although Afghanistan adopted and ratified the United Nations Convention Against Corruption (UNCAC) in 2004, it is still struggling with how to update its vast legislative framework to comply with UNCAC. The legislative process is cumbersome and there are hundreds of laws and regulations that need to be updated to conform to UNCAC principles. In spite of this, Afghanistan has enacted an Anti-Corruption Law and created the High Oversight Office for Anti-Corruption (HOO). These are important legal tools that the JSIs need to combat public and private sector corruption.

The JSIs are an integral component of the Government's anti-corruption agenda. Law enforcement investigators with specialized skills for detecting and prosecuting financial crimes, such as embezzlement, bribery and procurement manipulation, must obtain convictions in the formal justice system. The capacity of specialized courts in Kabul to manage these often complicated cases has risen in the past ten years, but more is needed to enable the judiciary to handle the variety of corruption cases being pursued by law enforcement and anti-corruption institutions. The Government has designated eight regional Anti-Corruption Tribunals (ACTs) whose function is to prioritize major financial and corruption cases throughout the country. ACTs are designed to have staff and judges trained on bookkeeping, public finance and banking processes, among others, that will allow them to understand the complexities involved in most private and public sector corruption. The only ACTs currently hearing cases are in Kabul and Herat, underscoring the need for greater coordination between law enforcement and JSIs to direct resources based on the need for services. The jurisdiction of ACTs also needs to be clarified to reduce overlap with other specialized tribunals, such as the Public Security Courts. Clearly establishing the jurisdiction for the ACTs will also help prosecutors operating in the regions to understand where local corruption cases should be filed and to pursue them more aggressively.

Promoting Transparency and Accountability

NPP5 incorporates transparency and accountability measures throughout its implementation. The Case Management System (CMS) allows supervisors in courts to review the case loads and decisions of subordinates and can help identify trends that indicate extra-legal influence may be occurring. In courts where CMS is activated, the AGO and specialized anti-corruption investigators can also locate and determine the status of corruption cases filed. Increasing the professionalism of prosecutors and judges through increased training on codes of conduct and reforming human resource management will also contribute to efforts to combat institutional corruption, while reducing current financial incentives to adjudicate *in absentia* cases ahead of in-custody defendants will contribute to JSI efforts to reduce internal corruption. Other examples of NPP5 priorities leading to a more transparent and accountable justice sector include enhancing communication protocols among police, prosecutors, defence attorneys, and civil society organisations (CSOs) when arrests occur, and making the notification process for defendants and witnesses standardised and competent. As the Justice Sector becomes more efficient, opportunities for bad actors to take advantage of delay and obstruction will be reduced and more effective counter-corruption tactics can be implemented.

The Supreme Court and the AGO have procedures in place for identifying and disciplining judges and prosecutors who commit criminal acts or violate administrative procedures. The Supreme Court has a robust system in place, with investigators who pro-actively determine if errant judges are being influenced illegally. The Supreme Court convenes its High Council to review reports on judges who are accused of illegal or administrative violations and have a range of punishments and disciplinary actions available to them. Reports of judges who are disciplined by the High Council are published in its newsletter. The AGO also has systems in place for disciplining prosecutors who violate the law or who fail to abide by codes of conduct. However, the Government recognizes that improving the system for proactively preventing illegal conduct by prosecutors is needed.

C. Management and Monitoring

NPP Strategic Management

Steering Committee

Planning is currently under way to determine the optimal mechanism for providing strategic, high-level oversight of Governance Cluster NPPs. One option is for a Ministerial-level Steering Committee chaired by H.E. the Senior Minister to provide strategic management and oversight of the implementation of this NPP, possibly in the broader Cluster context, or solely for this NPP. If constituted, it is expected that Steering Committee meetings will be held quarterly, with full members likely to include the Senior Minister, Ministers and Deputy Ministers from implementing line ministries and relevant Government entities, and the President of the AIBA. Representatives of supporting implementing institutions, the MoF, civil society institutions, and donor agencies would most likely be asked to attend in an advisory or observer capacity. How to achieve the most appropriate form of donor representation, whether through the existing Board of Donors or through a revised arrangement, will be included in discussions with donors in establishing a Governance Cluster oversight mechanism and in devising the relevant Terms of Reference.

If based on models employed in other Clusters, the Steering Committee would receive and review NPP progress and financial reports, including reports from the NPP5 Technical Committee (see below). It would address high-level management and policy issues, and provide necessary direction to implementing partners. Responsibility for signing off on work plans, budgets, etc., for NPP5 components and sub-components might be held at Steering Committee level, or be delegated to the Technical Committee. In assessing progress, recommendations on actions to further strengthen the quality or pace of delivery would be a further responsibility.

Whatever models are employed, strategic oversight of the NPPs might also need to consider what modifications might be needed to the management and reporting arrangements of NPP5 to achieve an equivalent quality, consistency, and transparency of upward and outward reporting for NPP5 with other Governance Cluster NPPs.

More formal and regular engagement with the wider international community is also planned as part of a Cluster-wide review of communications and outreach once Governance Cluster NPPs have been endorsed.

Terms of Reference for a Governance Cluster oversight mechanism and for NPP5 oversight, including the composition of any Steering Committee, its role and responsibilities, are planned for drafting and sharing for consultation within four months of endorsement of this NPP by the Joint Co-ordination and Monitoring Board (JCMB). The costs of establishment and operation will be drawn from the range of Governance Cluster NPPs, through a process of budget revision post-endorsement.

Operational Management

Technical Committee

A Technical Committee is expected to be established to provide operational management and oversight of the implementation of this NPP. The Technical Committee will meet monthly, chaired by

a Minister or Deputy Minister from one of the implementing line ministries on a rotating basis. Its members will include line ministry focal points, the Governance Cluster Coordinator, the Senior Adviser to the Senior Minister, and donor focal points. As with the Steering Committee, consideration will be given to how to make best use of existing donor co-ordination structures, or where revisions to those structures might achieve more sustainable and participatory outcomes.

The Technical Committee will be responsible for program oversight, ensuring accountability, supporting effective implementation of NPP5, and tracking progress against objectives. It will receive and assess progress, financial, monitoring and evaluation reports, and one-off or periodic donor-led reviews, and make recommendations in relation to off-track deliverables and review component and sub-component funding positions. It will also consider strategic and policy documents arising from the process of implementation. The Committee will identify challenges to implementation and consider how to address these, and will identify policy issues to be referred to the Steering Committee.

The Committee will draw on reporting from the different Justice Sector governance mechanisms created at component or sub-component level. It will seek to ensure that data sought is timely, accurate, and appropriate in size and scope to the needs of the Committee and of the Steering Committee. The Committee will seek to promote coherent and aligned approaches to reporting, and establish standards of reporting that are credible and consistent from the outset, increase in quality over time, and can, from an early stage, be disseminated widely and transparently.

The Technical Committee will be responsible for seek to support effective Justice Sector coordination and harmonisation, and alignment with other relevant initiatives. It will review the complementarity of this NPP's work with that of other Governance Cluster NPPs, as well as NPPs outside the Governance Cluster. It will also assess the ambitions, operations and implementation arrangements of donor-funded programs in the Justice Sector, to establish where synergies can be found, streamlining take place, or lessons learned. The outcome of that assessment will include a timed action plan and process for closer alignment or amalgamation for donor agreement. In doing so, the Technical Committee will seek to achieve visible and demonstrated alignment of stand-alone donor-funded programs and projects with NPP5, and to establish a model that can be used by other NPP governance bodies, within and outside the Governance Cluster.

The Technical Committee will address the funding of NPP5 and seek to ensure appropriate and harmonized financing mechanisms. It will assess where moves to achieve rapid and high volumes of disbursement through on-budget means can be strengthened or expanded, and where the application of financial control mechanisms made more effective, efficient, uniform, and transparent at national and sub-national levels. It will assess where and how more consistent standards of financial management and reporting can be achieved, and the degree to which fiduciary risks have been identified and are being managed or mitigated, and to which anti-corruption protections have been put in place and are operating effectively.

The Technical Committee will also assess the degree to which cross-cutting issues, including gender and sustainability, are being addressed by components and sub-components of this NPP and of Justice Sector stand-alone programs and projects, and what lessons can be learned or improvements achieved. A specific task for the Technical Committee will be to address how implementing line ministries and agencies can establish and implement a viable Gender Policy with clearly demonstrable positive outcomes.

The Technical Committee will propose ways in which all programs and projects contributing to the development of the Justice Sector can be reviewed, or information shared. It will seek to identify where gaps, bottlenecks or inconsistencies have arisen in existing programs and structures, especially in relation to the absence of functional, capable, administrative support, and how they might be resolved, with a strong preference for doing so through the improved use or reallocation of existing resources.

The Technical Committee will seek to identify whether opportunities exist to achieve clear de-duplication of effort, strengthen alignment, complementarity, coherence, consistency and cost-effectiveness in implementation and service delivery, and to improve the design of future policy or program interventions. The Committee will assess where opportunities exist for formal or informal partnerships up to and including amalgamation of efforts to achieve greater value for money and pace and effectiveness of delivery. In doing so, the Committee will make particular efforts to identify evidence of improved service provision and positive impact on the lives of ordinary Afghans nationwide.

Where possible, the Technical Committee will draw on existing resources within Government or within donor-funded programs, using knowledge gained and lessons learned to improve the capacity, functionality, integration and sustainability of the Government's own processes, systems and structures at national and sub-national level, and to contribute to the greater efficiency and effectiveness of non-Government bodies.

The Technical Committee will be responsible for identifying where and how engagement at sub-national level with this NPP can be fostered, including activities such as training, capacity building, institution-led public outreach activities, civil society engagement, and communications planning and approaches. It will seek to establish how these and other methods and approaches can be used in a transparent fashion to promote the values espoused by this NPP, achieve greater public awareness and understanding of individual and collective rights and obligations, of current and emerging institutional standards and processes, and of the opportunities arising from changes to those standards and processes, and to communicate results achieved at all levels within Afghanistan and also internationally. In doing so, the Technical Committee will seek to establish mechanisms and adopt approaches designed to foster positive, creative, vertical and horizontal engagement with all relevant implementing line ministries, Government agencies and civil society organisations at national and provincial level, with Parliament, and with donor agencies. It will also seek to establish a standard but flexible methodology to consultation to ensure consultative processes are consistent, transparent and wide-ranging, and embedded in policy and development planning at national and sub-national levels.

The Technical Committee will support dialogue and relationship building between key stakeholders and will provide a forum for discussion on key policy issues. It will lead on establishing focused technical meetings relating to particular aspects of NPP5 implementation, whether on a one-off or continuing basis.

Terms of Reference for the Technical Committee, including its composition, role, and responsibilities, will be drawn up and shared for consultation within three months of endorsement of this NPP by the JCMB. The costs of establishment and operation will be clearly identified in the NPP5 budget, through a process of budget revision once all Governance Cluster NPPs have been endorsed.

Linkages and coordination at sub-national level

The Technical Committee will be responsible for identifying how coordination and implementation of NPP5 activities will be ensured at the sub-national level. At the provincial level, the Provincial Justice Coordination Mechanism (PCJM) will be the primary mechanism for NPP5 implementation, reporting to the report to NPP5 Technical Committee. PCJMs are envisaged as a natural conduit for national directives being communicated regionally, and to assist the central Government in monitoring the practical effect of interventions conceived nationally and implemented locally. PJCM meetings provide a principal opportunity for dialogue at provincial level about how police, prosecutorial, judicial, and prisoner detention agencies can work together to address problems specific to their region, especially where regular meetings are convened at the order of the Supreme Court and chaired by the local Chief Judge. The precise role and responsibilities of PJCMs in relation to the implementation of NPP5 Components will be determined post-endorsement.

Monitoring and Evaluation

The NPP5 contemplates a robust Monitoring & Evaluation (M&E) structure by incorporating M&E tools into the implementation plans of all NPP5 projects. International consultants with expertise in M&E for governance development in general, and Justice Sector institutions specifically, will help the JSI technical committees develop results frameworks and M&E plans at the planning stage of new projects. Building the capacity of JSI *tashkeel* to design and conduct M&E will be included in all scopes of work for international M&E experts.

In implementing NPP5, the Government will work with implementing agencies and donors to ensure that performance indicators are realistic and logically connected to the objective of the program, and to accurately measure whether NPP5 projects are meeting them. To ensure that Afghanistan can measure progress on domestic and donor-funded projects relative to similarly situated democracies, internationally recognized performance indicators and monitoring standards for strengthening the capacity of justice institutions will be used. More broadly, the Governance Cluster will consider universal M&E terminology to reduce confusion and to make the results applicable to as many programs as possible. Coordination between the Government, implementing agencies, and donors during the development of specific work plans and performance monitoring plans is seen as an essential element in increasing the utility of M&E reports.

Several of the projects to be undertaken through NPP5 will generate valuable data for wider use by the Justice Sector. CMS, for example, is designed in large part to be a sophisticated tool for identifying where JSIs are meeting targets for improved and more efficient justice delivery, through its ability to disaggregate data by gender, type of case, and length between case events, and compute average caseloads and disposition rates for judges and prosecutors. Many baselines can be initially established by reviewing current data available on the CMS. However, reports generated by the CMS are limited by the amount of validated information that has been input into its database. Training JSI *tashkeel* to regularly update the CMS and increasing its use in more JSIs, while expanding the type of information it collects, will be a priority effort for the Government in its approach to M&E.

A reliable set of baseline indicators across the justice system is needed at the outset of NPP5, and the Government will seek to work with the international community to conduct necessary surveys and to collect essential information. Assessments recently conducted by international governmental and non-governmental organizations on justice sector performance and detention facilities can be helpful for

determining which methodologies have been successful. They can also be collated by M&E consultants and JSI staff to create a baseline for M&E efforts under NPP5.

Monitoring and evaluation forms an essential component of the management structure for NPP5. *Tashkeel*, working with advisors on M&E, may comprise a sub-committee reporting to the Technical Committee. In addition to providing regular progress reports to the Technical Committee, the Steering Committee and the Board of Donors, M&E staff will review all work plans for reform programs under NPP5 to identify how M&E resources should be deployed, and to search out opportunities to combine efforts to collect data.

D. Program Components

Component 1: Improving the legislative process

Priority Concerns

Like other democracies, Afghanistan's process for drafting, passing, and enacting laws is governed by a set of rules designed to encourage participation from elected representatives of the legislative and executive branches of the Government, as well as from individual members of the public. This process requires time and deliberation, which often conflicts with the need to have laws enacted swiftly to initiate progress on matters of apparent and urgent importance. The Government recognises that substantial improvements with the drafting process are needed to produce timely laws that are easily understood and that clearly define how they are to be implemented.

