

INDEPENDENT END-OF-TERM EVALUATION

**United Nations Development Programme
Afghanistan
Justice and Human Rights in Afghanistan (JHRA)
AFG/0071252
Project Period: 26 June 2009-30 June 2012**

Final Report (Revised)

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List of Acronyms and Abbreviations

AGO	Attorney General's Office
AJDL	Access to Justice at the District Level
AIHRC	Afghanistan Independent Human Rights Commission
AWP	Annual Work Plan
ANDS	Afghanistan National Development Strategy
BCPR	Bureau for Conflict Prevention and Recovery
BOQ	Bill of Quantities
CAP	Contracts, Assets and Procurement
CBO	Community-based Organizations
CDC	Community Development Council
CEDAW	The Convention on Elimination of all forms of Discrimination against Women
CO	Country office
CPAP	UNDP Country Programme Action Plan
CSOs	Civil Society Organizations
CTA	Chief Technical Advisor
DFAIT	Department of Foreign Affairs (Canada)
DLC	District Level Component
DPKO	Department of Peace-Keeping Operations (UN)
EU	European Union
EVAW	Elimination of Violence against Women
FMG	Feroogh media Group
GD	Gender Directorate

GE	Gender Equality
GMS	General Management Services
GOA	Government of Afghanistan
HAM	Humanitarian Assistance Muska
HR	Human Resources
HRSU	Human Rights Support Unit
ICESCR	International Convention on Economic, Social and Cultural Rights
ID	Identity
IT	Information Technology
ITB	Invitation to Bid
JHRA	Justice and Human Rights in Afghanistan
JSSP	Justice Sector Support Program
LOA	Letter of Agreement
LOFTA	Law and Order Trust Fund for Afghanistan
M&E	Monitoring and Evaluation
MOI	Ministry of Interior
MOJ	Ministry of Justice
MOFA	Ministry of Foreign Affairs
MOWA	Ministry of Women's Affairs
MTE	Mid-Term Evaluation
NATO	North Atlantic Treaty Organization
NIM	National implementation Modality
NGO	Non-Government Organization
NPP	National Priority Programme

OSDA	Organization for Social Development Afghanistan
PLA	Public Legal Awareness
PLAU	Public Legal Awareness Unit
RFP	Request for Proposals
RFQ	Request for Quotations
ROL	Rule of Law
SC	Supreme Court
SDC	Swiss Agency for Development and Cooperation
TA	Technical Assistance
TOT	Training of Trainers
TU	Translation Unit
SJSA	Strengthening the Justice System of Afghanistan
UN	United Nations
UNAMA	United Nations Assistance Mission Afghanistan
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
UPR	Universal Periodic review

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1. Background to the Justice and Human Rights in Afghanistan (JHRA) Project (Adapted from TOR)

Following continuous engagement in supporting Afghanistan's justice sector since 2002, UNDP Afghanistan's justice sector support entered a new phase in 2009. The JHRA Project built on two previous UNDP justice projects – Strengthening the Justice System of Afghanistan (SJSA) and Access to Justice at the District Level (AJDL). Many activities piloted by these projects were continued, while several new activities identified as key priorities by Government partners were added.

JHRA was developed in close cooperation with its three main institutional partners: the Ministry of Justice (MoJ), the Attorney General's Office (AGO), and the Supreme Court (SC). It supported the UNDP Country Programme Action Plan (CPAP) programmatic area, "Strengthening Democratic Governance", and was developed with three main outputs to guide engagement:

- Output 1:** The capacity of national justice institutions to effectively deliver justice and uphold human rights is strengthened.
- Output 2:** Capacity of the Government of Afghanistan (GoA) to fulfil its international human rights obligations in a coordinated manner is strengthened.
- Output 3:** Capacity of district level justice sectors to effectively deliver justice and uphold human rights is strengthened.

The Project began on 26 June 2009 and was projected to finish in June 30, 2012. In early July of this year, the Project entered the preliminary stage of a new phase of programming, with attention given to completing infrastructure work, unfinished as of June 30, and continuing support to major initiatives at the Ministry of Justice, as well as refining the design for JHRA Phase 2. A number of donors agreed to carry forward unspent funds to the new period of programming, while others required remaining funds to be returned.

JHRA was designed to support the achievement of the priorities and benchmarks on human rights, rule of law and justice highlighted in the Afghanistan National Development Strategy (ANDS) and the Afghanistan Compact, and aimed at improving access to justice at the central and district levels in Afghanistan. The Project Document indicated that it sought to do this on the basis of a human-rights-based approach that aimed to simultaneously strengthen citizens' capacity to claim their rights and enhance the capacity of justice delivery system actors to deliver justice in compliance with the rule of law and human rights standards.

The JHRA Project consisted of the following components:

1. District Level Component (DLC): Through this component, building on the lessons learned and work accomplished by UNDP's previous Access to Justice at the District Level Project (AJDL), the Project worked with the three justice institutions to strengthen access to justice in Afghanistan through a combination of rehabilitation of district-level justice infrastructure, training of district justice officials, and community level legal awareness activities.
2. Central Level Component: This component of the Project assisted the three national justice institutions, the Ministry of Justice (MoJ), the Supreme Court (SC), and the Attorney General's Office (AGO) in strengthening their capacity so as to be able to better contribute to the justice reform process, and to support the realization of human rights in Afghanistan.

A preliminary plan has been developed for the second phase of Project activities, with a partial shift in areas of focus, and excluding further work on infrastructure. Work on adjusting and strengthening the plan continues and it is expected that there will be time for recommendations from the Evaluation to be taken into account in completing the work.

2. Introduction to the Evaluation

The principal objective of the End-of-Term Evaluation is to provide an appraisal of the Project's approach, its achievements and impact, the challenges it has faced and its success in meeting such challenges. A second objective is to document lessons learned during project implementation. Finally, the Evaluation and this report conclude with a set of actionable recommendations on steps which might be taken to strengthen the Project in its next phase.

The Evaluation took place between July 2 and September 10, 2012, with a Field mission beginning on July 8 and concluding on July 29. The assignment was carried out by a team of two independent consultants, one international and one national. For the most part, the field mission was confined to Kabul, except for a short excursion to Jalalabad.

The Report builds on the initial discussion of the preliminary findings of the Evaluation in the Interim Report, which was also the basis for a presentation to donors and UNDP in Kabul on July 26, 2012. The presentation of the Report follows the outline and topic framework set out in the *Evaluation Design Report*, 09 07 2012, which was distributed to donors and presented to a donor meeting held in Kabul on July 10, 2012. A draft Final Report was submitted to UNDP Afghanistan on August 22, 2012. This revised version takes into account the consolidated response of UNDP/JHRA to the August 22 draft.

As was indicated in the *Evaluation Design Report*, the format for both the Evaluation and this report is built primarily on the basis of the OECD/DAC Evaluation Criteria (the key topics for review are: *Relevance; Efficiency; Effectiveness; Impact; and, Sustainability*). Given the rather

special character of issues pertaining to *sustainability* in Afghanistan, this topic is dealt with under *Effectiveness* in the context of the discussion of *capacity development* and *results*.

Leaving aside concerns with the substance of the project and what it accomplished, it was agreed that, under *Efficiency* (sound management and utilization of resources), The Evaluation Team would give particular attention to process issues relating to the Project's tracking of expenditures as well as to procurement processes. With his expertise in such aspects of project operations in his work with USAID, and given the limited time available for the Evaluation, the Team determined on a division of labour, with the National Consultant concentrating his energies on these matters. With the support of JHRA national staff members, detailed assessments were made of the procedures and steps associated with the overall process leading to the awarding of contracts for both infrastructure and Public Legal Awareness and Justice Sector Training work, supported by the Project. In addition, a set of figures was obtained on expenditures by project component, by year (see Appendix 2, *Financial Expenditure Analysis*).

The Evaluation Design Report identified a list of stakeholders engaged with the project, and the Evaluators attempted to follow up with all those listed. However, time constraints made it impossible to hold a complete set of meetings. The time available for meetings with government partners and some others was also affected by the coming of Ramadan at the end of the second week of the field mission. There was no time to inspect facilities which have been rehabilitated or constructed by JHRA, although the Evaluation Team has sought feedback from senior justice sector officials at the centre and in Nangarhar Province on the value of the facilities in meeting organizational needs and in enhancing access to justice. A plan for the Team to travel from Jalalabad to inspect newly-completed facilities in Kama District was abandoned for a combination of security and logistical reasons.

Overall, it must be noted that, given the complexity and scope of the Project, the time allocated to complete the Evaluation work programme was insufficient. The Team engaged in the Mid-Term Evaluation included similar comments, for similar reasons, in its final report.

A further constraint, and an unusual one in the long experience of the International Evaluator, given the relatively short time period involved, is the absence of corporate memory at the management level on the project as a whole. This is a result of the recurrent turnover of staff, discussed below. Consequently, there are some gaps in the oral history of the Project, which documents do not adequately fill. Further, there is no documentation for the Project during 2009, as well as other gaps in documentary records-keeping.¹

¹ Reference is made in the Annual Report for 2010 to a report for the previous year. However, it has proved impossible to locate the document.

Reportedly, Project operations began promptly in June of 2009. However, following the attack on the Bakhtar Guesthouse in late October, in the context of an overall escalation in levels of insurgent violence, members of international staff were evacuated and a limited complement of national JHRA team members managed the Project under constrained conditions.² Full recruitment of international and national staff was completed, after a gap of some months, in July 2010, when activities began on a broad front.

On a more positive note, The Evaluation Team has had the good fortune to be able to draw on the research and findings set out in the Mid-Term Evaluation (MTE) of August 2011. This has been particularly important in filling in the information gaps on the early period of project operations, as discussed above.