Afghanistan's current laws contain many internal inconsistencies that make them challenging or impossible to enforce. Without a standardised process for drafting and encoding laws, it is difficult to compose legislation that does not conflict with existing legal provisions. Political will to change laws is frustrated by the lack of capacity to conduct proper legislative research that would enable legislative drafters to repeal conflicting code sections and to harmonize proposed legislative documents with existing laws and international agreements. In certain critical policy areas, Afghanistan has relied on other countries to provide the body of legislation, which when enacted often complicates rather than simplifies enforcement because the laws are not effectively tailored to Afghanistan's economy, culture, jurisprudence, or governmental structures. The General Directorate of the Institute for Legislative Drafting and Legal Research (LDD)⁸ is the agency within the Ministry of Justice responsible for drafting legislative documents on behalf of the Executive Branch, and needs staff with specialized skills and subject matter expertise to adapt model laws to make them more applicable to Afghanistan. The internal business process of the LDD and the MoJ contain too many layers of quality control by senior level officials. Though helpful for ensuring that only superior legislative documents are produced by the LDD, repeated validations are unnecessary and can significantly impede progress, particularly if only one official is designated to approve a draft document before work can recommence. Further, the Translation Board of the MoJ sometimes has difficulty translating legal terms and does not coordinate well enough with the LDD to confirm that they are working on documents deemed to be priority matters at senior level within Government.

Existing framework for progress

The MoJ, in its 5-year strategic plan for reform, recognises the weaknesses of the human resource management of the LDD. Terms of reference for positions are not clearly laid out, for example, and there are no reward systems to encourage high quality work. Salaries are far too low to hire staff or consultants with special skills or knowledge, and workloads within the LDD are unevenly distributed, with some staff not doing enough work, while a minority of dedicated *tashkeel* produce most of the output. The LDD has access to translation services for Dari, Pashtu and English through the MoJ Translation Board, allowing capacity strengthening efforts to focus directly on skills and education without requiring a new sub-division of *tashkeel* to be created.

⁸Formerly known as the Taqnin.

Moving forward, the ministries requesting legislative documents⁹ should devote more resources to the drafting and finalisation effort, and in some cases should establish liaison positions to monitor bills of interest and to offer expertise from within their Ministry to the LDD and Parliament. The LDD can help ministries become more educated and more involved with legislative drafting once better communication and coordination protocols are established. The ministries must also communicate regularly with the LDD so they can prioritize their legislative needs in line with the Government's capacity to draft and enact laws. Though communication takes place between ministries and the LDD, it is routed through layers of bureaucracy, and the existing workload of the LDD may not be properly explained to Ministry officials eager for documents to be produced. More efficient communication between the ministries and the LDD to provide subject matter expertise from specialists within the line ministries will also speed up the process of drafting a legislative document when technical issues are involved.

Sub-Component 1.1: Increased Human Resource capacity of the LDD

Indicative results

- More efficient internal processes for producing legislative documents.
- LDD *tashkeel* are more productive and have higher job satisfaction.
- Translation of legislative documents timely performed.
- LDD officials have better understanding of specialized terms and concepts.
- Better legislative documents provided to the Council of Ministers.

The MoJ understands that it can improve its ability to draft legislative documents by internally restructuring how work is assigned and reviewed by senior level LDD officials. The current system has too many layers of validation that slows down the writing and approval process and discourages the production of a comprehensive first draft. The MoJ is also aware that LDD *tashkeel* lack fundamental skills and training in critical areas. By amending the management structure and conducting regular professional education for existing *tashkeel*, the ability of the LDD to keep pace with the increasing number and complexity of requested legislative documents will rise.

However, even with more efficient internal processes in place and better-trained *tashkeel*, the output of the LDD will never meet the demands placed on it by other ministries unless more personnel are hired and space for them to work is provided. Given the important responsibility of the LDD to produce high quality legislative documents and its fundamental role in meeting Afghanistan's commitment to its people and to the international community to enact priority laws, improving the human resource capacity of the LDD is considered a MoJ priority.

Deliverables

The LDD and the MoJ will work with suitably experienced international and domestic experts who can help them reduce inefficiencies of their current process for receiving and documenting requests from ministries. This internal efficiency effort will also help the LDD establish standard performance times for each researcher, drafter, and supervisor, and create an improved workflow for producing a document from receipt of request to submission to the Council of Ministers. As the business process of the LDD is improved, the research and drafting skills of LDD *tashkeel* can be supported through international knowledge sharing workshops conducted abroad or in Kabul with legislative drafting teams from democratic Islamic nations. To ensure that workloads of LDD *tashkeel* are evenly

⁹ The LDD drafts proposed laws, Presidential Decrees, government regulations and other rules published in the official government Gazettes.

distributed and assignments go to persons with the right skills, regular performance reviews will be conducted based on a standardised assessment process that allows *tashkeel* to comment on remarks made by supervisors. Legal terminology training will be provided to the Translation Board to reduce the number of times a document is transferred between departments due to mistakes in translation, and training seminars with experts from other ministries will be conducted to explain technical governance terms relative to the work of their ministries.

Sub-Component 1.2: Improved ability of line ministries and civil society to be involved in the legislative process

Indicative results

- All ministries able to complete a standardised checklist with the information needed for LDD *tashkeel* to produce strong legislative documents
- Reduced need for the LDD to request additional information from requesting ministries
- Increased public involvement in the legislative process

The LDD is not a policy-making office. It receives requests for legislative documents from different Government bodies and guides the drafting process until a final draft is submitted to the Cabinet. The authority for prioritizing the legislative agenda rests with the CoM, which represents senior-level Government policy makers. Nor does the LDD have the authority to deviate from its priority agenda, determined by the MoJ as it develops its Government Legislative Work Plan (GLWP), which contains a quarterly calendar for when the LDD will work on the prioritized laws, based on outputs of the CoM. Other ministries and the CoM have internal demands that frequently require legislative documents, and the backlog of requests to the LDD grows each year as Afghanistan matures from a young democracy and priorities emerge requiring new laws. To assert more control over the process of requesting, drafting, and commenting on legislative documents, the MoJ has issued a regulation, the ‘Procedure for Preparing and Proposing Legislative Documents’ (the Procedure). The Procedure is designed to make the interaction between the ministries and the LDD more effective by increasing at the outset how much information a Ministry must provide to the LDD when it requests draft legislation. Unfortunately, the LDD continues to receive poorly articulated requests to produce legislative documents that do not contain enough information for them to process the request efficiently.

Deliverables

To improve the coordination between ministries and the LDD, the Government is prioritizing inter-Ministerial awareness and education campaigns to familiarize Executive branch agencies on how to properly request legislative documents from the LDD, and how to assist with revisions as the document evolves. The LDD will prepare checklists for agencies to ensure their requests are complete prior to submission, and each Ministry will be required to establish a point of contact for the LDD to call upon when questions arise concerning proposed legislative documents. All ministries will be required to send working level *tashkeel* and supervising officials to the orientation sessions, which will be organised and facilitated by the LDD. The LDD will also increase coordination with the legislative department of Parliament to reduce the time needed to finalize legislation before final votes are taken. To increase public participation in the legislative process, representatives from civil society and academic institutions will be invited to attend similar orientation sessions to better understand how they can influence the content of legislation.

Sub-component 1.3: Increased legislative research capacity of LDD

Indicative results

- MoJ *tashkeel* regularly update content of legislative website
- The public has access to all legislative documents in electronic form in Dari, Pashtu and English
- Digital library of all legislative documents stored on flash drives, CD-ROMS/DVRs and hard drives of computers at the LDD.
- Standardised format of legislative documents
- Higher quality legislative documents produced
- Legislative documents produced more quickly.

The MoJ has received considerable assistance from the international community to develop the research capacity of the LDD, but it is clear that important tools for preparing legislative documents are still not readily available for use by their staff. The computerized database available on the internet is useful but incomplete, and LDD staff does not know how to update or access the content of the database. LDD and MoJ Information Technology (IT) staff need to take a stronger role in managing this important research facility and work together with international donors to ensure that LDD and MoJ *tashkeel* are able to access the encoding functions of the website to update content as needed. Resolving how the website will be hosted and how it will be sustained is a top priority for the Government. LDD and IT *tashkeel* need to improve their capacity to correct problems as they occur with the website and be able to respond to requests from Government agencies and the public about existing and pending legislative documents. Once the database is completed and *tashkeel* are able to regularly update and improve the content, the entire database should be converted to a computer storage system that does not require Internet access. Finally, to underscore Afghanistan's sovereignty, it is important for the website to be clearly identified as an official Afghanistan Government website.

Given the infrastructure problems of the MoJ, electricity is unreliable and many of the *tashkeel* at the LDD do not have functioning computers. There are also no facilities available for members of the public to use a computer station at the LDD. Consequently, it is important for laws, monthly publications, scholarly research, and useful reference materials to be available in printed form. The LDD needs a fully stocked library with workspaces to conduct research.

Deliverables

The IT *tashkeel* at the MoJ need refresher training on how to access and update content of the MoJ website to ensure all laws and information are up to date. They also need refresher courses on the software programming to enable them to fix bugs and other routine problems with the website and database as they occur, while more complicated software problems can be contracted out to local IT companies. Training for all LDD *tashkeel* on how to use the electronic database to conduct basic research and to compare proposed laws to existing laws will be conducted, and templates for all documents commonly produced by the LDD will be created and stored on the internal library to assist the *tashkeel* with creating legislative documents. LDD computers will have the database stored on all hard drives, and CD-ROM and DVR discs containing all the laws and documents will be produced for distribution within the LDD and any other Ministry or member of the public. A library and workspace containing hard copies of all existing laws, codes, and regulations will be created near the LDD offices to facilitate the drafting process.

Component 2: Enhancing efficiency in the justice sector

Priority Concerns

To increase user satisfaction and confidence in the formal justice system requires it to be a demonstrably efficient method for resolving disputes. Afghanistan is burdened with antiquated laws and processes that create unnecessary and costly obstacles for JSI officials trying to perform their duties and for the public who rely on their services. Inefficiency in the justice system also creates opportunities for illegal behaviour by Government workers offering to expedite services in exchange for unlawful fees. The lack of routine coordination among JSI officials and *tashkeel* fuels many negative attendant consequences in the Justice Sector, including inefficiency, arbitrary and illegal detention, defendants habitually failing to appear in court without consequence, and arrests for activities that are not illegal under existing Afghan laws. Institutional reforms are critically needed and considered priority matters for the Government. The necessary reforms include increasing case management capacity, initiating alternatives to incarceration, simplifying judicial processes, uniform docketing, adequate provision of defence and prosecutorial services, timely inter-agency communication on pending matters and arrests, and public information and education materials. The early implementation of certain provisions of PD129 will also support significant progress towards increasing Justice Sector efficiency.

The opportunity exists for pre-trial detention alternatives to be more frequently employed, including granting defendants bail, having defendants report regularly to courts or to the police, restricting their movement, or having a respected member of the community assure their return. Judges generally do not assert their authority to decide whether to detain those accused of crimes until their trial has commenced, while prosecutors are widely regarded as having too much control over pre-trial detention decisions. Further, defence attorneys should be involved at an early enough stage in the criminal process to influence decisions about whether defendants are released from pre-trial detention. Necessary reforms include ensuring that decisions to allow criminal defendants to return voluntarily to court are faithfully observed by defendants, prosecutors, police, and prison officials. The consequences for failure to abide by court decisions need to be meaningful if they are to be effective, while capacity building among JSI employees to make them fully aware of their responsibilities concerning arrested persons released before trial is also needed. Given the expense and labour involved in housing and transporting detainees, alternatives to pre-trial and post-conviction detention are also considered a priority element if overall JSI efficiency is to increase.

At present, prosecutors routinely appeal Primary and Appellate Court rulings with insufficient regard to the resources needed to pursue them. No process currently exists for screening and prioritizing decisions by prosecutors to appeal. Trials *in absentia* continue to be a significant burden on all JSIs. There is no evidence that this contributes to improving public safety. Judicial processes are complex and the generic forms required by the judiciary are in many cases in short supply or not available. Written judicial decisions on common civil and criminal cases are lengthy, with insufficient support staff able to assist judges with routine matters, such as note taking or maintaining a calendar. Together, these circumstances create an environment of inefficiency where unreasonable, and often unlawful, delays are expected rather than exceptional.

Existing Framework for Progress

Provincial Justice Coordination Mechanism (PCJM) meetings provide a principal opportunity for dialogue at provincial level about how police, prosecutorial, judicial, and detention agencies can work together to address problems specific to their region, especially where regular meetings are convened at the order of the Supreme Court and chaired by the local Chief Judge. Unfortunately, not all provinces conduct such meetings and, where they do take place, attendance by some JSIs is often found to be lagging. NPP5 seeks to extend and regularise the practice of PJCM meetings, enabling them to serve as a natural conduit for information from the capital to reach the provincial level. Such meetings can also be an effective way to officially assess and validate the progress of judicial reform programs outside the centre. Under NPP5, additional financial support will be provided by each JSI to ensure that such meetings continue, take place more frequently and with greater regularity, and with higher participation by all provincial JSIs. By working in coordination with the national Justice Sector Institution Coordination Council (JSICC), PJCM meetings will provide a firm foundation for NPP5 implementation management and upward and outward progress reporting.

Substantial and continuing efforts to introduce standardised systems for tracking and docketing cases, locating inmates, and increasing the use of alternatives to incarceration, both pre-trial and post-conviction, have achieved notable success, but more remains to be done. The current Government board overseeing the implementation of the CMS is comprised of representatives from seven different law enforcement, prosecutorial, and judicial agencies. This board will actively seek to involve a broader range of Justice Sector actors who will be able to provide additional data for the CMS and access appropriate information from its database. They will review how to include non-criminal cases in the CMS.

The Government believes that providing competent defence counsel is not only a Constitutional imperative, it also contributes to a more efficient, rights-based, and rehabilitative criminal justice system. Increased efficiency and communication between JSIs can also contribute to Government efforts to ensure its justice system conforms to international standards regarding prisoner treatment. NPP5 seeks to deliver the PD129 ambition of increasing the number of attorneys available to detainees, resulting in a lower number of illegally detained persons overall and earlier engagement by defence attorneys after the initial arrest. The expected results will include promoting earlier resolution of criminal cases without the need for trial, and increasing efficiency by lowering the use of judicial resources on cases where the established facts are assessed as weak or indicate that no crime has been committed.

NPP5 also seeks to implement measures to increase the ability of the JSIs to collect data that will allow them to evaluate whether reform initiatives have increased Justice Sector efficiencies. Doing so will lead to long-term improvements in program design and delivery. As case management becomes more integrated into JSI routines, and the database of pending cases is sufficiently populated enough to provide reliable data and trend analysis, information can be obtained about where opportunities for corruption exist and where cost-effective, practical and targeted preventative measures can be applied.

Sub-Component 2.1: Improved case management and case tracking capacity

Indicative results

- More courts using the CMS across Afghanistan.