3. Summary of Principal Findings

Initial Note: The Report presents a review of the Project since its beginning in 2009. Since that time, there has been a considerable (and recurrent) turnover of personnel in project management and senior staff positions. The same is also true of the Country office of UNDP. A number of areas of project weakness (as well as strengths) are identified below. Most of the weaknesses and problem areas derive from limitations in initial design, poor planning and organizational decisions, as well as ineffective management and the lack of overall direction much of the time.³ The Project has also been – and still is- chronically understaffed. The present management and staff have all worked hard to try to overcome persistent problems. They have succeeded in some areas, but not in others. With changes at both the Country Office and in Project leadership, new approaches are being introduced.

Further, it is well-understood that JHRA took place under difficult conditions, particularly at the district level, and that there were very real limitations to what might be accomplished. The importance for the GOA and UNDP to emphasize delivery at this level, despite many challenges, is also appreciated. Hence, the Evaluation will give careful consideration to the character of the context for project operations.

² Fainula Rodrigues and Hangama Anwari: Mid-Term Evaluation of JHRA, Summary of Findings and Recommendations, July 24, 2011, and news reports from October 2009.

³ The **Project Document** is well-written, lucid and coherent. However, it failed to provide practical guidance for management of operations and delivery of activity sets. Further, the document presupposed a budget of \$37 million and was not adjusted to take into account the mobilization of only around one-third of this sum. Consequently, many of its key messages seem to have been ignored (see, for example, the discussion of “the holistic approach” to district-level work in Section C.1.7, below).

In the International Consultant’s experience, this is not an uncommon deficiency of UNDP Project Documents, which are not normally updated, and which often work better as vehicles for resource mobilization than as a guide to management and operations. Given the apparent need for an overview document to support the solicitation of resource contributions, it will be beneficial for projects to also develop a Management, Operations or Inception Plan as their first activity, or for UNDP to commission such a document prior to project inception.

3A. Relevance

A1. All elements of the Project design were well-situated in relation to priorities set out in national and UNDP strategy documents, including the Afghanistan National Development Strategy (ANDS), and within it, the Afghanistan National Justice Programme (ANJP), which provided the framework which informed Project design. Elements of the Project fit within the parameters set out in ANDS National Priority Programmes (NPPs) NPP5, *Law and Justice for All*, and NPP6, *Human Rights*, where its contribution, alongside that of the Afghanistan Human Rights Commission (AIHRC) is particularly important. Its role in supporting enhanced access to justice for citizens is primarily indirect, through strengthening the capacities of state justice providers, improving justice facilities, and increasing the awareness of local leaders and citizens of their rights and the potential protection offered by the legal system.

A1.1 The government has given particular attention to highlighting the importance of the Human Rights Support Unit (HRSU) at the Ministry of Justice in building, over time, an inside-government capacity to support the strengthening of its overall human rights performance.

A2. The Project has adopted a variety of approaches to capacity development (CD). This has been largely because project components, and, within them, activity sets, have operated quite independently without reference to a guiding strategy or strategies. All CD activities were relevant, to some degree. However, as will be discussed below, while there are some success stories, many forms of activity could have been far more effective, and more responsive to the needs of those assisted, than they were.

A3. The Project was planned in cooperation with three major justice sector partners, the Ministry of Justice (MOJ), the Attorney General's Office (AGO), and the Supreme Court (SC). While all three partners have benefited from the Project through DLC programming, it has been the MOJ which has been the primary partner for the Project overall.

A4. The absence of donor coordination in Afghanistan, in support of both rule of law and human rights, is a chronic problem, resulting in waste and duplication of resources. Other donors have undertaken programming with similar objectives in many of the same central institutions and district-level locations as JHRA.

A4.1 For all this, while other donors have much bigger and broader-based programmes, and are able to draw on a much deeper and wider professional resource-base to lead and support the work, JHRA has made a contribution to broader donor efforts to strengthen justice and human rights in Afghanistan. In this respect, although there have been problems in implementation, its support to the rehabilitation of infrastructure has been particularly important as a response to the priority needs articulated by the GOA.

A4.2 Further, despite the presence in the Ministry of Justice (MOJ) of human rights advisors and translators, supported by other donor projects, the establishment of the Human Rights Support Unit and Translation Unit represent responses to priorities established by the Ministry of Justice. Their value has also been recognized more broadly in government circles, as is discussed below.

A4.3 In addition, the Project has developed an effective working relationship with MOJ, and this has enabled it to develop a relevant and valued role, which reflects UNDP's particular advantage in building on its long-term partnership with the Ministry. However, it would appear that its relationships with the other two other institutions at the centre, the Supreme Court and the Attorney General's Office, while untroubled, will need closer attention in the next phase of the project. For the future, it will be advisable for JHRA to find a way to engage the leadership of all core justice sector institutions in project governance and/or advisory structures. In this regard, it is noted that UNDP/JHRA raised the topic of establishing a Project Advisory Board for the next phase of the Project in a communication with donors earlier this year. This would provide a vehicle for direct involvement of the other key justice sector institutions.⁴

A5. The Project has been damaged by the absence of a strong management presence for much of the time from inception onwards, and this has limited its capacities to reflect collectively and act as a unified entity in identifying and acting on lessons learned. While this was a shared responsibility of UNDP and JHRA, it is telling that there was no management response from UNDP to the Mid-Term Evaluation (MTE) Report, which was delivered in July 2011.⁵

A5.1 The Project Document, written by an expert international team, stated that "*Most activities (in the Document) have already been piloted by UNDP at national, provincial or district level, and have been tested and refined through lessons learned through UNDP's engagement in the justice sector since 2002.*"⁶ Unfortunately, despite the involvement of UNDP Afghanistan in the sector for seven years prior to the launching of JHRA, there is little sign that either Project planning or practice was built on the lessons of experience. During the period of Project implementation, there was no apparent capacity in the UNDP CO to monitor projects with a view to building up a knowledge base on best professional and management practice in operating in the sector. Instead, JHRA, understaffed throughout its operational life, had to begin from scratch.

⁴ See: Communication with Donors, Update on Actions in Response to the Recommendations of the Mid-Term Evaluation, 15 05 2012.

⁵ Ten months later, an update was provided to donors (May 2012) on progress made in actions taken to follow up on recommendations include in the MTE Report. In addition, a response to the Report is provided on the UNDP Evaluation Website. However, this is not dated. While it is good to see that there was an eventual follow-up to the Report by UNDP, according to those interviewed for the Evaluation, no response was provided to the donors or other stakeholders in the months following the Report's completion and circulation.

⁶ See: *Justice and Human Rights in Afghanistan Project*, Project Document, approved 19 07 2009, p.16.

A5.2 Another potential source of guidance to the Project was represented by the recommendations and “lessons/challenges” set out in the report of the MTE.⁷ One significant concern identified was the perception on the part of GOA justice partners that UNDP and the Project were somewhat distanced from their principal Afghan partners. It must be said that, particularly in the case of the MOJ, JHRA has done an effective job in turning around this situation. Senior figures in the Ministry, including the Minister himself, indicate that JHRA-supported initiatives are now viewed as MOJ activities, supported by UNDP, rather than as UNDP activities taking place in the Ministry.

A5.3 It is no fault of the authors of the MTE, but, by the time of the presentation of its report, it was too late for the Project in its current phase to take up many of its recommendations. One example is the case of “enabling the CSO partners” for justice sector training and PLA work. It is certainly a fair observation that the Project did not fulfil the initial plan to build the capacity of the providers contracted under this element of the Project. However, work on this element of the Project was completed by the end of 2011, and it was too late to act on recommendations in this sphere. Many of the recommendations of the MTE remain highly relevant; they may well provide guidance for future phases of programming.

A5.4 At component and activity-set level, at times, the Project has demonstrated a capacity to adjust to changing circumstances and get things done under sometimes-difficult conditions. However, in the infrastructure work, there have also been times where there has been a very slow management response to problems compromising delivery and requiring attention, and which had been identified repeatedly by members of national staff.

A5.5 As with all capacity development projects in Afghanistan, JHRA faces some difficult issues in thinking through its approach to sustainability. This issue will be discussed in more detail below.

A6. JHRA has been confronted by a number of challenges over the three years of its implementation. The Project Document included a quite thorough *Risk Log* (Annex I). In retrospect, it underestimated the probability of risk to the Project of “General Insecurity in Afghanistan”, though not the potential impact. The withdrawal of international staff and delay in filling all posts for international staff led to extended delays in most Project activities between October 2009 and July 2010, In addition, heightened insecurity and harsh weather conditions in particular provinces or districts has led to significant delays in construction work in some cases. Insecurity has also led to the cancellation of some major Project events outside Kabul.

⁷ *Independent/External Mid-Term Evaluation of JHRA*, prepared by Ms. Fainula Rodriguez and Ms. Hangama Anwari, August 2011.

A6.1 A further risk to achieving project outputs emerged through the project's weak staffing plan, where there was a mismatch between the skills required and the tasks to be undertaken. In addition, the failure or inability of UNDP Country Office and Project management to ensure that vacant positions were filled in timely fashion, or filled at all, has limited Project capacities to act.

A6.2 One further, unanticipated and related risk was the frequent turnover among Project management staff and the consequent lack of consistent, overall Project direction. This has been a major factor in reducing Project effectiveness, as will be discussed below.

A6.3 Yet, for all this, The Project has succeeded in completing a long list of activities despite challenges in its internal and external environment, and despite a lack of support, at times, from the Country Office.

A7. As a result of a leadership gap at the heart of the Project for much of its existence, and weak or limited support from the Country Office, it appears that its capacity to relate effectively to its principal stakeholders, both in government and the judiciary, and among donors, was somewhat compromised. It should be noted that much is being done now to treat stakeholder relations as a priority. One exception to the overall pattern of stakeholder relations is to be found in the Project's links to the MOJ (particularly in relation to the Human Rights Support Unit, HRSU), which were always treated as a priority, and where there has been consistent support from the Country Office.

A7.1 In collaboration with the UNDP Country Office and UNAMA Rule of Law Unit and UNAMA Human Rights Unit, there is an opportunity for JHRA, not realized in the past, to seek to provide an overall coordination, research and analysis and information collection/dissemination role among donors for the Rule of Law (ROL) and Human Rights sectors. If it is to take on such a role, JHRA and/or the Country Office must build up the professional and administrative capacity to facilitate and backstop such work. In Rule of Law, this possibility is enhanced by the designation by the UN system in June of this year of the Department of Peace-Keeping Operations (DPKO) - and hence, in Afghanistan, UNAMA - and UNDP as joint Global Focal points for ROL, policing and corrections.

A8. The Project has not been strong in undertaking systematic analysis of **Gender Equality (GE)**, or the position of vulnerable groups, vis-à-vis its mandate to address access to justice. At the same time, it emphasized (to good effect) to the Project Implementers (sub-contractors) engaged in Public Legal Awareness and training for district-level justice officials that achieving a high level of female participation among beneficiaries was a priority.⁸ Further, one contractor

⁸ Defence lawyers and legal staff of the Departments of Women's Affairs at provincial level were also included in the training for justice sector officials,

adopted a policy of having equal numbers of men and women among trainers. In addition, the topics selected as a focus for training were geared particularly to addressing matters of particular concern to women. In addition, it might be noted that the HRSU estimates that one third of the government officials who have completed training courses which they have organized have been women. Finally, among the current complement of international staff, most (3 of 4) are women. All national staff members are male.

A8.1 Given the long-established education gap between men and women in Afghanistan, recruitment of women in some professional and technical fields is a challenge. There are no women among the staff of the Translation Unit of the MOJ. In the HRSU, leaving aside the International Advisor, who is a female, there are 4 women among the 12 staff members supported financially by UNDP. Among the 5 government employees in the Unit, 2 are women. There are increasing numbers of young women graduating with degrees from law and sharia faculties, and it is hoped that, if the Unit expands in the future, more women may be recruited. It should also be noted that The Unit emphasizes the importance of addressing gender balance in its training for other ministries.

A8.2 A bright spot in the Project on GE is the role that has been taken on by the HRSU (the Unit's mandate includes GE) in supporting the Ministry of Women's Affairs (MOWA) in assessing and attempting to strengthen the capacity in GE, and mechanisms for enhancing it, in all government ministries and agencies. As a basis for this aspect of its work, the Unit undertook an *Assessment of Gender Capacity in the Ministries and State Institutions* (April-May 2011).

The comprehensive study was based on meetings and interviews with 35 gender Departments or Directorates (GDs) and Focal Points in Ministries and other state institutions. The findings of the study pointed to the marginalization of GDs and Focal Points within their organizations, their low status, lack of legitimacy and recognition, and the absence of both policy and financial support. At the time of writing, the Unit was considering how best to provide technical support to the GDs and Focal Points. It has already begun to work with the Ministry of Education in considering how to apply GE as a cross-cutting theme in the Ministry's work, and is planning to provide a training-of-trainers workshop for those engaged in teacher education.

A8.3 The Project did not undertake any form of ***institutional analysis or capacity assessment*** as a basis for its capacity development investments with central institutions, though it did respond to clearly-articulated GOA priorities.

3B) Efficiency (Sound management and Utilization of Resources)

B0. As a preface to examining the Project's efficiency and effectiveness, it will be helpful to begin with a few general observations about project design and organization. The project was actually a collection of quite separate elements, some focused at central institutional level, and others focused on providing support at district level. To this mix was added the project to establish the Human Rights Support Unit (HRSU) at the Ministry of Justice, which was conceptualized as a separate project. While it is packaged with the JHRA and managed within the broader Project structure, support to the HRSU has functioned as a project-within-the-project, with many donors, in accordance with their programming mandates, focusing their support to JHRA on the HRSU alone.

B0.1 It should also be noted that work in a number of activity areas had begun under earlier UNDP projects and was carried over to JHRA. This has made it problematic to know where JHRA began and where other projects ended.

B1. This basic architecture of the Project has made it difficult to manage, while it has called out for a management approach which would bring the whole team together and encourage a sense of participation in a shared enterprise among those engaged with different activity areas. For much of the life of the Project, this direction has been missing. Overall, for a variety of reasons, the Project was not organized in such a way as to ensure optimal efficiency under the prevailing conditions.

B2. The Project has a mixed record in terms of planning and organization to produce outputs and results. There were major deficiencies in the initial Project plan, as set out in the project Document, which was not revised to take into account actual funds mobilized, rather than funds projected. The Project Document sets out a plan for Project operations to be supported by a budget of \$36,985,430. In practice, the Project has been implemented with committed funds totalling only \$12,992,448, of which only \$11,973,745 had been received by March 31, 2012.⁹ There was no overall management strategy. Further, there was no revised staffing plan to ensure that the Project team had the right blend of skills and experience to undertake the core tasks to be undertaken.

B2.1 Financial management and planning has been a weakness throughout the period of Project implementation. As may be seen through an examination of the summary figures included in the year-by-year tables set out in the Financial Analysis in Appendix 2, below, the Project has consistently underspent, with a substantial gap between projected and actual expenditures for each year of operations. While there have been mitigating circumstances

⁹ Project reports, up to and including the first quarterly report for 2012, include a brief section at the beginning, entitled "Project Information". This section of the report continues to report a project budget of \$36,985,430.

(insecurity and bad winter weather), problems in recruitment of personnel for MOJ initiatives, staff work overload, and delays with CO procurement), the overall performance has been disappointing. For the DLC, particularly infrastructure, the expenditure gap (the percentage difference between projected and actual expenditures) was nearly 50 % in 2010 and in excess of 45 % in 2011. As a result, much work was incomplete by the end of the Project proper on June 30, 2012.

B2.2 The Project's slow delivery rate has been a major concern for donors, as has been the paucity of detailed, accurate financial information made available to them.¹⁰

B2.3 Further, the Project failed to consult with donors on how to address looming deadlines for utilizing funds committed by the project end-date. Thus, it failed to take the necessary steps to avoid having to return the unspent portions of funds allocated by the EU and Denmark. In the latter case, a formal request for a no-cost extension would have permitted the Project to carry over the remaining funds. For the EU, a demonstration that funds had been committed, prior to the deadline, would have enabled the Project to utilize the funds beyond June 30. No action was taken to meet this requirement.

B2.4 Further is given below to issues concerning the Project's construction portfolio and procurement. However, it should be also noted that there appear to have been issues throughout the project with the performance of core administrative functions. Since the project operated for much of its life without proper systems and procedures to guide the work of its staff, this is not altogether surprising.¹¹ Problems seem to have been compounded by broader deficiencies in UNDP administrative support structures and procedures.¹² Both the MOJ HRSU and Translation Unit report on a slowness of the Project to act on routine submissions for provision of equipment and other requirements, as well as a lack of responsiveness when attention has been drawn to failures by the Project to address such routine requests for support. The existence of such difficulties is confirmed by external observers, in regular contact with the Units.

B3. JHRA and UNDP have faced particular problems in the implementation of infrastructure projects. It has been broadly acknowledged that both the Project and the UNDP Country Office

¹⁰ Donors are positive about efforts by JHRA to address the financial information gap in 2012.

¹¹ With the appointment of a new CTA, this situation is being addressed.

¹² In its response to the draft version of this Report (August 22, 2012), UNDP advises that new mechanisms are being established which should assist in identifying and addressing the source of such deficiencies, where they are found to exist. On staffing and gaps in project systems, UNDP points out that *With regard to staffing, there is a generic problem faced in Afghanistan to bring in suitable talents due to the security situation. Therefore, this has resulted in gaps in the project management, and proper systems that could not be established.*

(CO) lacked the depth and range of expertise and experience to take on infrastructure projects and to provide the level of quality assurance required.¹³ Some other COs (for example, Palestine) are equipped with an engineering and technical team to support such work. In the absence of such an in-house capacity, as might be suggested from some of the Evaluation findings presented below, it will be better for UNDP to avoid undertaking construction projects, or, alternatively, to work through a partner organization, such as UNOPS, despite the additional costs involved.

B3.1 At the same time, it is important for UNDP and other donors to recognize that infrastructure remains a core, and entirely reasonable, priority for Afghanistan's justice sector.

B4. The Project has not been effective in management of human resources. In part, this derives from the weakness of overall management and the failure to ensure that all funded positions were filled. The Project has underspent on staff every year since inception. The percentage gap between projected and actual expenditures for staff costs is as follows (no data are available for 2009) 2010, 32 %; 2011, 30 %; and 2012, for the first two 2 quarters, 19 %.

B4.1 There have been serious bottlenecks and gaps in programme and operations work caused by overload for a limited number of national and some international staff.¹⁴ Those who are in place work hard to try to fill the gaps. Under new management, efforts are underway to develop a rational staffing plan to meet the needs of the new phase of the Project.

B4.2 The current staffing situation (as of the end of the financial year 2011-2012) in the Project office is set out below. It illustrates the serious problem of understaffing:

- There is one Finance Officer, without any support staff, who undertakes the daily financial management tasks relating to budgets, contracts and daily financial entries, as well as financial reporting.
- Currently, there is only one officer assigned to all daily routine management of operational matters, including logistics and transport, procurement and facilities. The volume of work associated with each of these responsibilities is substantial.
- There is no Recruitment/ Human Resources unit in the program. As a result, the recruitment and selection process is handled through the UNDP CO HR unit. The staff's monthly timesheets are managed by the Project's IT Assistant, who also acts as HR focal point for HRSU, in addition to carrying out his IT duties.