- Civil cases and appeal information included in the CMS.
- JSI *tashkeel* use CMS routinely to update case information and generate reports in courts with complete databases.
- Reports on JSI statistics made available to the public.

The foundation of an efficient justice delivery system is a unified process for recording incoming cases and updating case events in pending cases. The scope of information included in a case management system can vary, but a standardised set of basic data fields populated by JSIs for every new case and as a case progresses is a requirement from the outset. JSIs have, to date, received critical international assistance for this important work; NPP5 will build on this by strengthening case tracking and file management efforts. As the CMS system grows and, most importantly, is fully integrated into the daily routine of JSI *tashkeel* staff, the benefits will include:

- Ability to produce a calendar to inform witnesses, litigants, lawyers, and the general public of appearance dates, and flagging approaching deadlines for court action
- Improved ability by judges, prosecutors, and defence attorneys to prepare for upcoming cases
- Improved ability to locate defendants in pre-trial detention
- Improved contact information for defence attorneys
- Interested parties and the public are made better aware of the status of a case or its appeal
- Improved ability for qualitative assessments of types of litigants, their gender, the numbers of civil and criminal cases, and how many persons are represented by counsel in criminal matters
- Reduced opportunities for corruption by increasing transparency in the legal process and allowing senior level JSI officials to review the work of subordinates.

In addition to these efficiency and accountability gains, a fully functional and applicable national CMS will assist JSIs with tracking decisions and actions in civil cases handled by the *Huquq*. Attempts have been made to create an automated database of manually produced *Huquq* reports, but *Huquq* staff continue to manually copy information from data sheets collected from all *Huquq* offices to produce a single national, handwritten register. This time-consuming process produces a report with limited quantitative information. Under NPP5, a national database for the *Huquq* will allow integration into the CMS which, when regularly updated, will help future efforts to reduce the chances of cases being improperly filed in different courts and *Huquq* offices. The initiative is also expected to produce helpful data to improve justice services administered by the *Huquq* and the courts.

The Government recognises the value of using automation in court case management and prisoner tracking systems, and considers expansion of all CMS activities a high priority for the Justice Sector. As the number of cases entered into CMS increases significantly, information about case clearance rates and average case disposition times will provide better insight into the functioning of Afghanistan's justice system, and help identify choke-points. It will also help identify where high-functioning court processes exist for possible replication or for allocation of additional resources. Under NPP5, the CMS Board will work with the international community and implementers to increase the participation and skill levels of all JSI *tashkeel* working on existing CMS programs, and to broaden the use of CMS.

Deliverables

A national database for the *Huquq* established to allow integration into the CMS. Data improved in quality and volume to improve justice services administered by the *Huquq* and the courts.

Participation and skill levels of all JSI *tashkeel* working on existing CMS programs improved, with an increased volume of case data entry into CMS from a broader range of sources, and the use of CMS expanded to cover a wider range of additional courts. Additional hardware requirements will be identified and procured as CMS is introduced to more JSIs.

Sub-Component 2.2: Increased use of alternatives to incarceration and pre-trial detention, and significant increase in vocational and literacy training for inmates

Indicative results

- Local Government officials, JSI actors and the public more aware of ATI sentences and how to use them to lower jail congestion and rates of re-offending by convicted persons.
- Local NGOs and Government agencies officially involved with providing ATI, vocational and health services for inmates.
- Lower incarceration rate.
- Lower re-offending rate.

Diverting persons from pre-trial detention and issuing fewer sentences of imprisonment lessens the strain on the justice system. The Government recognises that it is heavily reliant on prison sentences as a dominant form of punishment for criminal convictions and that, for non-violent offenses and for categories of offenders who do not represent a threat to public safety, imprisonment is not always the best option. Alternatives to incarceration (ATI) programs from similarly situated jurisdictions offer models on which the Afghan justice system can draw. Although ATIs are permissible under Afghan law, few are exercised in reality, so that the prison population continues to grow, further burdening the prison system's already weak infrastructure. The new Criminal Procedure Code (CPC, currently¹⁰ under consideration by Parliament) provides more ATI options for the justice system, including alternatives to pre-trial detention.

For inmates, increased vocational and literacy training will strengthen the opportunities for a return to meaningful lives and livelihoods upon release, recognised as one measure that contributes to lower rates of re-offending. Such training will therefore contribute to Justice Sector efficiency in the wider sense. While progress in increasing vocational training has been made over the past decade with support from the international community, the Government recognizes that further progress requires an enhanced internal capacity to administer job skills training, literacy courses, and other rehabilitation services for all inmates in Afghanistan, and to make such programs cost-effective and sustainable. Allowing women's organisations and other types of prisoner service NGOs greater access to detention facilities will underpin Government efforts to provide better services to inmates as part of a general effort to reduce re-offending.

Increased general awareness about ATI, its availability and applicability, is a necessary precursor to pressure from an informed public and civil society on local Government and JSI officials to increase the number of ATI sentences passed. NPP5 will support community information campaigns and public service announcements, making use of Government institutions and civil society organisations (CSOs) to increase awareness about ATI. In parallel, attorneys, prosecutors, and judges will be provided with training on ATI and how to implement these types of sentences. The Government will seek to strengthen coordination between local JSIs and CSOs, enabling the latter to register with

¹⁰ May 2013

courts as official monitors for those released from pre-trial detention, and able to provide ATI services to convicted persons. Under NPP5, local and international health care NGOs will also receive greater access to detention facilities to provide health services to inmates.

Deliverables

Greater use of ATI, where appropriate, to produce reductions in the percentage of convicted persons receiving custodial sentences. Community information campaigns and public service announcements undertaken to increase awareness about ATI, alongside ATI training for attorneys, prosecutors and judges.

Increased vocational and literacy training for inmates to improve opportunities for a return to meaningful lives and livelihoods upon release and reduce re-offending rates. Job skills training, literacy courses and other rehabilitation services made more cost-effective and sustainable. More inmates receive local and international NGO-delivered access to health services.

Sub-Component 2.3: Simplified judicial processes, fewer appeals by prosecutors, fewer trials *in absentia*, and increased trial monitoring

Indicative results

- Speedier resolution of criminal and civil cases.
- Trials *in absentia* significantly reduced.
- Fewer appeals filed by prosecutors.
- Public able to resist demands for illegal fees from JSI *tashkeel* due to clear posting of standard fees and average times for justice services.
- Trial processes become more transparent.

The process for resolving court cases is widely recognized as unnecessarily complicated, and far too many trials take place *in absentia*. Standardised forms and public information about the cost and average time for completion of different legal services are needed to make courts more accessible to the public and to reduce opportunities for corruption. The Supreme Court has produced standardised forms and template decisions as part of its continuing efforts to simplify court processes, and books containing these forms have been distributed regionally. However, comprehensive training, together with a nationwide dissemination of the forms in a convenient format for use by clerks and members of the public, is still needed. In addition, further revisions to internal rules of court and other procedures, able to be instituted by JSIs without legislation, would also increase efficiency. Were all primary courts to use the same forms for filing and processing cases, and follow rules of court as they are amended, the use of parallel documentation and understanding would contribute positively to the integrity of the national database of pending cases, and help reduce geographic disparity in the way similar cases are handled.

Trials *in absentia* pose a significant efficiency challenge. It is estimated that that as many as 50 percent of the caseload of the JSIs are for trials of absentee defendants. The principal reasons for the high rate of such trials are commonly understood: prosecutors feel compelled to obtain convictions against persons who have absconded or escaped from the court's jurisdiction due to a misunderstanding about the time limitations allowed under the Interim Criminal Procedure Code, and there are inappropriate financial incentives for conducting trials against absentee defendants ahead of defendants in custody. As a result, an unsustainably large amount of Government resources are used to prosecute persons who are not in custody, without a corresponding increase in public safety. This

drains the human and financial resources available to the JSIs and increases the number of persons who are illegally detained pre-trial far beyond permissible time periods. This problem will be addressed through increasing the awareness of prosecutors and judges on laws in the ICPC and forthcoming CPC that allow for escaped or absconded defendants to be prosecuted in perpetuity until they return to custody. Priority will also be given to pre-trial detainees awaiting hearings and trials ahead of absentee defendants through written directives at the highest levels of the JSIs so no misunderstanding about the Government's directive to provide due process to in-custody defendants can be claimed by prosecutors or judges who process high numbers of *in absentia* cases. Legal aid lawyers must also not be given a financial incentive to prefer absentee clients to those in custody or supervised release.

The Government emphasizes that priorities must be set by the AGO, as all Government institutions must, for how it spends its limited resources. The trend whereby prosecutors appeal all sentences and court decisions favouring the defendant is an unsustainable practice. Prosecutors report that they believe they must appeal whenever a victim complains about the relative lightness of a sentence handed down by the trial judge. This false assumption must be corrected, and because supervisors are in a better position to determine how the limited resources of the AGO are best used, a formalized review process must be initiated to screen out the filing of appeals for which the sentence is deemed to be adequate by a review board, or is otherwise considered not a prudent use of AGO resources.

Trial monitoring is an important component for ensuring that basic judicial efficiency and all JSI actors are meeting due process standards. Though trial performance standards are too early for Afghanistan to effectively implement nationally, the institutions themselves will benefit from having assessment teams of the Supreme Court and the MoJ evaluate how trials are conducted. Similarly, CSOs and other interested groups require better access to court proceedings to reduce the number of mistakes and violations of substantive laws by JSI officials. Their observations and conclusions will help inform the JSIs how to improve their performance and increase their compliance with Afghan laws, the Constitution and international commitments on human rights, gender and corruption.

Deliverables

Supreme Court-derived form books made available to all courts, with training in their use provided to court officers, and monitoring instituted to measure their use. Measures established to ensure amended court procedures, with necessary prior training, are instituted in a planned and communicated fashion.

Reduced *in absentia* cases following from training for prosecutors and judges on laws in the ICPC and forthcoming CPC in relation to escaped or absconded defendants, and in relation to prosecutor-led appeals.

Greater access to the courts by CSOs and relevant groups, leading to improved decision-making and court performance.

Sub-Component 2.4: Improved coordination and communication among Justice Sector Institutions to increase efficiency and reduce unlawful detention

Indicative results

- Regular communication increased among JSIs, AIBA and civil society when a person is arrested.
- Higher rate of notified persons appear voluntarily to court and *Huquq* offices.
- JSICC meetings regularly convened to discuss matters of general importance to JSIs at the national level.
- PCJM meetings occur in more districts and with more frequency.
- Local JSI officials are more aware of important changes in the law and procedures decided upon at the national level through PCJM and JSIIC communications.

Effective coordination and cooperation among the police, defence attorneys, prosecutors, and judiciary are essential to improving Afghanistan's justice system. Successful efforts to improve the linkages and cooperation between the police, prosecutors, courts, and legal aid/defence attorneys have been under way in coordination with the United States, UNAMA, UNDP, European Union Police Mission in Afghanistan (EUPOL) and other international implementers and donors, but more work is needed. Simple tools to facilitate communication among the JSIs and with defence counsel and, when appropriate, civil society, must be integrated into standard operating procedures following arrests.

The Government acknowledges that there remains an unacceptably high rate of Afghan women and girls incarcerated by JSI officials for non-criminal matters. Significant numbers of other persons are arbitrarily detained with no legal basis for doing so. The causes are deeply rooted and varied, but the Government is committed to end these practices and notes that a failure of JSIs to regularly communicate and coordinate their activities is a significant contributing factor. If more JSI officials and AIBA members are routinely notified when a person is arrested or detained, the likelihood that illegal detentions will be noticed and rectified will increase. Among other things, PD 129 directs the JSIs to coordinate with each other to end identify current illegally detained people, and to establish procedures for reducing future cases of unlawful detention. Initial Supreme Court survey teams sent out in preparation of PD 129 identified the lack of legal aid services as a substantial reason arbitrary detention persists (as discussed in Component 3). Regularizing communication processes between the JSIs is considered by the Government to be a basic and indispensable step towards reducing illegal arrests and detentions.

The notification process for criminal defendants, counsel, and civil litigants must also be improved. Current rules under the ICPC do not contain "report back" requirements for the police to inform the AGO or the judiciary that an accused has been properly served with notice of a pending court date. The notification processes are not standardised and no proof of service, by signature or sworn attestation by the serving officer, is required. There is currently no way for the JSIs to verify if a defendant has been notified of a court date. For these and other reasons, voluntary appearance rates of criminal defendants are very low. The CPC pending before Parliament contains better provisions regarding notification of defendants, but improvements can begin before the law's passage by increasing inter-agency communication. The Supreme Court has a template for notification that, if used consistently by the JSIs and in accordance with the law, would provide the means to punish defendants for failing to appear in court by limiting their ability to claim they were not notified. For

this to occur however, a police officer must swear under penalty of perjury that the accused was legally served. If the police officer submits an untrue but sworn affidavit of service, administrative and criminal penalties should be assessed against the officer. Also, *Huquq* officials who do not have resources to serve notice on witnesses or parties to appear at their offices will be provided police assistance with notification through processes established by the MOI and the MoJ.

In addition to making coordination among JSI *tashkeel* routine on pending cases, communication among the JSIs to discuss general matters of common interest are necessary. PJCM meetings have been taking place across Afghanistan and will continue as a means to foster discussion and collegial knowledge sharing among regional offices of the JSIs. Reform projects affecting their sector are also discussed at the PCJMs and they will continue to serve as an effective linkage between the national Justice Sector institutions and their regional counterparts. The creation of the national Justice Sector Institution Coordination Committee (JSICC) has provided important oversight of the prioritization of reform areas for NPP5 and for managing institutional reform activities. The JSICC will continue to meet regularly and is likely to be brought into the formal management and oversight process for programs implemented under NPP5.

Deliverables

Improved communication through routine notification of JSI actions to reduce unlawful detention and incarceration. Procedures introduced to reduce instances of unlawful detention and incarceration. Reporting back requirements instituted for the police. Improved communications processes for accused, and strengthened functional capacity of *Huquq* to contribute to improved voluntary appearance rates. More provinces hold regular PJCM meetings for improved inter-institution communication.

Component 3: Increasing meaningful access to justice

Priority Concerns and Challenges

The ability of the Government to protect and to serve its citizens through the JSIs has grown substantially in the past decade. However, progress has been uneven, with some regions operating with an almost complete lack of JSI presence. Even in Kabul, the JSIs and police still struggle to provide basic services in a manner that serves the needs of the people. Increasing access to justice for all is the fundamental imperative underlying the NPP5 throughout all capacity building efforts, and the Government is aware that increasing the ability of citizens to obtain justice services requires a substantial increase in the number of offices and qualified personnel who can provide the services.

The Constitution of Afghanistan speaks to the right of persons charged with crimes to be provided legal counsel regardless of their ability to pay, but as in most countries, there is no equivalent constitutional requirement for the Government to provide lawyers to poor persons in non-criminal cases. However, the Government recognizes that there is a significant demand for legal services for persons involved in disputes concerning land, inheritance, family rights, and other issues that profoundly affect their lives. Women in particular need lawyers for advice about their legal rights and how they can avail of Government services that they might not be aware of. Increasing access to counsel on important civil matters will reduce conflict within communities and will help the Government provide better services to its constituents.

The constitutional right of persons charged with crimes to be provided an attorney is still largely unmet. For many reasons, there are simply not enough lawyers available to competently represent all arrested indigent people in Afghanistan. Furthermore, providing a defence attorney does not necessarily signify that the Government's constitutional obligation has been satisfied. The defence counsel must be reasonably capable, properly resourced, and have sufficient cooperation from the JSIs. Attorneys who cannot afford or choose not to travel to meet their clients in detention are not able to provide the sort of legal services anticipated by the Constitution and expected by the people. The Government recognises that improving the quality of legal aid must be prioritised with the same emphasis it places on increasing the number of legal aid lawyers.

The AGO and the Legal Aid Department (LAD) of the MoJ do not currently have the resources to properly staff enough field offices to serve the whole country. Due to low salaries and security concerns, the AGO has difficulty recruiting persons to serve at the district level, and LAD lawyers do not receive reimbursement for travel expenses to visit clients or witnesses. AIBA is expanding its presence, but members are concentrated in urban areas. As a consequence, attorneys and prosecutors are not available in many parts of the country to help people access the formal justice system when victimised by a crime or when they need to resolve civil disputes.

Basic research tools for lawyers are not widely available. The LAD *tashkeel* in the rented LAD Director's office in Kabul are overworked and unable to manage the 100 or so legal professionals staffing their offices nationwide. The lack of LAD resources makes it difficult to conduct basic supervisory functions for quality control of LAD lawyers and to credential NGO legal aid providers. Government has identified that increasing LAD resources is an urgent need; current efforts to increase the capacity of LAD will continue under NPP5.

The women and men of Afghanistan are generally unaware of their legal rights, of the formal means by which justice can be sought, of the procedures that must be followed, and the likely cost and time required in doing so. Afghans are often unaware of their right to counsel and the availability of free legal aid. Though public awareness campaigns have been conducted by various Government agencies and through the generous support of the international community, surveys indicate most Afghans are still unfamiliar with how the justice system works after an arrest, do not know that the Government must provide a lawyer to anyone arrested, and are generally unaware of defence counsel's role. An uninformed public also creates opportunities for exploitation. Government agencies, such as MoWA, can provide legal assistance or general advice about the law to women and vulnerable populations, but their availability and functions are not well understood. Conducting coordinated public outreach campaigns to improve legal literacy is a priority for the Government.

Vulnerable sectors of Afghan society, notably women and juveniles, have particular difficulty obtaining access to justice services. Unfortunately, for many reasons the Government cannot currently guarantee that every woman and every child will be protected by the police or prosecutors, particularly in remote areas. Consequently an unacceptably large percentage of Afghan women who are victimised by criminals, or who witness their children being victimised, are afraid to report these crimes or believe nothing will be done if they involve the police or prosecutors. The Presidential Decree on the Elimination of Violence Against Women (EVAW) was enacted to reduce incidents of spousal abuse, forced marriages, unlawful imprisonment, and other crimes against women committed by family and community members. The Government recognises that the enactment of the Presidential EVAW Decree is the beginning of a process to lessen violence and discrimination against women, and that enforcement of the law requires the Government to take steps to ensure that women can turn to the JSIs for protection of their rights. Increasing the capacity and number of Violence Against Women (VAW) Units in prosecutor and police offices, and coordinating with AIBA and women's organisations to reduce violence against women is an accepted priority.

Existing Framework for Progress

The Independent Legal Aid Board (ILAB), created in 2012, is an effective means to coordinate efforts by the Government and legal aid providers to establish a national legal aid strategy. The ILAB also provides a focal point for the international community to help legal aid delivery in Afghanistan. The extensive current and anticipated efforts of the international community to support legal aid systems in Afghanistan can now be properly monitored, with priority undertakings and policy matters channelled through a committee that meets regularly and has members with decision making authority. The MoJ is specifically required under PD 129 to convene the ILAB regularly to determine how to expand legal aid to all detainees and prisoners, and to revise the current structure of the Legal Aid Department to make it more effective. As the ILAB and MoJ returns with recommendations in response to PD129, the Government will prioritise the direction of resources to address their proposals.

The passage of the Advocates Association Law in 2007 significantly advanced the efforts of the Government to increase the number of capable legal aid providers in Afghanistan. The law established the creation of the AIBA, introducing professional standards for legal counsel, and providing a practical way to channel large-scale efforts to engage attorneys nationwide to provide legal aid. Plans to establish a contract attorney program to hire members of AIBA to represent the indigent-accused through a Legal Aid Grant Facility (LAGF) are almost complete. Under this program, AIBA members will be allowed to receive criminal cases for a set fee if they meet certain

eligibility criteria. Financial reporting mechanisms to properly maintain LAGF resources with transparency and accountability are in place to build the capacity of AIBA officers to manage their finances. However, the current amount set per case is very low and may not ensure that AIBA members can provide minimally acceptable representation to their clients. The ILAB and AIBA will evaluate progress on the LAGF program to explore how to increase the compensation levels to match the actual work required by the particulars of each case. The LAGF is an important element of the overall effort to increase access to counsel, and its successful implementation is a priority of the Government.

VAW units are currently operating in Kabul and several provincial offices of the AGO. Gender Units have been established in each of the JSIs, though most are under-staffed and under-resourced. These offices help the JSIs incorporate gender inclusiveness in the allocation of resources and in policy making. MoWA is a strong advocate for the rights of women in Afghanistan. Women's organisations in many parts of the country are able to assist the Government with providing basic needs of women and girls who are victimised by family or community members. The Afghanistan National Police has received gender-based violence training, though more police capacity to intervene and protect women is necessary. The Government recognises the need to increase linkages and efforts among all national and local Government agencies with the mandate to reduce violence against women, and to improve coordination between these Government agencies and civil society organisations to provide services to survivors of gender-based violence.

Sub-Component 3.1: Increasing the number of capable legal aid providers and prosecutors

Indicative results

- LAGF fully operational and successfully providing more criminal representation through AIBA.
- Legal aid on non-criminal matters provided to indigent women and men in Afghanistan.
- Government and non-Government defence attorneys provide higher quality representation.
- More prosecutor offices available at the sub-national level.
- JSI officials more informed about the identity of lawyers representing the accused.
- More female LAD lawyers hired and female AIBA members providing legal aid services.
- Better equipped law libraries at the regional and national offices of the AIBA.
- More AGO offices available locally.

The people of Afghanistan are fortunate that the international community has provided substantial financial and technical assistance to Government and non-government legal aid providers. A number of assessments have been conducted to identify where legal aid services are growing in Afghanistan and who is supporting them. In November 2012, UNAMA published a study indicating that the number of MoJ LAD and NGO lawyers providing legal assistance to the poor has grown significantly since the Constitution was adopted. Nonetheless, the Government is aware that the number of properly trained, regularly supervised, and adequately compensated legal aid providers will not equal the need for their services for many years. To address these issues and to fulfil the objectives of PD129, the Government is pursuing several programs to increase the number of lawyers available to indigent Afghans and will continue or expand them under NPP5. More law and Sharia students, particularly women, need to be recruited to become legal aid providers upon graduation, and access to lawyers on non-criminal matters needs to be expanded.

The AGO actively recruits for prosecutors and support staff to increase their ability to provide prosecution services to more people in more parts of the country. The ability to establish properly staffed field offices is hindered by security issues, lack of qualified personnel, and financial resources. Nonetheless, the Government is committed to addressing this problem by directing more resources to establishing justice sector institutions, including prosecutor offices, at the local level. Methods for attracting and recruiting qualified persons to serve in remote areas will be studied as part of the Government's national response to increasing its presence throughout the country.

Deliverables

The Government finalises steps needed to implement the LAGF to increase the number of AIBA members to provide criminal defence where LAD is either not present or lacks human resources. AIBA maintains functioning website and a database of members assigned to cases under the LAGF to inform JSIs of the contracted defence attorney soon after assignment of the case. Additional prosecutor and JSI offices established throughout the country.

More LAD offices established, based on a needs basis, and prioritised against available funding. ILAB and AIBA increase professional continuing education for legal aid providers. AIBA regional offices receive additional human and financial resources, including funds for the creation and improvement of law libraries available to members. Outreach programs conducted, with an emphasis on recruiting women to consider careers as LAD or legal aid providers. ILAB and AIBA consider ways to increase access to non-criminal legal advice for women and men in Afghanistan.

Sub-Component 3.2: Increasing public legal literacy

Indicative results

- The public is more aware of legal rights and how the formal justice system functions, and how to access justice.
- JSI *tashkeel* are more familiar with their duties to ensure legal rights are respected.
- More persons charged with crimes invoke their right to counsel.

With support from the international community, a number of ministries have conducted public education and information campaigns informing the public of their various legal rights. The Government recognises the value of such information campaigns and seeks to build on them to help people become familiar with their rights and responsibilities. The Constitutional right to counsel is a particularly important subject for public awareness materials because it targets a segment of society that is often under-educated and vulnerable to exploitation.

To address the public's lack of knowledge about the justice system and their rights under the law, the MoJ formulated a National Legal Awareness Strategy (NLAS) in partnership with the international community. Regional conferences to increase awareness of women and men, and to instruct JSI *tashkeel* of their responsibilities to comply with the law, were conducted through the NLAS and will continue under NPP5. Increasing the legal literacy of citizens and the Government officials who serve them is a priority for the Government.

Deliverables

Public information and education campaign material on legal rights, with an emphasis on the rights of women, updated and distributed widely. Public service announcement efforts on legal rights increased

and coordinated, with effects measured through public perception and awareness surveys as resources permit. Continued regional conferences under the NLAS framework.

Sub-Component 3.3: Decreasing Violence and Discrimination Against Women

Indicative results

- Sufficiently staffed and equipped VAW Units established in more AGO offices in Afghanistan.
- Women's organisations and MoWA offices regularly informed whenever police or prosecutors encounter a female survivor of a crime, including reports by women or girls of attempted forced marriage or other acts against their will.
- Women incarcerated for acts that are not official crimes released from detention.
- Fewer arrests made for acts that are not official crimes.
- Public and Government officials more aware of the rights of women in personal, commercial and family issues.

Afghanistan ratified the UN Convention to End All Forms of Discrimination Against Women and, to make many of its tenets enforceable, the President enacted the law to End Violence Against Women (LEVAW) in 2009. A bill to codify the provisions of the Presidential LEVAW will be re-introduced to the Parliament. In April 2012, the AGO officially endorsed a circular stating that “running away” is not a criminal action by itself. Later in 2012, the Supreme Court agreed with the AGO, declaring that leaving the home to escape abuse or for any other reason cannot be charged as a crime. The Supreme Court clarified that if a woman runs away and then commits an official crime, the charges must not include running away as a separate offence.

To increase their ability to prosecute crimes targeting women, the AGO established VAW Units. The units are staffed with prosecutors and other *tashkeel* who have undergone additional training about the needs of women and girls who have survived gender-based violence or instances of forced marriage, kidnapping, or illegal detention by family or community members. The existing VAW Units receive substantial support from the international community, but their effectiveness is not yet evident, although a recent study found that the units serve as an important entry point to the formal justice system for women and girls who have been victimized¹¹. General capacity and resource problems common to the AGO, coupled with the lack of women *tashkeel* and other constraints, have undermined the ability of VAW Units to demonstrate that they provide significant additional protection to women and girls. The Government considers providing VAW Units more resources to be a priority, but efforts to reduce violence and end discrimination against women cannot rest entirely on the capacity of specialised offices in AGO offices located in urban areas.

When women experience discrimination with inheritance, property ownership, and other civil matters, it has a profound negative affect on them and their children. MoWA is actively involved in reducing gender discrimination and the Government will continue to expand these efforts and explore how other ministries can engage with the JSIs to increase access to justice for women.

¹¹ Research Institute for Women, Peace and Security Afghanistan, ‘Access to Justice is a Woman’s Security’, 16 April 2013 (www.riwps-afghanistan.org)

MoWA and local NGOs who provide shelter and other services for women will be contacted when the police and prosecutor *tashkeel* who encounter women or girls who have survived gender based violence or who report being forced into a marriage or any other act against their will. The telephone numbers and points of contact of police and prosecutor offices responsible for reporting instances of violence or other crimes against women will be shared with local MoWA offices and women's groups. At the same time, phone numbers and points of contact for local MoWA and women's groups will be distributed to police and prosecutor offices in their jurisdiction with instructions by station chiefs and lead prosecutor officials to all *tashkeel* that they must contact, as soon as practicable, the MoWA or women's groups whenever they encounter a female survivor of a crime. Workshops at the local level between law enforcement and women's groups, facilitated by MoWA or other appropriate Government agencies, to increase communication and awareness among JSI *tashkeel* about their duties to protect women will occur. VAW Units will be involved in decision-making by the AGO about prosecution priorities, and will be given additional resources so they can protect women and girls from being victimised and discriminated against by private citizens and Government officials.

Deliverables

Stage training and continuing legal education at JSIs to emphasise the right of women to hold title to property and their competence to sign legal and financial documents. Increased staffing and resources at Gender Units of the MoJ and AGO. Public awareness campaigns promote Government endorsement of principles of gender equity and against violence towards women. MoI and JSIs increase efforts to ensure Government resources are not used to arrest or detain women or girls for acts that are not against official law. Enhanced efforts by the Government to release unlawfully detained prisoners pursuant to PD129 including a review of files on women detainees.

Component 4: Building institutional capacity to strengthen justice delivery

Priority Concerns and Challenges

The general governance problems common to post conflict countries are the primary cause for many of the constraints to progress in the Justice Sector. An anti-Government insurgency, a lack of qualified, educated people to fill necessary positions, insufficient Government revenues, and corruption within the ranks of the JSIs all contribute to undermining institutional capacity development. To make progress in the face of these challenges requires a renewed emphasis by the Government to build the competence and professional skills of the people who make up the justice system.

Human resource management within the JSIs is improving but remains a priority. Job descriptions and minimum qualifications for many JSI *tashkeel* positions are still needed to reduce favouritism in the work force and to improve the quality of service. Despite the creation of professional Codes of Conduct, awareness is not high enough among some JSI *tashkeel* and officials about their obligation to observe international standards of conduct towards women and minority populations. The JSIs have not been able to institute regular continuing professional education to build the skill levels of their professional and *tashkeel* staff. Practical skills and awareness training at the JSIs have been conducted by international and national experts, but a more comprehensive approach is now needed that also assesses whether the *tashkeel* at the JSIs are modifying the way they work based on the trainings, and what sort of follow-up instruction or structural changes are needed to permanently increase the capacity of existing and future JSI *tashkeel*.