¹³ It must be acknowledged that UNDP is not unique in facing such problems in Afghanistan. UNODC has also experienced difficulties. See also the discussion of problems encountered with US-supported infrastructure projects in: International Crisis Group, *Aid and Conflict in Afghanistan*, Asia Report #210, August 4, 2011.

¹⁴ See UNDP note on staffing issues in Footnote 10, above.

- On the technical side, for construction projects, only one engineering officer is working on the Project (a second officer was on the payroll until May of this year). He is responsible for the whole process of preparation for the launching of Invitations to Bid (ITBs) for selection of contractors. The tasks to be completed include: the initial assessment, engineering drawings, and design of the proposed construction facilities. Once the work is underway, where possible, he also conducts site visits to the construction projects for the inspection of work, including the final quality inspection of the completed facility. After March 2012, according to UNDP, the work of the engineers was to undertake site monitoring and preparation of inspection reports and bills of quantities.¹⁵
- In addition, there is one Monitoring and Evaluation (M&E) Officer, who is responsible for the oversight and monitoring of PLA activities (now completed), including site visits. He also had responsibility, in 2010 and 2011, for preparation of the Requests for Proposals (RFPs) for the competition to select the NGOs or other entities to carry out the PLA work. The Officer, who has a sharia degree, has now taken up the position of Legal Officer.
- On the whole, despite the absence, until recently, of clear direction and office systems to support and facilitate their work, and despite the need to juggle multiple tasks, it appears that members of the national staff have operated creditably.

B4.3 Until recently, with the appointment of a new Chief Technical Advisor (CTA), the different elements and components of the Project and the various staff groupings have operated in relative isolation from one another. The involvement of national staff in collegial management meetings has been rare, and they have had a minimal role in Project planning and strategy development.

B5. *The RFP design and selection process for construction and rehabilitation contractors:* The sequence of procedures put in place for sub-contracting and procurement appears to be straightforward. The processes to be followed for construction projects (Invitations to Bid, ITBs), procurement of furnishings and equipment (Requests for Quotations, RFQs) and for selection of NGOs and companies to undertake PLA assignments (Requests for Proposals, RFPs) are summarized in [Appendix 1](#), below.

B5.1, *Steps Taken to ensure quality work and value for money in Infrastructure activities:*

Given the high levels of corruption in business circles in Afghanistan, and the value of international contracts, concerns were brought to the attention of the Evaluation Team regarding the adequacy of current procedures to ensure quality and prevent fraudulent

¹⁵ Note from UNDP in commentary on the Draft Final Report.

practice. In response to questions raised in the Draft Evaluation Report, the UNDP Country Office has indicated that normal UNDP procedures were followed by the relevant selection committees and administrative units in all cases. Further, the earlier report raised concerns about the presence of appropriately-qualified technical staff and external professionals among committee members. Once again, UNDP indicated that all committees were staffed appropriately, given the nature of the contracts under consideration.¹⁶ If this is true in all cases, it is indeed reassuring. What remains to be seen is whether “proper procedures”, based on normal UNDP practice, are sufficient, given the local context and the possibility of fraud.

B5.2 Although it was possible for the Evaluation Team to review the overall procurement process and to identify what might be seen to represent areas of vulnerability, there was no time to go through detailed files for individual contract awards, or to assess decisions made in the light of subsequent technical performance. In response to the Draft Evaluation Report, UNDP has advised that:

Based on the Strategic Review mission in January 2012 from HQ, an oversight and compliance unit was proposed and Terms of Reference was subsequently developed and the unit is currently being established. The unit will effectively address oversight issues and put risk mitigation measures in place across all projects including next phase of JHRA.

This represents a positive measure for future programming and is to be welcomed. Beyond this, in order to fill the gaps in the Evaluation work programme on procurement and contracting, it will be recommended that a full **Management Audit** take place to review JHRA practice for the period under consideration in the Evaluation, and to assess the adequacy of current UNDP procedures, given the Afghanistan context, and given the experiences of UNDP and other donors with processes for local procurement and subsequent experience with contract implementation..

¹⁶ On this topic, in comments on the earlier draft, UNDP has observed: *All civil works evaluation committees have a civil engineer with the appropriate technical knowledge as part of the panel. JHRA had two civil engineers in the project (till June 2012), who also provided inputs into the process. In addition, the BOQs (Bills of Quantities)* are validated by independent engineers from UN sister agencies. In the case of JHRA, an international FAO engineer was involved in the process. An independent engineering firm was also hired for the monitoring of JHRA construction works in 2011. It is to be noted that the UNDP projects do not directly get involved in the procurement process to avoid conflict of interest.*

*N.B. A **bill of quantities** (BOQ) is a document used in tendering in the construction industry in which materials, parts, and labor (and their costs) are itemized. It also (ideally) details the terms and conditions of the construction or repair contract and itemizes all work to enable a contractor to price the work for which he or she is bidding .

B6. The timeliness of decision-making and operational processes, including procurement, as a basis for maintaining Project schedules and delivery dates:

The Project has operated with no formal management systems in place. As a result, staff members have been obliged to invent procedures as they go along.

B6.1. The following challenges have been faced by sub-projects, which hindered the implementation of the DLC component of JHRA:

B6.1.1 Delays in the construction ITBs at the UNDP CO procurement approval stage in 2011, due to the proposed shift of responsibilities implementation of construction activities to UNOPS. In Q3 2011, the DLC established a Procurement Task Force to expedite internal procurement processes.

B6.1.2 Insecurity also hindered project implementation, particularly in terms of field assessments, monitoring and evaluation. As reported by the Engineering Officer, in some areas, because of insecurity, the construction companies were unable to begin or continue the work. Similarly, JHRA team site visits to those areas were cancelled on several occasions.

B6.1.3 Delays in Project construction work occurred in Badakhshan, Panjsher and Daikundi provinces from December 2010 to March 2011 due to the intense winter weather.

B6.1.4 It is reported by the Engineering Officer that, in 2011, the District Head of the Detention Center arrived at the project site for the Baharak Detention Center Construction project, and stopped the construction work – demanding money for providing security to the project site, and denying knowledge of any approval for the work from MoJ. However upon the involvement of the District governor and communications from MoJ, the District Head of the Detention Center withdrew police from the project site, and the work was resumed.

B6.1.5 Delays have also occurred as a result of communication gaps between departments within partner institutions. Competing interests/priorities among such departments, as well as between institutions, have also caused difficulties.

B6.1.6 In the PLA element of the Project, there have also been problems resulting from a lack of communication and shared understanding between the government and civil society groups engaged in programme delivery.

B6.1.7 As indicated in Project reports, delays occurred in the initial stages of the program in recruiting a core group of translators for the Translation Unit at the Ministry of Justice who met the Ministry's stipulation that successful applicants possessed both the requisite language skills and degrees in either Sharia or Law, and who were willing to work for the salaries offered. It was necessary for the competition for positions in the Unit to be repeated several times.

B6.1.8 At times, Project management appears to have been slow in responding to problems identified relating to delays and other issues in construction work which have required intervention, despite repeated reminders that urgent action was necessary.

B7. *The quality of Preparation for, and guidance to, Project Implementing Organizations in PLA and human rights awareness work:* For the most part, the work of the organizations implementing PLA has been satisfactory, except in the case of one organization, which was found to be unable to meet the required standard. Its contract was cancelled. As will be discussed below, the major difficulty with the PLA work was the absence of a practical strategy to form the basis for a systematic approach.

B8. *The quality and regularity of ongoing monitoring and supervision of operations:* As noted above, the project suffered from a lack of basic systems. Not surprisingly, it also lacked provision for an overall monitoring and evaluation function. As a result, in the absence of a framework to set expectations and guide activities, Project performance here has been uneven. Some parts of the Project have operated in self-contained fashion (HRSU), with effective supervision *within* that part of the Project, but without effective overall direction. Other parts, for example, the Translation Unit at MOJ, seem to have done quite well, but with minimal supervision. It is not clear what supervision was in place for the unfortunate and unsuccessful initiative to establish a translation unit in the Supreme Court.

B8.1 In the area of infrastructure, the absence of technical capacity in the Country Office, combined with the fact that the Project has only one engineer (previously two, until May 2012), has resulted in a limited capacity for monitoring. There has been no capacity at the UNDP CO to provide quality assurance in this sphere. The absence of a Project presence at regional level has also been a limitation. This situation has been compounded by some of the external factors, noted above, which caused delays. In the sphere of PLA, the monitoring process conducted by JHRA seems to have been effective, with the responsible officer having the relevant professional background for the work, and the scope of work being more manageable.

B8.2 *The performance of the Project in “catching up” on delivery where external events have forced a temporary halt or slowdown in operations:* With the appointment of a new CTA and support for her from the CO, there has been a determined effort to identify and resolve problems and to complete unfinished work, particularly in infrastructure rehabilitation. Results accomplished to date, as reported at the Donor meeting of July 26, 2012, have been reassuring.

B9. *The quality, timeliness and thoroughness of financial reporting and Project progress reports:* Since the presentation of the Annual Report for 2010, The Project has completed all necessary reports, but the quality, focus and depth of reporting, has been weak. Reports have also often been late. In part, the lateness of reporting is a result of acute understaffing and

work overload, and, at times, weak management and coordination. All reports have been activity-rather than results-oriented. Financial information provided has been unhelpful. No explanations have been provided for variances between projected and actual expenditures. It would also be helpful in the future for Project management to provide a prose explanation for the whole financial year, including all categories of expenditure. This is not a technical, but a management, task.

B9.1 No reports are available for the earlier phase of the Project.

B9.2. In addition, there has been a major problem in ensuring that accurate financial information is available as a guide to management decisions. This deficiency has also led to difficulties in providing accurate financial information to donors. This has resulted in much frustration on their part. This has been the case particularly when they have been asked to approve additional budget allocations to permit activities to continue, while, in fact, the Project still held unspent funds. This has contributed to a view among some donors that UNDP and JHRA have not been transparent.