Administrative and performance capacities vary between JSI departments. This is not unexpected, but proper training needs assessments can help the JSIs focus on where competencies are most lacking, and where best practices can be studied and duplicated from departments that provide higher quality services. Each JSI, including the AIBA, has *tashkeel* responsible for education, but little coordination among them is taking place to determine if there is value to having some multi-institutional training to learn from each other. Assessing the training needs of all JSIs is a priority.

Additional resources can be channelled to departments that are providing important functions at acceptable standards to increase the amount of work they can process. For example, *Huquq* offices of the MoJ adjudicate an average of 25,000 civil cases each year and have a presence in most districts. This is a clear indication that Afghans value the *Huquq*, and that with their limited resources, *Huquq tashkeel* are able to process a relatively high number of civil disputes, many of which are complicated land and inheritance matters. Expanding efforts to increase the capacity of the *Huquq* is a priority matter for the Government.

Crime scene investigation and evidence preservation abilities in Afghanistan need to improve, with instances of over-reliance by police on eyewitness testimony and use of unproven forensic techniques. Delays are commonly granted to find missing witnesses. The Government and the international community have invested considerable time and resources in training for police and prosecutors to increase their skill levels, but problems with basic crime scene investigation and prosecution persist. Much of this is attributable to insufficient or non-existent physical infrastructure and equipment. However, at its foundation, proper crime scene analysis is about investigative skills, not investigative tools. Prosecutors need to understand better how police operate, and police need to understand the

needs of prosecutors to obtain relevant, admissible evidence. NPP5 will support police and prosecutors to be trained, in coordination, on how to:

- a) Secure a crime scene so that evidence is not degrade
- b) Identify potentially relevant physical evidence
- c) Collect and store evidence in a manner that preserves its value, and
- d) Know how to explain its significance to judges.

In prioritised areas of crime and national security, Afghanistan, with strong support from the international community, has been successful in preventing and prosecuting sophisticated, major crimes. An equivalent effort must be applied to the JSIs to increase the prevention and prosecution of crimes that affect the daily lives of all citizens.

The creation of the Major Crimes Task Force, once agreed, and the enhanced abilities of specialised financial crime investigators at other ministries will require the AGO to raise its capacity to prosecute more sophisticated crimes. The Government has also adopted an Economic Crimes Roadmap and plans to constitute an Economic Crimes Task Force (ECTF) to enhance its ability to prosecute complex financial crimes. The Roadmap identifies measures needed to address factors such as those that contributed to the Kabul Bank crisis. The ECTF, supported by a secretariat, will enable improved cooperation between law enforcement and financial regulation bodies. Judges and defence attorneys will also need training on the terminology unique to complex crimes. The knowledge base of the specialised courts and task forces will be a valuable asset in the effort to raise the capacity of all levels of the JSIs to administer cases.

Security is a key concern for the Justice Sector, which faces threats to the lives of judges, prosecutors, defence attorneys and other JSI *tashkeel*. Though all Government officials are targeted for violence, many of the services provided by the JSIs are provided directly to the public, making them especially vulnerable to attack. Both the creation of Judicial Security Units by the Ministry of Interior and the provision of trained officers to judges and prosecutors are very helpful, but additional safety measures are needed. Security for all judges and prosecutors remains a high priority for the Government.

Senior JSI officials have renewed their public commitments to significantly minimize the number of juveniles in detention. The Government acknowledges that in spite of declarations that incarceration is the least desired outcome in juvenile cases, detention of juveniles continues. Moreover, the conditions of their detention fall far below standards required by the United Nations Convention on the Rights of the Child, to which Afghanistan is a party. The MoJ has tasked its Human Rights Justice Support Unit to lead the development of the Child Act, which the Government accepts as a priority. However, steps can be taken in advance of the new legislation to address overcrowded, unsanitary detention facilities. Though improving JRC infrastructure, discussed in more detail in Component 5, is a priority for the Government, a timely and coordinated process to identify all juveniles unlawfully detained and release them to a safe environment outside the detention centres will be supported by NPP5. Sufficient resources will be needed to provide basic rehabilitation, sanitation, educational, and health services for juveniles in detention. The Juvenile Code states that imprisonment for juveniles is not for punishment, but to correct behaviour through rehabilitative services. Making rehabilitative services available, including vocational and educational training, is therefore a requirement.

Existing Framework for Progress

The Civil Service Commission has developed pay and grade scales, minimum qualifications, and terms of reference for many *tashkeel* positions. The Government has committed to implementing administrative and public policy reform across a broad range of ministries and Government entities through the Pay and Grading (P&G) Reform Program. Completion of P&G reform is generally a two to three year process facilitated by the Independent Administrative Reform and Civil Service Commission (IARCSC) and ensures that persons holding their positions do so on the basis of merit. The reform program is rolled out through the Human Resource Directorate first, with senior positions being re-advertised and the personnel offered the opportunity to be competitively recruited for their positions. P&G reform also includes a component for the establishment of merit-based evaluations and retention within each of the ministries and Government entities. The MoJ has successfully completed P&G reform for its *tashkeel* positions. The Judiciary, as an independent institution, will refer to the standards and job descriptions created by the Civil Service Commission as it develops its internal human resource management tools. The Supreme Court currently has the means to discipline or remove judges who underperform, or who do not comply with the law or edicts of the Supreme Court.

As Afghanistan's economy develops, increasing the professionalism of its judges and lawyers is a priority. The curricula of the Law and Sharia Faculties have been updated and improved over the past three years, but far more needs to be done to increase the quality of professional education to adequately prepare students to become judges and lawyers in a growing country. Policy makers at the JSIs and deans at Faculties of Law and Sharia are preparing to work together to ensure that foundational legal principles are taught at their respective institutions, including contemporary international law regarding human and gender rights, financial transactions, contracts, and trade agreements.

Stage courses also need to increase the quality of their focused training. To supplement faculty and Stage educations, the Supreme Court provides in-service training programs of various lengths for judges on both practical skills and legal knowledge. The AGO has a short program of "on the job" training and is eager to standardise and improve a more comprehensive in-service training for new prosecutors. Professional associations such as the Afghan Prosecutors Association and the Association of Women Judges in Afghanistan should be supported and can be an excellent mechanism for members to become aware of new laws and best practices. Continuing professional education for judges, prosecutors, and AIBA members can also be explored as institutional requirements as the JSIs become more familiar with the value of formalised training for professionals.

Judicial security is being addressed through the creation of the Judicial Security Unit of the MoI. Under the counter-terrorism department of the MoI, 118 security *tashkeel* are assigned to high officers of the Supreme Court. For the subordinate courts, the Supreme Court has conducted an internal review of its security needs and requested approximately 3,000 officers to protect people and buildings. With support from the international community, the MoI has assigned more than 1,000 police and security *tashkeel* to judicial security details, with specialised training on tactical techniques for operating in densely populated public buildings, and securing the safety of officials in transit. Additional security is needed for prosecutors and for defence counsel assigned to high-profile cases.

Various interventions seek to improve conditions for juvenile detention. United Nations agencies and various individual governments have been working with the MoI and other Government agencies to assess existing laws, policies and practices that have created the situation where children and

juveniles are treated like adult offenders instead of receiving rehabilitative sentences. These assessments, along with surveys to determine the conditions of JRCs, can form the baseline of information necessary to take action to improve conditions for juveniles. No more studies or laws are necessary to activate or continue efforts to improve the lives of incarcerated juveniles, as the Juvenile Code of 2005 provides the necessary legal framework. Further, an existing inter-Ministerial Juvenile Rehabilitation Working Group chaired by the Deputy Minister of Justice can coordinate efforts of the Government, NGOs, and the international community to begin providing rehabilitation, education, and health services.

The Government is committed to improving internal controls to enhance the integrity of JSI *tashkeel*, judges and prosecutors. Currently the Supreme Court and the AGO have processes by which to identify and investigate allegations of administrative and criminal violations of their own staff, but clearly more needs to be done to reduce corruption by JSI actors and thereby increase public confidence in the formal justice system. Additional resources will be directed towards improving how JSI's receive complaints, conduct investigations, prepare reports and adjudicate allegations against persons who work for the JSIs.

Sub-Component 4.1: Improving human resource and administrative capacity of JSIs

Indicative results

- *Tashkeel* positions at the JSIs have clear sets of duties and responsibilities.
- Chief Judges and local head prosecutors better able to manage human resources and other administrative matters.
- The administrative offices of the Supreme Court able to produce reports from the CMS that inform policy makers about human resource, training and financial needs More women and ethnic minorities serving as judges and prosecutors.
- Increased use of preventative integrity enhancement procedures.
- Existing processes enhanced for reporting, identifying and adjudicating administrative and criminal violations of JSI officials.

The *tashkeel* of the MoJ and the Attorney General's Office serve in the Executive branch and are therefore subject to civil service commission rules. Applying pay and grade scales and enforcing minimum qualification standards for prosecutors and judges involves more difficult issues. Currently, exceptions are made to existing requirements that prosecutors graduate from Stage programs because in many regions of Afghanistan, it is not possible to attract well-educated people to serve as prosecutors. Salaries are too low and security risks are too high. There is concern that setting national mandatory educational and experience levels for all prosecutors is unrealistic until the security situation improves and the pool of prosecutor applicants with law or sharia degrees grows. Nonetheless, the AGO recognises that having specified terms of reference for prosecutors and salaries scaled to their experience, merit, and education will better serve the institution and allow them to better serve to the public. Recruitment efforts to attract more ethnic minorities and women candidates will be conducted to produce a stronger workforce of prosecutors that reflects the diverse community they serve.

The Supreme Court is prepared to institute a process similar to the one being designed and implemented by the IARCSC for non-judicial court employees. As an independent branch of the Government, the judiciary will maintain control over the pay and grade scaling and minimum

qualifications for its *tashkeel* but will look to the Civil Service Commission standards for guidance. The minimum qualifications for judges are established by law; however, as the Supreme Court recruits judges, identifying additional preferred qualifications would improve the knowledge and educational levels of incoming judges. The judiciary will also increase recruitment efforts targeting minorities and women to make the bench more reflective of the population.

Judges are promoted to executive positions within the judiciary based on their experience and on the quality of their judicial decision-making. Judges are not necessarily trained administrators. The Office of the Executive Director is the appropriate department within the Supreme Court to handle administrative matters, but support to that office is needed to increase its capacity to help Chief Judges at Primary Courts and Appeals Courts with their court administrative functions. Chief Judges themselves also need to learn how to properly manage human resource, budget, and procurement issues for their courts. As the CMS becomes more widely used in the courts, the Office of the Executive Director will support training and capacity building efforts for its *tashkeel* to monitor and evaluate the data the CMS produces. As monitoring and evaluation skills of the Judiciary increase, training, financial support, and human resource needs can be better identified and prioritised.

Deliverables

JSIs coordinate with IARCSC to standardise qualifications, terms of reference and pay scales for non-judicial and non-prosecutor *tashkeel*, and finalises internal processes for standardising the salary grade and qualifications for professional positions. Recruitment efforts focus on recruiting female candidates. Training for Chief Judges at provincial level expanded to include materials and coursework on administrative skills, budgeting and human resource management. M&E training for administrative sections of JSIs to improve allocation of resources and capacity building efforts by senior officials.

Sub-Component 4.2: Increasing criminal investigation and prosecution skills

Indicative results

- Police officers and investigators better able to preserve crime scenes and identify physical evidence.
- Witness questioning conducted pursuant to international human rights and police standards.
- Highly skilled prosecutors and investigators from narcotics and national security course teach courses at in-house trainings Stage and Law Faculty.
- Physical evidence regularly accounted for following seizure by the police.
- Prosecutors and defence lawyers use more physical evidence during trial.
- Fewer persons wrongly convicted based on eyewitness testimony.
- Shorter length of pre-trial detentions.

Afghanistan has the opportunity to now learn from other Government institutions about best practices in many disciplines. For example, certain categories of major crimes have been targeted by the Government and the international community for extraordinary capacity building efforts, resulting in a series of successful prevention and prosecution of sophisticated narcotics and national security crimes. The skills and knowledge developed by these specialised task forces and courts should and can be transferred to ordinary crime fighting. Every police officer in Afghanistan should know how to identify the boundaries of a crime scene and protect the area so that evidence can be collected.

Detectives or other professionals with investigative training do not need expensive laboratories to analyse almost all of the physical evidence that they commonly encounter. Yellow tape and sticks to mark where evidence is found, for example, and disposable cameras to photograph the location of potential evidence are just some of the inexpensive and basic tools that if used regularly would improve the quality of criminal investigation. However, the police must know how to use these inexpensive tools and prosecutors must be able to understand the crime scene reports produced by the police. Shifting prosecutions away from relying almost exclusively on eyewitness testimony and purported confessions towards a more balanced mix of physical and witness testimonial evidence will result in better quality prosecutions.

Learning and using evidence identification and collection procedures is only part of the capacity building needs of the JSIs. Prosecutors must know how to evaluate physical evidence so they can explain its relevance to a judge. Prosecutors need to know how to properly question witnesses and possible suspects to increase the chance that they are getting accurate information, and to ensure that they comply with all laws prohibiting coercive treatment. If illegal items are recovered, such as narcotics, firearms, or explosives, secure evidence storage facilities are needed, with a very strict protocol about who has access to the evidence. Storage facilities are discussed in the component on infrastructure, but prosecutors must know how to account for seized evidence as they analyse and present it in court.

Fortunately, these techniques and skills have been developed in the specialised counter-narcotics and national security courts in Afghanistan, which have demonstrated their ability to conduct basic and advanced criminal investigation and prosecution. Afghanistan police and prosecutors will continue to need technical training assistance from international experts, but Afghan police investigators and prosecutors are now able to meaningfully contribute to the on-going training of police and prosecutors. Building the capacity of Afghan experts to teach and to develop curriculum for new and current police and prosecutors is a priority activity for the Government.

Deliverables

JSIs conduct broad-based training needs assessments in basic crime scene preservation techniques and evidence gathering skills to establish a baseline of capacity for police and prosecutors. Prosecutors and police receive training in coordination to increase the understanding of each other's role in the criminal adjudication process and to build relationships. Additional in-house curricula introduced for prosecutors on evidence handling and how to explain the significance of physical evidence in court. Highly skilled judges, prosecutors, investigators and defence counsel recruited to serve as trainers for specialise counter-narcotics and national safety courses.

Sub-Component 4.3: Improving legal training and Stage programs for judges, prosecutors and lawyers

Indicative results

- A more diverse set of professionals and educators teach at Stage and in-house trainings.
- AIBA and prosecutor Stages conducted in more regions outside of Kabul.
- Prosecutors have increased knowledge of the law, gender and human rights obligations, practical skills and ethical responsibilities.
- Judges have increased knowledge of current laws, gender and human rights obligations, practical skills and ethical responsibilities.

Graduation from a Faculty of Law or Sharia is a requirement to enter Stage programs, which serve as a post-graduate school to learn more specialised legal concepts and skills. In turn, graduation from Stage is a requirement to become a judge, prosecutor, or member of the AIBA. The National Legal Training Centre (NLTC) was established in 2007 to serve as the main facility to conduct Stage programs and to develop standardised curriculum across the legal community. Though the NLTC is a valuable asset for many of the prosecutorial and AIBA Stage programs, its use by the Supreme Court was deemed contrary to their need to have an independent Stage for readying Law and Sharia graduates to assume judicial functions. The Supreme Court determined that there was inappropriate involvement in their curriculum from non-judicial members of the NLTC board. As a consequence, the Supreme Court established the Legal and Educational Training Centre (LETC) to form its own Stage program and approve curriculum.

The Supreme Court recently lengthened its Stage program from one to two years. The LETC and the Supreme Court regularly review their curriculum to determine what subjects need to be added, the type of adult learning techniques that can be used, and how to improve the quality of trainers. The Supreme Court understands that refresher training is necessary to keep judges aware of all new legal developments. Also, three to four hundred judges were appointed during a time when no judicial Stage was given, and they will be prioritised for continued professional training under NPP5. There is also a stated desire by the judiciary to create a linkage to the prosecutor and defence attorney Stage programs to develop shared curriculum and to engage in more practical skills oriented trainings, such as moot courts and hearings. Specialised training on issues related to gender and anti-corruption will be included. Finally, the Supreme Court Stage needs to develop better knowledge retention skills to test whether the Stage students are able to understand the law and to use the skills being taught.

For prosecutors and defence attorneys, many of the same ambitions apply. The AGO needs more comprehensive and up to date curriculum for its Stage and in-house training. Prosecutor trainers need to use modern adult-teaching methods and to include testing and monitoring tools to determine if prosecutors understand what is being taught and can apply it to their work. In-house and Stage training also needs to emphasise gender justice and prosecutor integrity. The Government recognises that prosecutors are given extraordinary powers in society. As a result, they must understand their professional code of conduct requirements and their duty to ensure that Government resources are used only to determine the guilt or innocence of people accused of official crimes. Graduates of Law and Sharia faculty who become AIBA members will also graduate with added influence in society, and their social and professional responsibilities to act ethically and respect the rights of women and ethnic minorities must also be emphasised during their education.

Currently, the Supreme Court conducts Stage training only in Kabul. There are many problems with having judicial Stage students travel to and live in Kabul during their training. However, the benefits of a centralised judicial Stage, where the curriculum and teaching skills can be quality controlled and standardised nationally, currently outweigh the benefits of having regional judicial Stage programs. Stage training for prosecutors and AIBA members is now being conducted in provinces outside of the capitol. This expands the number of persons who can realistically attend legal Stage training, and will be of particular benefit to female graduates who have difficulty travelling.

Continuing legal education for lawyers, prosecutors, JSI officials, and judges is a universally accepted method for maintaining the quality of justice services. For now, strengthening in-house training for judges and prosecutors and making it mandatory on an annual or bi-annual basis is a more realistic goal for the JSIs during first three years of NPP5. AIBA members who wish to receive cases from the

MoJ under the Legal Aid Grant Facility demonstrate that they are capable and skilled enough to handle criminal cases at minimally acceptable standards. Refresher courses and continuing professional education will be a priority for AIBA as its capacity grows during NPP5. The NLTC, as a principal venue for conducting training for lawyers and prosecutors, will continue to be used for Stage and continuing professional education by AIBA, the AGO and academic institutions.

Deliverables

The AGO will establish improved in-house, post-Stage training courses with broader curricula for persons who have been accepted by the AGO and who have committed to Government service. The Supreme Court and LETC update training materials to include new laws and international commitments of the Government, gender awareness, integrity issues and practical skills developments, among other new or enhanced curricula. The LETC will expand its roster of highly qualified trainers to serve as Stage teachers, including judges and prosecutors from specialised courts and task forces. The judiciary will seek to identify which judges received no Stage training and assess their legal knowledge to determine if refresher legal courses are needed. The AGO will also recruit prosecutors and investigators from specialised courts and task forces for their in-house training. The training committees of the JSIs and AIBA will coordinate on post-Stage professional education.

Sub-Component 4.4: Capacity of the *Huquq* strengthened and orientation of legal and human rights principles provided to community-based mediation providers

Indicative results

- *Huquq* members have higher legal awareness.
- *Huquq* members issue decisions that are more consistent from region to region.
- Public more aware of the function and availability of the *Huquq*.
- Decision made by the Government on how to increase the value and enforceability of *Huquq* decisions in the private and public sector.
- Decision made by the Government on appropriateness of keeping the 10 per cent fee of the *Huquq*.
- More peace council members aware of commercial, legal and constitutional principles.
- Outcomes of peace council decisions more compliant with international standards of human rights.

The General Directorate of the *Huquq* in the MoJ provides judicial services to thousands of citizens every year. The *Huquq* has a presence across the country, with over 1,300 employees operating in 95% of the districts. The *Huquq* is often the first and only justice provider for civil matters that citizens engage with and it plays a critical role in providing formal justice services in a non-adversarial setting to persons unaccustomed to legal processes. The *Huquq* is often described as a bridge between traditional dispute resolution and the formal justice system. In fact, the *Huquq* is part of the formal justice sector, and it frequently uses community based and restorative justice mechanisms to settle disputes.

Persons who come to the *Huquq* are often poorly educated and many cannot read or write. Users are generally unfamiliar with how the Government operates and are often guided by *Huquq tashkeel* to the appropriate Government office to handle the requests they are making. The *Huquq* receives technical assistance from a variety of international donors and implementers, but with more

infrastructure, financial resources, and assistance from other Government agencies, primarily the police, the *Huquq* could come closer to meeting the public demand for its services.

In addition to infrastructure and financial support, more public awareness campaigns and training for *Huquq* members working outside of urban areas are necessary. Every day, *Huquq* offices are overwhelmed by citizens with questions about where they can obtain licenses, titles to property, and other basic government matters. This interferes with the *Huquq*'s ability to process the civil, family, and commercial disputes they are tasked with resolving. Public education campaigns to inform the public about the availability of the *Huquq* and how it can help them are necessary to both increase the amount of people who can benefit from its services, while decreasing the number of persons who mistakenly apply to the *Huquq* for assistance that it cannot provide.

Huquq members are required to be graduates from the Law or Sharia faculties, but in practice this requirement is often waived in order to attract persons to work at low Government wages in sparsely populated and insecure districts. As a result, not all *Huquq* members have much or any legal training. The *Huquq* needs a system for regularly updating its *tashkeel*, particularly those working at the district level, on several high priority legal subjects including international and national obligations to observe human rights, constitutional rights, laws protecting women and juveniles, and commercial law. Training on the various aspects of the civil code will help to bring their work in line with current law and will make *Huquq* decisions more consistent. The training provided to *Huquq tashkeel* by the international community has been very helpful, and the *Huquq* would like to establish a more systemised process to make continuing professional education sustainable. The *Huquq* receives strong support from Governors and local officials and can use their facilities for all training activities.

As an agency within the MoJ, *Huquq tashkeel* will be reviewed according to the Civil Service Commission pay and grade salary scaling, and their terms of reference and job duties will be clearly designated. The Government will work to increase the salaries of highly capable *Huquq tashkeel*. The ten per cent administrative charge the *Huquq* collects from the losing party is considered by the *Huquq* Director to be too high. The size of the fee creates unintended incentives for some JSI officials to serve as counterfeit *Huquq* with the appearance of Government authority in order to force a party to pay the ten per cent fee. In some areas of JSI administration in general, charging fees for services is an appropriate and efficient way to generate revenue, but *Huquq* payments are currently returned to the national treasury without any percentage being dedicated for subsidizing *Huquq* budgets. The *Huquq* provides efficient justice delivery to Afghan citizens; providing sufficient resources to properly staff and equip *Huquq* offices is a priority for the Government under NPP5.

As a department within the MoJ, the *Huquq* is part of the formal justice system. However, its decisions are not necessarily enforceable at Government or private institutions. Most of the adjudication performed by the *Huquq* is done through reconciliation, with the *Huquq* official seeking a way to obtain consensus to resolve the dispute. They often mediate or ask the parties to select an arbiter or group of arbiters to decide their case. The final mediated or arbitrated result is written and signed by the *Huquq*, but this does not always resolve the matter with finality, even if the *Huquq* member serves as the arbiter. Either party has the legal right to appeal a decision by the *Huquq* to the courts. However, if the time to file an appeal has expired, the decisions are not necessarily final. A party who wants to enforce a finding contained in a *Huquq* decision at the land registration office, or at a private financial institution, for example, will need to get a court's order validating the decision. If years or even decades pass since a *Huquq* decision was issued, persons later trying to establish their rights over land or inheritance have extreme difficulty having a court validate the decision. The

Government recognises that increasing the enforceability and finality of *Huquq* decisions would increase the value of the services provided to the public by the *Huquq*, but there are important due process and constitutional issues involved. The Government needs to conduct high-level meetings to discuss among the JSIs how to increase the enforceability of *Huquq* decisions.

Existing programs funded by the international community to raise legal and human rights awareness of members of community based peace councils employing TDR have been widely accepted by the participants and are recognized by the Government as successful interventions. In addition to enhancing the quality of the outcomes arrived at by peace councils, these programs are laying the foundation for future efforts under NPP5 to integrate TDR processes into the national justice strategy. To allow for the decisions arrived at during TDR to be recognized by the public and private sector, there needs to be more consistency among peace councils in different geographic regions and higher awareness of basic legal principles. These programs are making progress towards this goal and they will continue under NPP5.

Deliverables

Training materials produced and distributed to all *Huquq* members on human rights, women's rights, children's rights, juvenile laws, and civil and commercial codes, with follow-on instructions at regional level. Additional human and financial resources provided to *Huquq* to increase their capacity to deliver more justice services. Public awareness campaigns, including in rural areas, conducted about the availability of the *Huquq* and its services. High-level workshops held within the MoJ and relevant agencies to review the percentage charged by the *Huquq* for its services. Orientation and training programs for members of peace councils in more regions of the country.

Sub-Component 4.5: Judicial Security enhanced for justice sector actors and infrastructure

Indicative results

- JSI officials and defence attorneys better trained on personal security.
- More security *tashkeel* assigned to JSUs.
- Buildings housing JSI offices have improved security.
- Fewer judges, prosecutors and other JSI *tashkeel* subject to violence at work or traveling to work stations.

Justice sector officials and buildings are clearly targeted for violence by anti-Government forces. Stationary security at JSI buildings and mobile security for judges, prosecutors, and relevant field staff of the MoJ, such as *Huquq* members and representatives of the Legal Aid Department, are priority matters for the Government. The Ministry of Interior, in cooperation with the Afghan Uniformed Police, and with significant technical and financial support of the international community, has created a Judicial Security Unit (JSU) to protect buildings and personnel of the JSIs. The process of staffing and equipping the unit is on-going, and there are currently 1,063 new *tashkeel* security officers assigned to judges, many of whom preside over high-risk cases involving narcotics and corruption. However, additional security efforts are needed to minimise the risks associated with being a prosecutor, judge, or defence attorney.

The MOI has approximately 250 trainers for personal security who can train more officers assigned to JSUs. These trainers can help JSI officials assess the weaknesses of their buildings and propose measures to enhance security. The JSIs will coordinate with MOI to conduct regular threat analyses

based on the type of case that a judge, prosecutor, and defence attorney are involved with. Regular communication between designated JSI officials and designated counterparts at MOI about high risk cases is essential when additional security is needed on critical dates, such as when trials are being conducted or when a defendant is being transported. Basic training to JSI officials about how to lessen the chances of being assassinated during personal time and how to recognise suspicious activity will help JSI officials become more involved and increase their personal security

Deliverables

Increased numbers of trained *tashkeel* assigned to Judicial Security Units. Judges, court personnel, prosecutors, and defence attorneys given personal safety lessons by specialist MoI trainers. JSI buildings in security-compromised areas reviewed by MoI security experts, with low-cost measures identified as needed to improve safety. Improved communication systems between MoI and JSI persons over regular security needs.

Sub-Component 4.6: Improving juvenile rehabilitation services and reducing the number of juveniles in unlawful detention

Indicative results

- Vocation, education and health services provided at all JRCs.
- Juveniles return to society with more vocational skills and education upon release from detention.
- All juveniles have cases reviewed to determine if they can be released safely from detention.

The Juvenile Code of Afghanistan was adopted in 2005 and states that its purpose is to safeguard the rights of children in the juvenile justice system, and that the interest of the Government is to rehabilitate rather than punish juvenile offenders. JSI leaders have also publicly stated that juvenile imprisonment must be reserved for only the most serious offences, and that imprisonment must be imposed for the purpose of correcting the behaviour of juveniles so that they can be released as lawful and productive citizens. Assessments of JRCs by local and international NGOs, as well as by the Ministry of Labour, Social Affairs, Martyrs and Disabled (MoLSAMD), show that the purpose of the Juvenile Code is not currently being fulfilled. Creating rehabilitation opportunities for all juveniles in detention is a recognised priority for the Government.

Skills training and post-release planning is an important aspect of preparing a juvenile to integrate into society after a sentence is completed. MoLSAMD is targeting juveniles who seek out and receive vocational classes while in detention for additional technical training upon release. MoLSAMD is also committed to assisting prison officials with creating age appropriate vocational training courses for incarcerated juveniles. The Government recognises that rehabilitation for juveniles is not limited to skills training: juveniles must also have access, at a minimum, to educational materials and receive literacy training. The MoI and the JRC Working Group will coordinate with MoLSAMD and other ministries to provide skills training, education, and health services to juveniles and welcomes the on-going and anticipated assistance of national and international NGOs and Government institutions.

As of July 2011, the Prison Directorate indicated that they had records of 844 juveniles in detention. The actual amount may be higher, as JSIs and civil society report that more juveniles are being sentenced to incarceration. The Government has stated its commitment to the Juvenile Code principle that incarceration is the least desirable outcome when sentencing regarding a juvenile issue; for

juveniles currently in detention, the Government will work with prison officials, Government social services agencies, NGOs, and children's shelters to determine how to release them in a manner that is in the best interests of the juveniles.

Deliverables

The Government prioritises provision of rehabilitative services to juveniles in jail, with increased linkages in place between NGOs and Government social services to help juveniles in conflict with the law unable to return to their family. AIBA, MoI, LAD, CSOs, and other agencies coordinate a review of files for all incarcerated juveniles to determine if ATI is appropriate and in the best interests of the juvenile. Available health care providers work with the assessors to provide basic health services when interviewing juveniles in prison.