B9.3 According to selected donors and stakeholders interviewed for the Evaluation, the quality of reporting, though not its timeliness, improved greatly with the first Quarterly Report for 2012.

B9.4. In **Annual Reports**, It would be helpful to provide a description of project organization, management structures and reporting relationships, as well as a section listing members of staff and indicating their responsibilities, and addressing human resource issues. The Project has suffered from understaffing throughout, but the reader would not know this from reading Annual Reports. The consequences of understaffing and coping mechanisms adopted require explanation. Further, there is often a great deal of important, “hidden” work in a Project. Some attention in Annual Reports to describing the “back office” operations would assist UNDP and the donors, as well as incoming staff, to understand the important role played by the staff members who perform these functions. It would also help in identification of bottlenecks in operations and programming, which require attention.

B9.5. it is unfortunate that UNDP CO and Project donors have not been more demanding of JHRA management in setting expectations for informative, thorough and focused reports.

B10. *The appropriate utilization of technical assistance to facilitate enhanced performance of national resources:*

Background: The Project Document was not adjusted to take in to account the mobilization of only one third of the projected budget. Although an organizational chart is provided, in

practice, there appears to have been a poor fit between the formal organization set out on paper, and actual allocation of responsibilities, which have changed regularly.

B10.1 The rapid turnover of technical assistance staff has led to inconsistent approaches to project management, professional leadership and stakeholder relations. Currently, there are three Justice and Human Rights Specialists and one Chief Technical Advisor (CTA). One of the three Specialists works from the JHRA Office, and is now in charge of the DLC; another was Manager of, and is now Advisor to, the HRSU; the third is based at the MOJ and has responsibility for government relations and coordination. *In addition* to these positions, at one time, there were two more senior positions: a Project Manager and a Head of the DLC. Both left during 2011 and were not replaced, by the decision or inaction of the UNDP Country Office.

B10.2 Three months ago, a CTA was appointed. She has an office at the MOJ and another at the JHRA facilities, and moves between the two locations. Until her appointment, there had been no formalization of the responsibilities assigned to any of the international personnel.

B10.3 Just as the Project itself lacked coherence, so did decisions on the recruitment and deployment of technical assistance personnel. For the most part, the current staff members have worked very hard to get things done (the Evaluators are unable to assess the contribution of the Officer responsible for government relations).¹⁷ Often, this has meant developing new skills in areas where they have had little experience. Overall, they have coped well in filling the gaps, but many key problems have been set aside.

B10.4 For most of its life - including the time when the two more senior managers were in place - the Project has suffered from the absence of management personnel with strong organizational and human resource management skills, along with a sound knowledge of financial matters. There was no engagement with the Project by the UNDP CO to address these deficiencies.

B10.5 There was a Project Manager for JHRA in place prior to the exit of international technical assistance personnel in late 2009, She was well-liked, and seems to have been effective, but had little chance to have an impact on the Project prior to the temporary closure of most activities. Despite positive views on her contribution, she was asked by the CO not to return. Her eventual replacement as Project Manager, who arrived in 2010, had an entirely negative

¹⁷ According to UNDP information (response to Draft Final Report), the Officer is responsible for supervising the work of the Translation Unit and coordinates with the MOJ on priority issues. In this regard, he has taken the lead in the organization of a number of national-level activities in 2011-12, including workshops on the Criminal Procedural Code (2011) and Service Delivery by Justice Institutions (2012).

effect on the project. He appears to have lacked both interest in, and knowledge of, project management, and left after a year.¹⁸

B10.6 A further weakness has been in the poor integration of National Staff into Project planning and problem-solving, and the absence of an inclusive management style. There has often been poor communication between TA personnel and national staff, and this has been to the detriment of project performance.

3C. Effectiveness (Achievement of the Project's Principal Objectives and Contributing Factors and Processes)

The focus under this theme will be the extent of the project's achievement of intended results.

C1. Have the anticipated results have been delivered as intended and the associated benefits received, in the view of the principal Project implementers, stakeholders and beneficiaries?

C1.1 **The Project Outcome**, as stated in the Country programme Results and Resource Framework, (CDP Outcome 2) is: *Effectiveness of the Justice System is improved and access to justice is increased*. The indicators for the achievement of the Outcome result were built on a baseline and targets set in a Public Perception Survey of the ability of the courts to effectively deliver justice, taking the results of the 2008 Survey as a baseline, with a positive reading of 52 %. The target was to reach 55 %. Given the areas of the focus of the Project and the relatively modest scale of its operations, and given the magnitude of the development problem to be addressed, the relationship between the data from the Public Perceptions Survey and the contribution of the Project to changes in positive perceptions is not apparent. In addition, given that government and much larger donor-supported programmes have been operating in the same area, to claim attribution of any Outcome-level results achieved to the Project alone is patently inappropriate.

C1.2 It can be said that the Project has made a modest, and largely indirect, contribution to addressing the development target encapsulated in the Outcome, but no magnitude of impact can be assigned to Project achievement. The difficulty in saying more about the Project's contribution to the Outcome will be better understood through a review of Project Output results.

C1.3 As the International Consultant has observed elsewhere, there is a major problem with the UNDP approach to results frameworks, with the pressing need for an Intermediate Outcome between the CDP Outcomes and Project outputs. It is not the fault of the Project and its design

¹⁸ The ability of the Evaluation to say more is limited by the absence of detailed Project records for much of its operational life.

team that such a gap exists. Under current circumstances, except perhaps with a project of the magnitude of LOFTA, it is impossible to establish a tangible results chain from the Outcome to Project Outputs. It is possible to state that Project results are relevant to the Outcome, and that is all. An alternative will be to set a more modest CDP Outcome. However, this will de-link the Country Programme from an immediate connection with national planning priorities.

C1.4 Results will be assessed for each of the three outputs listed.

Output 1: The capacity of national justice institutions to effectively deliver justice and uphold human rights is strengthened.

Output 2: Capacity of the Government of Afghanistan (GOA) to fulfil its international human rights obligations in a coordinated manner is strengthened.

Output 3: Capacity of district level justice sectors to effectively deliver justice and uphold human rights is strengthened.

In fact, initially, a fourth and a fifth output were listed: *Capacity of community stakeholders to promote and claim human rights*; and, *Capacity of Afghan civil society organizations to advocate and promote human rights is strengthened*. These had disappeared, without explanation, but presumably because of the limits of project resources, by the time of the first available Annual Report, delivered in 2010 (no month indicated).

C1.5 **Output 1:** The capacity of national justice institutions to effectively deliver justice and uphold human rights is strengthened.

C1.5.1 **Public Legal Awareness (PLA):** Through the temporary establishment of a Public Legal Awareness Unit, established under a previous project in 2008, the Project assisted the Legal Awareness Section in the MOJ and the *Huquq* Department in the MOJ in the design and implementation of a national PLA campaign and, over time, in the development of a national PLA Strategy, completed after the dissolution of the Unit, which completed its work in September, 2010. As the MTE noted, the Project's impact in influencing policy in earlier years was substantial. However, the continuation and sustainability of what was accomplished is questionable.

Within the current Project, emphasis has been on continuing to support the Ministry's PLA objectives at district level through the undertaking of a series of PLA activities, carried out under sub-contract, by NGOs and other entities.

Overall results achieved have been modest. All activities have been completed as planned. While it is apparent that the understanding on the part of MOJ of PLA as a sphere of

engagement has increased, it is not clear whether its capacity to plan and deliver programmes or to monitor programme effectiveness has been enhanced.

C1.5.2 *Effective Operation of the Supreme Court (SC) Translation Unit (TU)*: Work on this project element was begun under a predecessor project, “*Strengthening the Justice System of Afghanistan*” in 2008. It completed the initial phase of activities and became active in providing services to the SC during 2010. Substantial claims are made in the Annual Report for 2010 for the Unit’s contribution to the building of Court capacity, but it is not possible to verify these claims. The Unit was taken over by the SC, but it proved unable to fully incorporate it and to include the staff positions in the Unit in the *tashkil*. Hence, the Unit was dissolved and no results were achieved.

C1.5.3 *Effective Operation of the Ministry of Justice (MOJ) Translation Unit (TU)*: Given the negative experience with the SC TU, this might have seemed to be a very risky investment. However, timing is everything, and by the time work began to prepare this Project element in 2010, there was very strong support in the Ministry for establishing the Unit. It took some time to staff the Unit, and it only became fully operational late in 2011. However, it is now firmly linked to, and supervised by, the *Taqnin* (Legislative Drafting Department), viewed by the Minister of Justice (interview) as the core of the Ministry. In the case of the MOJ TU, careful preparatory work was undertaken, and there is strong ownership for the Unit in the MOJ. The Unit is established, operating, needed and accepted. The initial results have been achieved. As will be discussed below, under capacity development, the next steps will be more challenging, but there has been a good beginning.

C1.6 *Output 2: Capacity of the Government of Afghanistan (GOA) to fulfil its international human rights obligations in a coordinated manner is strengthened.*

The only element under this Output, though a very substantial one, is the support to the establishment and operation of the **HRSU**. As noted above, this initiative was originally planned as a separate project, and, effectively, it has operated as a project-within-a-project, suffering less than other parts of the project from the vagaries of management. The Unit was established in 2010 and integrated into the MOJ *tashkil* in the third quarter of 2011. It has succeeded in blending professional capacity enhancement for its staff with learning-by-doing in moving rapidly into initiating its programme of activities.

The Unit’s core tasks are: working on the review of government laws for compliance with international standards as set out in the international conventions to which Afghanistan is a signatory, while taking into account Islamic values; and, ensuring, through education and monitoring, that the government and its officials are themselves compliant with international

standards. Its mandate is based on a Presidential Decree, approved by the Council of Ministers, prior to receiving the presidential signature in mid-2011.

It has made a good start on its work, and is well-accepted by several Ministries, with which it has signed MOUs for cooperation and the provision of training services. It is viewed by the Minister of Justice and senior officials as of great importance in ensuring that the government is able to take action in responding to recommendations for improvements from international authorities and institutions. Like the TU, it has yet to reach the required standard of professionalism which will enable it to meet the needs of government. However, it has made solid progress, and has exceeded initial expectations. The Project has succeeded in achieving initial results, but it is too early to consider questions of impact.

C1.7 Output 3: *Capacity of District Level Justice Sectors to effectively deliver justice and uphold human rights is strengthened.*

C1.7.1 *PLA and Justice Sector training at district level:* the Evaluation team had the opportunity to interview representatives of several NGOs involved in the Project and to scan the reports which most (though not all of them) provided to the Project. It also met in Jalalabad with selected beneficiaries of the training programmes for a) justice officials and b) community and religious leaders of two of the NGOs.

C1.7.2 It is apparent that the training programs were well-organized, effective and professionally delivered. Facilitators and trainers seem to have been well-qualified. In some cases, training-of-trainer (TOT) courses were given, to ensure that district-level training was led by those from the locality.¹⁹ This preparatory training seems to have been effective, as was the selection of those to be trained as trainers as, for the most part, were the manuals and training materials prepared. However, as was noted in the MTE, there are some elements of the legal content which are outdated, while some sections dealing with the *Sharia* may be of doubtful provenance. The training methodology was designed to maximize participation and involvement of trainees in the learning process, and was viewed extremely positively by trainees.

C1.7.3 Questions are raised below on the results accomplished through the training. Its limited impact is seen, not as a failure of the training courses per se, but, rather, as the consequence of limitations of the initial design for the component, which concentrated in “one-off” training, with no follow-up. As is discussed below, the value of the whole component, like that for PLA,

¹⁹ One organization, *Humanitarian Assistance Muska (HAM)* was contracted to provide training on child rights to teachers, and, through them, to schoolchildren (of about 10 years of age). Its overall project design, methodology approach to teacher recruitment and preparation, based on earlier experience, seems to have been particularly effective and worthy of note.

was diminished greatly by the absence of a capacity development perspective to inform detailed planning (see later discussion in this section of the Report).

C1.7.4 The relevance of the courses, in general, to the trainees is very clearly established. What is readily apparent, whether in the case of local justice officials, or of community and religious leaders, is the very low starting point for all trainees. There is an enormous knowledge gap to be confronted, among both local legal professionals and community representatives. The project certainly made a contribution in responding to an enormous, felt need for knowledge and information. In that the need, on a national basis, is so huge and the supply of training to respond to it so modest in scope, the project certainly made a difference to those who took part. Yet, what is most problematic is that the potential to have an impact on access to justice beyond the individual level, by strengthening the legal system locally and building community demand within given localities, was lost because of the lack of a focused, systematic approach.

C1.7.5 In the Project Document, it was claimed that the Project would pursue “a holistic approach”:

It is essential to have a coordinated, comprehensive, holistic approach to working in a geographic area, rather than a piecemeal approach. This proposed approach coordinates awareness-raising activities, training and infrastructure works.²⁰

Unfortunately, the Project did not live up to the promise, and different programming elements have been prepared with no reference to one another. Project resources have been scattered, limiting their potential impact. The courses represented a beginning in responding to the needs of trainees. The courses were well-regarded and served to stimulate a demand for more. Trainees recognized that the course or courses provided represented only a beginning. Hence, there is a strong demand for follow-up and continuing training, which JHRA could not meet. “Naked training” is *not* capacity development; it should be part of a more comprehensive package, based on a careful needs assessment of a sector, communities, organizations and individuals.

C1.7.6 What was required was a focusing and concentration of training and PLA resources in a smaller number of districts, in order to provide a sequence of courses for identified priority groups, and an agreement with the justice sector institutional partners to link infrastructure investments with an ongoing capacity development initiative, coupled with mentoring and coaching between courses. A scattering of resources may be appealing to UNDP and donors, since it appears that the Project is likely to have a broad impact. In fact, as is recognized by senior justice and judicial officials interviewed for the Evaluation, it reduces the prospect for any impact the Project may have

²⁰ See: *Justice and Human Rights in Afghanistan Project*, Project Document, approved 19 07 2009, p.16.

C1.7.7 The training courses met, at least in part, the needs of participants for information on the law and on the rights of citizens under the law, and on how to act upon and apply the provisions of relevant laws. However, the topics, though relevant, were pre-determined and not based on an assessment of what the primary needs of the specific target groups were. The training is likely to have a short-term impact, as was confirmed by the recipients met by the Evaluation team. However, the ad hoc and short-term nature of the interventions is less likely to have a lasting effect.

C1.7.8 The courses for community and religious leaders provided valuable information on accessing the formal legal system. However, without any change in the performance of the justice system, and without a change in levels of public trust in the law, there is likely to be little effect on access to justice. Rather, a best case scenario is for those involved in the informal justice system to introduce some basic legal and rights concepts to the deliberations of the local *Jirga* or *Shura*. This possible result is not in line with the GOA's priorities, although it is consistent with the intentions of the programming of some other donors, including USAID and UK Rule of Law. It might be noted that, in meetings in Jalalabad, the trainees from Nangarhar Province drawn from the ranks of community and religious leaders indicated to the Evaluators that, following completion of the training, they would advise community members to use the informal justice system for routine disputes. They suggested that they would refer them to the formal justice system and legal aid providers, where available, for exceptional, more serious cases.

C1.7.9 One benefit of the training for justice officials was to bring together those from different disciplines involved in criminal justice for joint training and shared problem-solving. This may well make a difference for those involved. Reportedly, working relations in Jalalabad between prosecutors and defence lawyers are more cooperative than before members of both groups took part in training. Similarly, members of legal staff of the Department of Women's Affairs in Jalalabad feel better able to advise their clients on matters such as inheritance and protection from abuse. However, other donors are supporting programmes which have been working along similar lines, and which are based on longer-term and more systematic engagement. It should also be noted that a further limitation of the value of the training relates to the absence of members of the judiciary. The Supreme Court did not permit members of the judiciary to take part in the training. Invitations to participate were not extended to the police.²¹

²¹ As reported to the Evaluators, the Court is of the view that its own training programmes are sufficient to meet the learning needs of judges. Efforts made by JHRA to secure meetings for the Evaluation Team with the Supreme Court were unsuccessful. A useful Meeting was held with the Chief Justice of the Appeals Court of Nangarhar Province.

C1.8 Construction and Rehabilitation of Justice Facilities:

While facing a wide range of external challenges and internal problems, and after lengthy delays in completing specific construction sub-projects, as indicated in a progress report presented to the Donor Meeting of July 26, 2012, JHRA is well on its way to completing its programme of construction and rehabilitation activities. The limit of the Project Plan was to construct or reconstruct/rehabilitate, equip and hand over a specified list of facilities to justice sector authorities. No results beyond this were projected. According to the AGO, MOJ, and the courts at District level, as exemplified by Nangarhar Province, the facilities fulfil essential needs and are much appreciated.

C2. The quality of the Project's reporting on results: For the most part, reporting has focused on undertaking and completing activities, and not on results.

C3. The quality and extent of both stakeholder and beneficiary participation: The Project's record in its relations with stakeholders is somewhat erratic. At times, the Project's relations with, and reporting to donors, has been very weak. The Project has also failed to be transparent with donors, although this has, in some part, been caused by the inadequacy of its own systems, records and knowledge-base. Matters are now much-improved.

C3.1 After a difficult start, where a senior advisor to the Ministry, funded by another donor, caused considerable trouble for the Project, and where access to senior officials was restricted, relations with the MOJ are now extremely positive. A major factor in this turnaround has been the promotion by the Minister of a member of staff of the HRSU to become a ministerial advisor. The presence of a JHRA international advisor, a *Dari*-speaking Justice and Human Rights Officer, in the Ministry, with responsibilities for government relations, has also been of assistance in improving communications, and enabling the Project to demonstrate its willingness to support Ministry priorities.

C3.2 At district level, while stakeholder relations seem untroubled, the absence of a regular or ongoing Project presence, along with a scattering of activities, has reduced the prospect for building up strong relations with local justice institutions. The missing link on infrastructure has been the establishment of relations with local government.

C3.3 In terms of beneficiary involvement, the Project has not been notable for its efforts to conduct needs assessments or engage with beneficiaries as a step in planning activities.²² In this

²² To be fair, In the PLA work and district-level justice training, all the contacted organizations held some preliminary meetings in the provinces and districts where training was to be carried out. However, none undertook a needs assessment with the designated beneficiaries. Most of the organizations also recruited trainers at provincial level and provided training-of-trainers courses for them.

respect, the prior determination in the Project Document of topics for PLA initiatives was unhelpful.

C4. Assessment of The performance of the Project's capacity development initiatives to determine whether they have been effective in bringing about (or contributing to) positive changes in institutional arrangements, in internal and inter-organizational coordination, or in improved performance of core organizational functions, and/or in the quality of staff work:

C4.1 The limitations of the training programs at district level are clear. As discussed above, It is a misnomer to describe "naked training", without links to other efforts to improve individual and organizational performance and effectiveness, as capacity development.

C4.2 The infrastructure investments are clearly needed. However, in the absence of a link to other efforts (by UNDP or other donors) to work with those who will utilize the facilities, meeting other pressing needs, and without a plan for ongoing maintenance, the longer-term value of the construction or rehabilitation of facilities will be reduced. Once again, there has been a lack of systematic thinking behind project design and operational plans.

C4.3 At the central level, the issues are quite different. There has been one clear failure, one inconclusive initiative, and two which have built well in the initial phase, but where key challenges remain.