Component 5: Increasing physical assets to improve justice delivery systems

Infrastructure needs of the Justice Sector are considerable. There are no primary courts in 79 districts and no AGO presence in 73 districts, meaning that prosecutors are not available in almost half of the country. Many prosecutor offices are rented, with limited or absent provision of electricity, heating, or plumbing. The international community has provided substantial financial assistance to Afghanistan over the past 10 years to provide a presence in more regions, but retaining skilled professionals to staff the buildings has been challenging. Security concerns and the generally low *tashkeel* salaries have required the JSIs to make exceptions to the minimum qualifications for many of the professional positions. O&M provision for existing JSI offices remains an organisational and financial challenge, with concerns about the current condition and inadequate allocation of funds to provide basic recurring needs in donor-funded buildings used by JSIs. Some buildings are not being used for their original intended purpose, suggesting, among other things, that the JSIs are only attracting limited public demand for their services. AIBA currently has offices in Kabul, Kunduz, Herat, Balkh, Kandahar and Nangarhar and is planning to extend to other provinces upon endorsement of NPP5.

National infrastructure requirements

Additional needs include the national headquarters of all three JSIs, which require rehabilitation and additional space. With the assistance of the international community, temporary offices for the JSIs have been rented in different parts of Kabul, but this contributes to inefficiencies and is more costly than construction in the long term. A building that imparts the authority of the Supreme Court with chambers and a central hearing room is needed, but the Government recognises that with the competing priorities for JSI infrastructure and a limited pool of available funds, it may not be possible to have one constructed in the timeframe of NPP5. The Government seeks to balance the infrastructure needs of the JSIs in the provinces and districts with the needs for improvements at headquarters level to provide an equitable distribution of assets. Human resource capacity to properly staff any new or expanded infrastructure projects at the regional or national level will continue to be a significant consideration for the Government.

The JSIs have prioritised their infrastructure needs, including equipment requirements and provided budget estimates. These are detailed in Annex B. While the Government recognises that these projects will not necessarily be funded or completed within the three-year timeframe of NPP5, they reflect current JSI priorities. These figures also reflect equipment needs in current and new facilities.

Operations and Maintenance

O&M for infrastructure built under NPP5 will be addressed through development and improvement of existing O&M and administrative arrangements. New infrastructure at the sub-national level, whether constructed, purchased, or leased by the JSIs, will also be planned in coordination with the expansion of the Afghan security apparatus to establish formal governance in more parts of the country. Where possible, the Supreme Court, MoJ and AGO will try to locate their regional offices in one building or compound to leverage resources and to make accessing justice services simpler for the public.

The infrastructure and land assessment being conducted under the second phase of the World Bank technical assistance package will include an evaluation of the structural integrity of existing JSI buildings, including engineering and rehabilitation needs. The assessment will also assess equipment needs to make the JSIs more functional.

Engineering and architectural capacity and the ability to oversee infrastructure projects normally rests with administrative directorates or specialist departments within JSIs. The Supreme Court has a Construction Department with engineering and architectural capacity to process requests for maintenance and overseeing new judiciary infrastructure projects, but the funding available for repairs remains low. Procurement is in line with Afghanistan legislation and procedures. Operating the buildings and providing fuel for electrical generators, heating, and vehicles is the responsibility of the Supreme Court Administration Office; the MoJ and AGO have parallel arrangements. NPP5 will seek to strengthen O&M resourcing and operations, including seeking additional *tashkeel* positions to manage existing caseload alongside increasing demands, projects and budgets.

Sub-Component 5.1: Increasing the availability of justice institutions nationally

Indicative results

- Justice institutions operational in more districts
- More women and men able to access justice institutions in rural areas
- Justice services delivered more effectively

The priority items for increasing the justice institutions nationally are reflected in the attached budget. Infrastructure development under NPP5 will be linked to relevant planned and on-going needs assessments. Future infrastructure for the JSIs will be prioritised based on a competent assessment of where judicial services are most needed, whether current or likely human resource capacity exists to properly staff the building, and whether the proposed location will serve a sufficient number of persons and commercial enterprises to justify its cost.

The Government is completing a Capital Investment Plan (CIP) pursuant to a technical assistance package of the World Bank. This prioritises JSI infrastructure expenditure based on clearly stated objectives that will enable JSIs to make progress towards their overall goal for the Justice Sector. A World Bank-supported study to determine appropriate criteria for infrastructure priorities and to review whether existing assessment tools are appropriate. Nationwide mapping of existing JSIs and community needs, and assessments of land available or required for JSI use, has now been completed. These studies will provide a comprehensive analysis of where the Government should focus its expenditures on infrastructure for the Justice Sector.

Deliverables

CIP completed. Assessments completed of criteria for assessing priorities.

Sub-Component 5.2: Improving the infrastructure of the corrections system

Indicative Results

- Less crowded detention facilities and rehabilitation centres for men, women and children
- Living conditions in detention facilities meet minimum international human rights standards
- More services provided to detainees

Priorities in relation to detention facilities are detailed in the attached budget (Annex B). For detention facilities, the Government proposes to address overcrowding and poor prisoner conditions in part by reducing the number of persons sentenced to prison and eliminating arbitrary and unlawful detentions.

In addition, the need to rehabilitate decrepit and unsanitary prisons remains. Similarly, the primary method for easing overcrowded conditions in JRCs is by identifying juveniles who can be safely released back into the community and applying ATI to juveniles who come into conflict with the law in future, where appropriate. Renovating and improving conditions in JRCs to make them compliant with international standards on human rights and the rights of children, with vocational and educational facilities available on site, is a recognised priority.

In the past two years, the GDPDC completed construction of new prison facilities in Bamyan, Khost, Farah, Samangan, and Ghor provinces. The United States Department of State Bureau of International Narcotics and Law Enforcement Affairs has funded new prison facilities in Baghlan and Wardak Provinces, as well as the expansion of the Counter-narcotics Justice Center detention facility in order to help create a prison system that is safe, secure, and humane.

GDPDC has identified approximately 17 new prison construction projects however, these projects lack funding at this time. None of the GDPDC facilities identified for new construction on the budget spreadsheet are funded by the GDPDC or other donors.

Deliverables

Priority infrastructure needs identified. Greater user of ATI applied, and reviews of sentencing for current inmates carried out.

Sub-Component 5.3: Anti-Corruption Tribunals made operational

The Supreme Court has sought to meet its obligations in relation to the Kabul Conference benchmarks by establishing the country's first Anti-Corruption Tribunals. (ACTs) Currently, only two of the ACTs are operational and actively hearing cases. The need to affirmatively launch each ACT is decided on a case-by-case basis by the Supreme Court. For example, when a corruption case has been brought to the Supreme Court's attention and has been approved as legitimate by the HJC, the relevant ACT in that area will be operationalised to hear that case.

The establishment of ACTs is planned for both the primary and appeals levels in all eight regions of Afghanistan. Eight ACTs have been designated and staff either hired or re-assigned from other areas in the Supreme Court's *tashkeel*. According to the information provided by the Supreme Court's Director of Human Resources, as of late 2012, the eight ACT Courts had the following staffing needs:

Regional ACT (both Primary and Appeals)	Operational	Staff available (designated, hired or already in place)	Staff Needed
Kabul	Y	16	3
Herat	Y	6	0
Nangarhar	N	6	0
Bamyan	N	4	2
Paktia	N	6	3
Balkh	N	5	1
Kandahar	N	1	5
Kunduz	N	4	2

Of the six ACTs that are only operational as needed, some are still short of qualified personnel. NPP5 will provide support for the hiring and training of the needed judicial personnel to staff the courts and seek to source appropriate equipment for use by ACT staff.

NPP5 will support the Supreme Court's efforts to ensure a quality system within the ACTs, through a comprehensive training program that will require all judicial personnel working in ACTs to attend regular professional training on various relevant legal, professional and technical areas.

Deliverables

Staff recruited to allow more ACTs to function. Training program instituted for judicial personnel on ACT technical issues.

Annex A
Governance Cluster NPP5: National Law and Justice for All
Indicative Implementation Plan

Note: Detailed implementation plans and performance monitoring plans will be designed as Components and Sub-Components are allocated funding.

Component 1: Strengthening Afghanistan's legislative drafting process		
Selected Indicative Results¹²	Selected Indicators	Sources of Data to include:
1.1: More efficient internal processes for producing legislative documents 1.2: Ministries provide complete information for LDD to produce strong legislative documents; improved public involvement 1.3: Improved public access to legislative documents	<ul style="list-style-type: none"> Time taken for the MoJ LDD to review, revise and approve/return draft laws Frequency of formal inter-ministerial coordination and dialogue on legislative drafting Frequency of formal public consultation on draft legislation Change in technical capacity within line ministries legislative drafting directorates, departments or units Change in quality of draft legislation submitted to the MoJ LDD Time taken for legislation to complete drafting process within a calendar year Operational HR capacity of members of the IT/management team Regularity of updates to MoJ control systems and official legislative website Percentage of legislative documents meeting minimum criteria established by IMWG-LD Speed of translation of legislative documents Perception by LDD officials of their understanding of specialised terms and concepts 	<ul style="list-style-type: none"> Quarterly reports to NPP5 Technical Committee Opinion surveys of staff and civil society External reports by national and international experts External assessments of compliance with legislative timetables and of legislative documents and enacted laws

Sub-Component 1.1: Increased Human Resource capacity of the LDD													
		Year 1				Year 2				Year 3			
Indicative Deliverables		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
1	TA-supported functional assessment of MoJ LDD to identify inefficiencies in current processes for receiving and documenting requests from ministries, design and implement change model												
2	ToR developed and recruitment undertaken of new <i>tashkeel</i> as required to undertake LDD tasks												

¹² See NPP5 Section D: Programme Components for an expanded range of indicative results against each Sub-Component.

Annex A
Governance Cluster NPP5: National Law and Justice for All
Indicative Implementation Plan

3	Knowledge-sharing workshops to improve capacity and understanding of similar legal systems												
4	Improved performance review systems designed and implemented on semi-annual and annual basis												
5	Inter-ministerial training undertaken on specialized technical issues												
6	Annual legal terminology training undertaken												

Sub-Component 1.2: Improved ability of line ministries to be involved in the legislative process													
		Year 1				Year 2				Year 3			
Indicative Deliverables		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
1	Checklists for legislative document requests designed, approved and issued; line ministries and agencies establish LDD focal points												
2	Inter-ministerial awareness and orientation programmes to familiarize Executive branch agencies on how to request legislative documents and revision process												
3	LDD establishes formal liaison process with Parliamentary Legislative Department												
3	Civil society awareness and orientation programmes designed and instituted to strengthen CSO engagement with legislative process												

Annex A
Governance Cluster NPP5: National Law and Justice for All
Indicative Implementation Plan

Sub-Component 1.3: Increased legislative research capacity of LDD													
		Year 1				Year 2				Year 3			
Indicative Deliverables		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
1	TA-supported functional assessment of MoJ ICT requirements and processes to identify opportunities and constraints in ICT operation, maintenance and strengthening												
2	ToR developed and recruitment undertaken of new <i>tashkeel</i> as required to undertake ICT tasks												
3	TA-supported training provided to operational and technical ICT staff, plus medium-term support to embed skills												
4	Standard templates designed, tested and instigated for online legislative documents												
5	LDD <i>tashkeel</i> populate MoJ website with all remaining laws, legislative documents and other pertinent information; formal quarterly review of content												
6	Communications and distribution plan designed and implemented to provide offline public access to legislative documents in regional / provincial centres, with quarterly updates												

Annex A
Governance Cluster NPP5: National Law and Justice for All
Indicative Implementation Plan

Component 2: Improved efficiency and inter-agency communication in the justice system		
Selected Indicative Results	Selected Indicators	Sources of Data to include:
2.1: Improved more widespread use and application of CMS and CMS-derived data 2.2: Improved awareness and use of ATI, improved inmate access to healthcare 2.3: Overall trial processes faster and more transparent 2.4: Improved inter-JSI and external communications; increased voluntary court appearances	<ul style="list-style-type: none"> Measured capacity of the Supreme Court's Statistics Department to collect, analyse and report on court data and statistics Number of courts and JSIs using CMS Percentage of parties receiving timely notification of court proceedings Percentage of timely court hearings of cases; Number of trials <i>in absentia</i> Number of appeals filed by AGO Number of instances of alternatives to pre-trial and prison incarceration being employed 	<ul style="list-style-type: none"> Training reports (pre- and post-training assessments) Quarterly reports to NPP5 Technical Committee Quarterly PCJM reports on case processing and JSI communication CMS-generated reports Productivity assessments for Technical Committee Inmate statistics CSO assessments of inmate conditions

Sub-Component 2.1: Improved case management and case tracking capacity													
		Year 1				Year 2				Year 3			
Indicative Deliverables		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
1	TA-supported functional analysis of requirements and constraints in design and application of a <i>Huquq</i> database												
2	Subject to outcome of (1), design and implementation of <i>Huquq</i> database, including national roll-out, initial and continuing training, etc.												
3	Workshop-based training designed and instituted to improve quality and volume of CMS content from existing users												
4	Review of CMS expansion potential, identification of prioritised new users												
5	Roll-out of expanded CMS network, including initial and continuing training, etc.												
6	Feedback workshops to improve utility of CMS system												

Annex A
Governance Cluster NPP5: National Law and Justice for All
Indicative Implementation Plan

Sub-Component 2.2: Increased use of alternatives to incarceration and pre-trial detention, and significant increase in vocational and literacy training for inmates													
		Year 1				Year 2				Year 3			
Indicative Deliverables		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
1	Community information campaigns and public service announcements designed and implemented to increase awareness about ATI, including regular opinion surveys to assess attitudes, take-up and challenges												
2	ATI training for attorneys, prosecutors and judges designed and implemented, including follow-on surveys and workshops												
3	TA-supported assessments of opportunities and constraints in delivering improved and increased vocational and literacy training for inmates												
4	Improved job skills training, literacy courses and other rehabilitation services designed and implemented												
5	Government-run workshops designed and instituted to identify where and how improved health care access to inmates by a range of providers can be achieved												
6	Improved health care access for adult inmates instituted on rolling basis												

Sub-Component 2.3: Simplified judicial processes, fewer appeals by prosecutor, fewer trials <i>in absentia</i> and increased trial													
		Year 1				Year 2				Year 3			
Indicative Deliverables		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
1	Common court form books distributed to all courts and put into use; regular updates provided and annual use surveys instituted												
2	Training for attorneys, prosecutors and judges on updates to court procedure, and on ICPC / CPC legislation relating to escaped or absconded defendants, designed and implemented, including follow-on surveys and workshops												
3	Directives on prioritising pre-trial detainees agreed and issued												
4	Trial monitoring by Supreme Court and MoJ assessment teams designed, communicated and rolled-out												

Annex A
Governance Cluster NPP5: National Law and Justice for All
Indicative Implementation Plan