C4.4 The effort to establish and integrate the **Translation Unit at the Supreme Court** presents a cautionary lesson concerning the need to prepare the way for such an initiative very carefully. The preparatory process would begin with sustained dialogue with the national partner institution, along with a thorough, collaborative institutional assessment to confirm the need for the initiative, to gain an appreciation of how the product of the new unit would respond to the requirements of institutional clients, currently not met or met inadequately, and to validate the case for creating a new unit. The dialogue would involve not only the senior decision-makers in the institution, but also the probable clients within and outside it, as well as those from other departments of the partner institution, whose support would be necessary. The dialogue would also focus on exploring the probable track towards the unit's integration and longer-term financial support by the Government. It seems clear that such a process did not take place.

C4.5 The support provided by the **Public Legal Awareness Unit (PLAU)** to the Ministry of Justice's own unit with a similar title and the Ministry's *Huquq* Department was focused more on doing a job in preparing a PLA strategy and a plan for a national PLA campaign than it was in building Unit capacity. The initiative began in 2008, under a previous project, and completed its activities in September 2010. When its work programme was completed, and funding exhausted, the Unit was dissolved. It is apparent that the work undertaken by the PLAU made a

worthwhile contribution in building understanding on the part of the Ministry centrally, and at provincial level, of the purpose of PLA and on what a strategy and a national campaign might look like. Beyond this, it is difficult to say more, particularly in view of the involvement of multiple donors in this sphere of activity. While some training for officials was conducted at both central and provincial levels, it is not apparent that the capacity of the Ministry's PLA Unit to fulfil its functions is much enhanced.

C4.6. There are two ongoing initiatives supported by the Project, both involving the establishment of new Units, where salaries and other costs are paid primarily by JHRA: **the Human Rights Support Unit (HRSU) of the MOJ**, and the **Translation Unit at the MOJ**. While the role and status of the Units is quite different, there are some similar issues to be addressed in both cases.

C4.7.1 The idea of the **HRSU** was first developed as an item to be pursued by the MOJ under the ANDS. There was a resource mobilization conference in 2008, and UNDP and the Ministry succeeded in securing donor funds to support the Unit. In 2009, by the time the initiative was launched, it had been absorbed by JHRA. Subsequently, facilities were obtained for the Unit in a building also occupied by some other departments of the Ministry, in the absence of adequate space in the main MOJ building.

C4.7.2 Over time, after delays caused by a period of heightened insecurity in 2009, members of staff with law or sharia degrees and a range of professional experience were recruited and a Head of Unit appointed. An International Advisor was hired as HRSU Component Manager, and she arrived in March 2010, prior to the initiation of the recruitment process. Under supervision of the Manager, a plan was put in place to improve the practical knowledge of the team, while also beginning a work programme which was viewed as a learning-by-doing process.²³

C4.7.3 According to the Minister of Justice, as expressed in a meeting with the International Evaluator, there are **two objectives for the Unit**: a) to scrutinize existing laws against international standards and to make recommendations on proposed amendments, taking into account relevant international practice, while also providing input in the drafting of new laws ; and, b) on behalf of the Government, leading the effort to ensure, through training, advice and review of documents, that the work of GOA ministries and agencies is in conformity with human rights standards, as set out in the international covenants, the Cairo Agreement and other relevant international agreements.

²³ According to the *HRSU Action Plan, 2009-2012*, Staff members were trained on: State obligations under the UN treaties signed by GOA; the linkage of anti-corruption to human rights; the right to development as a human right; human rights and Islam; women's rights in Islam; gender equality and equal opportunities; minority rights; rights of those with disabilities; the human-rights-based approach to development; UN human rights protection mechanisms; the Paris Principles on national human rights institutions; and, the role of the AIHRC in enabling the HRSU to meet its responsibilities.

C4.7.4 This dual mandate is supported by a Presidential Decree, adopted following signature by the President, after approval in mid-2011 by the Council of Ministers. In addition, a regulation is in preparation which will cover all aspects of the Unit's work. It will also require all ministries and agencies to send their major policy, strategy and programme documents and reports to the HRSU to assess their conformity with international human rights standards. The Unit was also integrated into the MOJ *Tashkil* in 2011, and is now included in the Ministry budget (with nominal financial support). Five Ministry employees have been added to the staff complement.

C4.7.5 responsibilities associated with the HRSU mandate are substantial, and the Unit is not yet capable of meeting the expectations associated with meeting the two objectives set out above. It is necessary to bear in mind that the budget for staff recruitment was limited and that those recruited were not human rights experts. They began with little specialized knowledge on human rights, the international conventions, and the support for key provisions of the conventions to be found in Islamic law. Yet, the staff members whose salaries are supported by UNDP through Letters of Agreement (LOA) have been well-selected, and all have a solid basis of education and experience. Unlike many employees of the Ministry, whose education has been insufficient to enable them to take on analytic work, they are eminently "trainable", and their capabilities can be enhanced.

C4.7.6 It is recognized (and this is the view of the Minister) that there has been solid progress over the past two years by the Unit in building its capacity, and demonstrating that it can learn from experience. The work done to date, both in supporting other ministries, and in assessing the areas of domestic law which will require amendment, on the basis of the recommendations of the international treaty bodies, is viewed as satisfactory. At the same time, it is recognized that much remains to be done before the Unit is able to fully grasp its responsibilities. While they are capable of identifying provisions of domestic law which are in violation of the international covenants, as yet, they are viewed as lacking the capacity to offer professional or "scholarly" opinions on commentaries or issues raised by international human rights experts.

C4.7.7 One aspect of the work of the Unit has been to work in consultation with the Ministry of Foreign Affairs in coordinating the GOA's response to the recommendations of international treaty bodies, notably those relating to the UN human rights covenants and the Universal Periodic Review (UPR). During the period of the Unit's operation, the Government has received recommendations from the UPR, the Child Rights Convention (CRC) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).²⁴ The Unit has also undertaken a review of the conformity of domestic law with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The contribution of the Unit has been to develop a

²⁴ According to the *Draft National Action Plan on Implementation of the UPR, CRC and ICESCR Recommendations, 2012-2016*, 143 recommendations were received through the UPR, 40 through the CRC and 40 through the ICESCR.

step-by-step mechanism for reviewing recommendations received and identifying or confirming the specific domestic laws and provisions within them which are in conflict with the relevant international standards. They have also developed, on a consultative basis, a (draft) National Action Plan for assignment of responsibility for follow-up to government ministries and agencies, additional resources required (general) and a timetable for taking action.

C4.7.8 In undertaking this work, the Unit has proceeded on a careful, consultative basis. It has also been supported by UNAMA Human Rights Division, UNICEF, UN Women, the Government of Denmark, AIHRC and others, in developing its approach and in the substantive work. It has also been able to recruit national consultants to assist in preparing the detailed reports. Draft documents are circulated widely for comment, inside and outside government, and the process concludes with a national conference. The process has enabled the Unit to build its own capacity and to obtain expert external advice and support, while also developing a consensus within government.

C4.7.9 In viewing the development of the Unit from a capacity development perspective, the circumstances for its formation were clearly more favourable than in the case of the TU at the SC. There was high-level support for the Unit from the beginning, though careful work has been required from the International Advisor, supported, at times, by the Country Director of UNDP, and other UNDP and UNDP-supported staff, in building and strengthening the firmness of support, both among senior officials and with other departments of the Ministry, and in building rapport with other ministries, including the Ministry of Foreign Affairs and the Ministry of Interior. Both these ministries have human rights units, and might have resented the mandate assigned to the new Unit.

C4.7.10 The Unit now has a good working relationship with the *Taqnin*, the MOJ Legislative Drafting Department, although, initially, there was reluctance on the part of the Department to accept the role of the new Unit. With a new Director of the Department, relations have much improved, and the Head of the Unit is regularly invited to become a member of drafting committees on particular laws with human rights implications.

C4.7.11 The approach adopted for the Unit, led by the International Advisor, in association with the Head of the Unit, has been effective. There is now a strong sense of a shared mission among the team members, and a clear internal organizational structure and division of labour. There is a noticeable eagerness among team members to learn and further enhance their skills. The iterative, learning-by-doing approach to the work programme has enabled them to build their confidence over time.

C4.7.12 According to knowledgeable observers, including those in UN agencies who have provided expert advice, while the Unit is still a work-in-progress, a steady improvement is

visible in the quality of work related to conformity of domestic law with the international conventions, discussed above. As to the work with other ministries, to date, the main focus has been on providing human rights training, geared to the needs of the institution in question. The Ministry of Women's Affairs is extremely positive about the training provided, and is hoping for additional courses to be organized in the near future. Staff members reported to the International Evaluator that the topic focus was very much in line with what was required, and that they have been able to enhance the effectiveness of their work, based on what was learned and the training materials provided.

C4.7.13 The HRSU Component Manager and International Advisor to the Unit has been effective in anchoring the Unit in the MOJ, building its capacities, and providing it with protection and enhancing its external relationships in government. More recently, she has turned over management responsibilities to the head of the Unit. This represents an example of good practice in the utilization of international expertise and experience.

C4.7.14 What is required now is firstly, to develop a plan through which the Unit may be able to move, incrementally, from the standards it has achieved in what may be viewed as the initial phase of its work to a second phase, by the conclusion of which it will be capable of meeting, to a degree, at least, the expectations of the Minister and the Government. Secondly, there is a need to address some gaps in management and organization, developing detailed terms of reference for staff members, clarifying responsibilities by sub-unit, and introducing an annual work (and workload) planning process. It is suggested below that these gaps will best be addressed through a collegial Unit strategy development process (see C5.3–C5.8, below).