5	AGO review board on prosecutor-led appeals initiated; guidance designed and issued for attorneys, prosecutors and judges, including follow-on surveys and workshops											
6	Communications plan devised and rolled-out on court procedure, fees and service times, including follow-on assessments of take-up and awareness											
7	JSI-run workshops designed and instituted to identify where and how improved CSO access to courts can be achieved, formalised, and reporting back mechanisms established											

Sub-Component 2.4: Improved coordination and communication among Justice Sector Institutions to increase efficiency and reduce unlawful detention													
		Year 1				Year 2				Year 3			
Indicative Deliverables		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
1	Communication protocols for JSIs/AIBA regarding arrested persons established and implemented, including follow-on surveys and workshops												
2	Training for police and AGO on court appearance notifications designed and implemented, including follow-on surveys and workshops												
3	Review of detainee files initiated, with formal quarterly review process to validate legitimacy of incarceration												
4	Communications plan for defendants and families, attorneys, prosecutors and judges, on issues relating to unlawful detention and incarceration and counter-actions, designed and implemented, including follow-on assessments												
5	Reporting-back processes for police designed and instituted, including local training workshops and follow-on surveys												
6	Functional assessment of <i>Huquq</i> to identify opportunities for increased involvement, including partnerships with the police, to increase voluntary appearance rates, including local training workshops and follow-on surveys												

Annex A
Governance Cluster NPP5: National Law and Justice for All
Indicative Implementation Plan

Component 3: Increasing Access to Justice		
Selected Indicative Results	Selected Indicators	Sources of Data to include:
3.1: Legal Aid Grant Facility fully operational 3.2: Improved JSI and public awareness of legal rights as evidenced by the increased use of the right to counsel 3.3: Increased application of systemic approaches to reduce violence against women lead to reductions in arrests and incarceration	<ul style="list-style-type: none"> • Number and assessed quality of strategic and operational plans • Degree of AIBA and MoJ staff awareness • Legal Aid Grant Facility take-up • Degree of public awareness of the legal infrastructure, of JSI processes and structures, of legal rights and processes and of legal aid • Number of JSI EVAW and Gender Units • Number of JSI and police <i>tashkeel</i> having received gender training • Perceived degree of coordination between JSIs, CSOs and international organisations on legal aid awareness activities at the national and subnational levels • Time taken for case processing 	<ul style="list-style-type: none"> • Training reports (pre- and post-training assessments) • Quarterly reports to NPP5 Technical Committee • Public surveys on legal literacy • AIBA reports

Sub-Component 3.1: Increasing the number of capable legal aid providers													
		Year 1				Year 2				Year 3			
Indicative Deliverables		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
1	Legal Aid Grant Facility implemented by AIBA and MoJ												
2	AIBA website identifies LAGF-assigned attorneys; AIBA establishes functional system to advise relevant JSIs of attorney appointments												
3	LAD Office expansion plan designed, agreed and rolled-out												
4	ILAB and AIBA professional continuing education expansion plan designed and implemented												
5	Outreach programme to law and Sharia students (with an emphasis on women) to become legal aid providers, designed and implemented												

Annex A
Governance Cluster NPP5: National Law and Justice for All
Indicative Implementation Plan

Sub-Component 3.2: Increasing public legal literacy													
		Year 1				Year 2				Year 3			
Indicative Deliverables		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
1	Communications plan (including public service announcements) devised and rolled-out on legal rights (with a focus on the rights of women), including follow-on assessments of take-up and awareness												
2	Provincial National Legal Awareness Strategy Conferences												

Sub-Component 3.3: Decreasing violence and discrimination against women													
		Year 1				Year 2				Year 3			
Indicative Deliverables		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
1	Gender awareness and EAW issues included in Stage training and continuing professional education for attorneys, prosecutors and judges, reinforced by including local training workshops and follow-on surveys												
2	Mol and JSIs design and implement communications plan for JSI tashkeel and police on illegal detention and incarceration of women, including local training workshops and follow-on surveys												
3	Increased number of JSI EAW and Gender Units functioning and appropriately resourced												
4	Communications plan (including public service announcements) devised and rolled-out on the rights of women and EAW, including follow-on assessments of take-up and awareness												
3	Review of women detainee files initiated, with formal quarterly review process to validate legitimacy of incarceration												

Annex A
Governance Cluster NPP5: National Law and Justice for All
Indicative Implementation Plan

Component 4: Institutional capacity building to strengthen justice delivery		
Selected Indicative Results	Selected Indicators	Sources of Data to include:
4.1: JSI personnel have clearer understanding of roles and responsibilities, with improved administrative performance and compliance 4.2: Improved investigation and evidence-based prosecution procedures and standards 4.3: Improved diversity, knowledge and skill-sets among prosecutors, judges and attorneys 4.4: Improved awareness of <i>Huquq</i> and of <i>Huquq</i> skill-sets, capacity and use 4.5: Improved security for JSI personnel and infrastructure 4.6: Reduction in juvenile incarceration; improved outcomes for juvenile ex-offenders	<ul style="list-style-type: none"> Percentage of <i>tashkeel</i> with ToR and standardized salaries Perception surveys of JSI officials and AIBA members on knowledge of critical legal areas Number of judges, prosecutors and judges subject to acts of violence Number of persons accessing <i>Huquq</i> services Number of juveniles in detention Percentage of juveniles in detention receiving literacy training and healthcare Percentage of cases with physical evidence presented 	<ul style="list-style-type: none"> Assessments of HR practices Training reports (pre- and post-training assessments) Quarterly reports to NPP5 Technical Committee Assessment reports by civil society on rehabilitation services for juveniles in detention; Reviews of police reports.

Sub-Component 4.1: Improving human resource and administrative capacity of JSIs													
		Year 1				Year 2				Year 3			
Indicative Deliverables		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
1	Internal processes for standardising salary grades and qualifications for professional positions finalised, with standardised qualifications, ToR and pay scales for non-judicial and non-prosecutor <i>tashkeel</i> introduced												
2	Recruitment plan for women designed and implemented												
3	Training plan for provincial Chief Judges on court administration designed and implemented, including local training workshops and follow-on surveys												
4	HR and administration practices included in Stage training and continuing professional education for attorneys, prosecutors and judges, reinforced by including local training workshops and follow-on surveys												

Annex A
Governance Cluster NPP5: National Law and Justice for All
Indicative Implementation Plan

5	TA-supported M&E training for JSI administrative staff designed and implemented, including local training workshops and follow-on surveys												
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Sub-Component 4.2: Increasing criminal investigation and prosecution skills													
		Year 1				Year 2				Year 3			
Indicative Deliverables		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
1	Existing TA-supported, needs-based professional education training programmes implemented on crime scene preservation techniques and evidence-gathering												
2	Awareness-building training for police and prosecutors on roles and relationships in criminal adjudication processes designed and implemented, including local training workshops and follow-on surveys												
3	Training for prosecutors on evidence-handling and evidence-related court procedures designed and implemented, including local training workshops and follow-on surveys												
4	Training plan for skilled judges, prosecutors and attorneys on counter-narcotics and national safety courses designed and implemented.												

Sub-Component 4.3: Improving legal training and Stage programs for judges, prosecutors and lawyers													
		Year 1				Year 2				Year 3			
Indicative Deliverables		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
1	Improved post-Stage training courses designed and implemented for those accepted by the AGO												
1	Supreme Court and LETC update Stage coursework to include new laws and international commitments, gender, integrity and commercial law issues, human rights, the rights of women, etc.												
2	Roster of qualified trainers to serve as Stage teachers expanded												

Annex A
Governance Cluster NPP5: National Law and Justice for All
Indicative Implementation Plan

3	Judges with no Stage training and those for whom refresher courses are needed, identified through annual assessments											
4	Prosecutors and investigators from specialised courts and task forces identified and recruited by AGO for AGO training courses											
5	JSI and AIBA training committees establish formal coordination protocols on post-Stage professional education											

Sub-Component 4.4: Capacity of the <i>Huquq</i> strengthened													
		Year 1				Year 2				Year 3			
Indicative Deliverables		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
1	Training plan devised and rolled-out for <i>Huquq</i> on human rights, women’s rights, juvenile laws, and civil and commercial codes, including local training workshops and follow-on surveys												
2	Surveys of Huquq resources undertaken, followed by additional human and financial resources identified and allocated to increase <i>Huquq</i> service delivery capacity												
3	Public awareness campaigns designed and conducted (including public service announcements) about the <i>Huquq</i> and its services												
4	JSI workshops held to review the charges made by the <i>Huquq</i> to achieve a stable and sustainable outcome for Huquq functions												

Sub-Component 4.5: Judicial Security enhanced for Justice Sector actors and infrastructure													
		Year 1				Year 2				Year 3			
Indicative Deliverables		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
1	Judicial Security Unit network expanded												
2	Security awareness training for JSI personnel designed and implemented, with rolling annual refresher programmes												

Annex A
Governance Cluster NPP5: National Law and Justice for All
Indicative Implementation Plan

3	Improvements to security-tested JSI infrastructure to reduce security incidents												
4	Formalised Mol/JSI communications on security issues lead to improved security awareness												

Sub-Component 4.6: Improving juvenile rehabilitation services and reducing the number of juveniles in unlawful detention													
		Year 1				Year 2				Year 3			
Indicative Deliverables		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
1	AIBA, Mol, LAD, CSOs, etc., initiate review of juvenile detainee files, with formal quarterly review process to validate legitimacy of incarceration and assess ATI options												
2	JSIs and NGOs/CSOs collaborate to identify and implement options for juveniles unable to return to their families												
3	Training plan devised and implemented for JRC staff on proper oversight of juveniles in detention, and parallel communications plan for juveniles, their families and attorneys, on juvenile rights												
4	Improved NGO/CSO-led health care access for juvenile inmates instituted on rolling basis												

Component 5: Increasing Physical Assets to Improve Justice Delivery Systems
<i>Please refer to the NPP5 Illustrative Budget (Annex B) for information about implementation concerning planned infrastructure.</i>

Governance Cluster - National Law and Justice for All Program

Total Costs	Year 1 Total Costs	Year 2 Total Costs	Year 3 Total Costs	TOTAL
NPP Admin Cost				\$249,300
TOTAL Component 1: Improving the legislative process	\$3,470,800	\$3,898,552	\$2,866,900	\$10,236,252
Subcomponent 1:Increased Human Resource capacity of the Legislative Drafting and Legal Research Institute	\$1,264,300	\$991,300	\$901,300	\$3,156,900
Subcomponent 2: Improved engagement by line ministries and civil society in the legislative process	\$1,700,000	\$2,250,052	\$1,600,000	\$5,550,052
Subcomponent 3:Increased legislative research capacity of LDD	\$506,500	\$657,200	\$365,600	\$1,529,300
Less AMOUNT SECURED from EXISTING FUNDS				\$550,052
TOTAL REQUESTED				\$9,686,200
TOTAL Component 2: 2. Enhancing efficiency of the Justice Sector	\$19,924,057	\$22,592,066	\$22,837,462	\$65,353,585
Subcomponent 2.1:Improved case management and case tracking capacity	\$2,800,000	\$2,364,000	\$2,681,000	\$7,845,000
Subcomponent 2.2:Increased use of alternatives to incarceration and pre-trial detention, and significant increase in vocational and literacy training for inmates	\$3,301,507	\$5,352,066	\$6,965,962	\$15,619,535
Subcomponent 2.3: Simplified judicial processes, fewer appeals by prosecutor, fewer trials in absentia and increased trial monitoring	\$202,000	\$552,000	\$2,000	\$756,000
Subcomponent 2.4: Improved coordination and communication among Justice Sector Institutions to increase efficiency and reduce unlawful detention	\$13,620,550	\$14,324,000	\$13,188,500	\$41,133,050
Less AMOUNT SECURED from EXISTING FUNDS				\$0
TOTAL REQUESTED				\$65,353,585

Governance Cluster - National Law and Justice for All Program

Total Costs	Year 1 Total Costs	Year 2 Total Costs	Year 3 Total Costs	TOTAL
TOTAL Component 3: Increasing meaningful Access to Justice	\$3,708,520	\$3,869,520	\$3,823,720	\$11,401,760
Subcomponent 3.1: Increasing the number of capable legal aid providers and prosecutors	\$2,422,800	\$2,538,800	\$2,401,000	\$7,362,600
Subcomponent 3.2: Increasing public legal literacy	\$616,720	\$616,720	\$616,720	\$1,850,160
Subcomponent 3.3: Decreasing Violence and Discrimination Against Women	\$669,000	\$714,000	\$806,000	\$2,189,000
Less AMOUNT SECURED from EXISTING FUNDS				\$2,000,000
TOTAL REQUESTED				\$9,401,760

TOTAL Component 4: 4. Building institutional capacity to strengthen Justice delivery	\$4,843,600	\$6,104,400	\$4,914,400	\$15,862,400
Subcomponent 1:Improving human resource and administrative capacity of JSIs	\$2,161,500	\$2,607,800	\$2,357,800	\$7,127,100
Sub Component 2:Increasing criminal investigation and prosecution skills	\$340,000	\$2,575,800	\$1,755,800	\$6,152,900
Subcomponent 4.3:Improving legal training and Stage programs for judges, prosecutors and lawyers	\$1,821,300	\$2,575,800	\$1,755,800	\$6,152,900
Sub-Component 4.4: Capacity of the Huquq strengthened and orientation of legal and human rights principles provided to community based mediation providers	\$520,800	\$580,800	\$460,800	\$1,562,400
Subcomponent 4.5:Judicial Security enhanced for Justice Sector actors and infrastructure	\$0	\$0	\$0	\$0
Subcomponent 4.6: Improving juvenile rehabilitation services and reducing the number of juveniles in unlawful detention	\$0	\$0	\$0	\$0
Less AMOUNT SECURED from EXISTING FUNDS				\$0
TOTAL REQUESTED				\$15,862,400
TOTAL Component 5:Increasing physical assets to improve Justice Delivery Systems	\$90,685,312	\$66,944,012	\$65,207,516	\$222,836,840

Governance Cluster - National Law and Justice for All Program

Total Costs	Year 1 Total Costs	Year 2 Total Costs	Year 3 Total Costs	TOTAL
Subcomponent 1: Increasing the availability of justice institutions nationally	\$69,485,312	\$62,744,012	\$60,407,516	\$192,636,840
Subcomponent 2: Improving the infrastructure of the corrections system	\$20,500,000	\$3,500,000	\$4,200,000	\$28,200,000
Subcomponent 3: Anti-Corruption Tribunals made operational	\$700,000	\$700,000	\$600,000	\$2,000,000
Less AMOUNT SECURED from EXISTING FUNDS				\$24,817,010
TOTAL REQUESTED				\$198,019,830
GRAND TOTAL NPP5				\$325,690,837
GRAND TOTAL SECURED				\$27,367,062
NPP Admin Cost				\$249,300
GRAND TOTAL REQUESTED				\$298,573,075

0.66