C4.7.15 a number of challenges remain concerning the future of the HRSU and to its ability to have an impact on the conduct of governance in Afghanistan²⁵:

- The effectiveness of the “diplomatic work” done by the International Advisor and the Unit’s Head, supported by the positive image established in the eyes of officials from the MOJ and other government institutions as a result of their exposure to the work accomplished by the Unit, has enabled it to establish a strong foundation for its place in the Ministry and the Government. Yet, despite this, and despite the emergence of a few high-level “champions” for the Unit and its role, the state and the political elite are still largely negative in their view of human rights. It is seen by some as “un-Islamic” and a foreign imposition, while others see an emphasis on citizenship and the rights of citizens as a threat to their own power and interests.
- Government employees have a very limited understanding of Afghanistan’s human rights obligations.²⁶ Further, government officials do not see human rights as part of

²⁵ Some of these constraints or challenges were suggested to the International Consultant by the Head and the members of the HRSU in the course of meetings and interviews conducted for the Evaluation.

their own responsibilities. It is viewed as an extra burden, and as something for others to deal with.

- The low absorptive (technical and professional) capacity and educational level of most government employees.
- The absence of accountability in the government system. This acts as a barrier to an appreciation of the importance of human rights, and, more generally, of the government's responsibilities towards citizens. This barrier is further reinforced by a generally conservative political culture.
- At a more mundane level, both within the Ministry, and, more generally, within government, HRSU staff members perceive a sensitivity on the part of government employees who meet them, as in the case of other staff whose salaries are paid from UNDP, World Bank or US project budgets. There is a general sensitivity and resentment towards anyone viewed as well-paid and well-supported.

In summary, it is likely that it will take some years for the capacity required by the Unit to fulfil its mandate and meet stakeholder expectations to be put in place. Further the demand at central government level is already taxing its limited resources. Hence, it will be inadvisable, in the view of the Evaluators, for the Unit to attempt to extend its reach to provincial and district levels under current conditions.

C4.8.1 In the case of the **MOJ Translation Unit**, a lower-profile initiative, its establishment has been more rapid. It was established in 2010 and, after many months of patient efforts, finally succeeded by December of 2011 in filling its roster with six qualified translators, including one senior translator, to provide translation and interpretation services in Dari, Pashto, English and Arabic. The Unit fills an urgent need experienced in the Ministry and in the GOA more generally for expert translation and interpretation services.

C4.8.2 On the basis of a request from the President, The Minister is now seeking to expand the size of the Unit, even as it finds its feet, to enable it to provide support across the government. Following the precedent set in the case of the HRSU, It is hoped that the TU will be integrated into the MOJ *Tashkil* quickly. The Unit is now linked directly with the *Taqnin*, the Legislative Drafting Department, and supervised by its Director.

C4.8.3 As with the HRSU, while the Minister and the Ministry are positive about the work being done by the TU, it is recognized that the quality of work is not yet at full professional standard. The salaries offered to recruits to the TU were substantially better than those of government employees, yet substantially less than market rates. As a result, the Unit has not been able to

²⁶ The depth of this knowledge gap should not be underestimated. According to the Ministry's Training Department, there is an urgent need for Division Directors in the Ministry of Women's Affairs to receive HRSU training on the basics of CEDAW and the CRC.

attract the interest of those with top credentials and experience in professional legal translation and interpretation. Instead it has acquired the services of a group with law or sharia degrees and good, practical language skills.

C4.8.4 It is a group which is not yet at the necessary level of professionalism, but which has the capability for improvement, and which is looking for opportunities to enable them to do so. None of the members of the TU team have received any training in professional translation or interpretation methods.²⁷ The MOJ and the Unit Head are currently exploring the possibility of contracting the University of Kabul to organize a professional translation course to strengthen the team's skills and knowledge-base.²⁸

C4.8.5 As yet, most of the translation work completed has consisted of contracts and agreements for the *Taqnin*, the Ministry and the Ministry of foreign Affairs. The benchmark which the TU is expected to meet is the ability to produce authoritative, professional quality translations (from English and Arabic to Dari and from Dari to English) of international agreements and laws. This standard is not yet within the reach of the Unit, and it will be a challenge to achieve it. As the Minister of Justice commented, in a meeting with the International Consultant and the JHRA CTA, "we are placing a heavy burden on the Translation Unit." For all this, continued investment in the development of its capacity provides the best prospect for the Ministry and the Government to address a serious gap in its competency for engaging with the international community and adjusting its practice to more closely resemble international standards and norms.

C5. Capacity Development and Sustainability: Moving Forward: The difficulty UNDP faces in the case of both the HRSU and the TU is how to strengthen effective integration with the MOJ, while continuing to build capacity in order to reach the necessary standard of performance. Both Units have been built, in part, by paying substantially more for staff (primarily through LOAs) than the government pay scale would permit. A plan to convert all staff positions to

²⁷ Despite this, the International Consultant was entirely satisfied with the quality of interpretation provided by a member of the team in two meetings, including one with the Minister of Justice.

²⁸ Professional translation and interpretation are new to Afghanistan. There is no education or training program to prepare professionals in this field, and UN interviewees for the Evaluation report that it is impossible to find a legal translator. According to a high-level source, recently a high-level meeting was held at MOFA, involving the Ministry and ISAF. The meeting was important, as was the agreement arrived at in the course of proceedings. Both parties brought their own interpreters, and they were given the responsibility for translating the minutes of meeting. The quality of the translation was deemed unacceptable by both parties. It was agreed that the document would be sent to the US for professional translation.

government employee positions, without a fundamental reform of government position rankings and salary scales would result in the loss of all capacity built.²⁹

C5.1 For UNDP with its commitment to the National Implementation Modality (NIM), what is required is a plan to gradually transfer budget responsibility to the MOJ, while retaining a measure of control over staffing standards and with the maintenance of measures to retain qualified and trained staff. In the medium term, it will be essential for the government, through the Civil Service Commission, to introduce a more sophisticated staff position ranking and pay scale system, recognizing merit, professional and technical skills and the need to take into account market rates for similar work in setting pay scales. Of course, the GOA's capacity to raise revenues to support such measures will be critical.

C5.2 In the short and medium term, it will be important for UNDP and donors to understand that the capacity building process for the two units, and a plan for incremental transition to government control, will require an extended time scale. The building of organizational and individual capacities and the establishment of supportive cross-organizational networks are complex, multi-dimensional processes which do not follow a set timetable. Further, even under optimal conditions, the GOA will not be able to build a budget adequate to support a modern governance structure for some years. Even given the best of circumstances, realistically, the time required is likely to be in the order of at least 5-10 years, and not the 1-3 years of current donor funding allocations.

C5.3 It is important for UNDP, JHRA and the donor community to recognize the scope and level of the responsibilities assigned to the HRSU and TU by the Ministry and the government, more widely. Both are expected to become centres of excellence – though of very different kinds - with a government-wide mandate. The gap between what the government expects in terms of standards of performance and volume of work to be undertaken, on the one hand, and the current capabilities of the Units, on the other, is very wide.

C5.4 Both have considerable potential, but a long way to go, and there is always the risk of failing to meet expectations. Because of this, and the extent of the distance to be covered in achieving desired performance levels, it will be essential for JHRA to support each Unit in developing a practical low-key strategy as a working document to guide the step-by-step journey to be made. It will also be important to work closely with the Ministry and Government, as well as with donors, in ensuring that there is an understanding that there is no “quick fix” to building towards the desired standard to be achieved by each Unit.

²⁹ Interviews conducted for the Evaluation revealed that, In the case of another UN agency, which had nurtured an important national initiative in support of other ministries, a plan to make the transition of the organization established to government ownership, when implemented recently, had just this result.

C5.5 One of the assets of both of the Units is the team approach that has been nurtured in taking on assigned responsibilities. Hence, it will be advisable for the strategy for each Unit to be developed collegially, and in consultation with Ministry and other MOJ and government stakeholders. Its purpose will be to assess where the Unit stands now, and the stock of collective and individual capacities. It will list the tasks and the level of performance which can be accomplished now, collectively and individually (baseline), and set benchmarks for incremental progress, spelling out the set of tasks or accomplishments which will constitute the next level of capabilities and performance to be achieved for the Unit, the sub-units (HRSU) and individual members of staff. It will then identify which additional skills or capabilities the group and individuals within it will need to acquire in reaching the next level³⁰, and then identify which actions the Project can take to assist them to reach that level.

C5.6 In the case of the HRSU, along with this will go a reassessment concerning how best to organize and divide the labour within the Unit to achieve the targets set. This will provide a basis for developing and/or revising terms of reference for individuals and, in the case of the HRSU, sub-units. The process will also provide the basis for devising Annual Work Plans (in consultation with the MOJ). The process of defining a baseline should also ensure that the AWP contributes to assisting each Unit to reach the next level, while also setting out a realistic approach to the work to be completed and the level of accomplishment which may be expected.

C5.7 Progress in capacity development is seldom a linear process, but it will be possible to set out a transition track for steady improvement, with benchmarks to be achieved along the way. In the short term, pushing to achieve concrete results, rather than incremental improvement, will be futile. The tracking matrix will require regular adjustment, depending on internal and external developments.

C5.8 If the HRSU is to be effective, it will also be advisable for UNDP and/or other donors, to consider provision of assistance to closely-collaborating ministries, including MOFA and MOI, to ensure that they are in a position to work effectively with the Unit. In other words, UNDP and other donors may wish to consider providing modest levels of support to the Human Rights Units and Gender Directorates in a few key ministries. However, in order for donors to justify this, it will be necessary for the ministries concerned to demonstrate a higher level of commitment to the importance given to human rights within their own organizations than is

³⁰ In some cases, this may require recruitment of additional staff. It may also require the establishment of external advisory groups, and the engagement of senior external experts to provide guidance and input in some areas. The possibility of “twinning” arrangements with units in other countries with comparable mandates and a track record of strong performance may also be given consideration. Alternatively, the twinning relationship might take place with a high-profile non-government organization or university centre with the appropriate expertise and experience, and which will also be in a position to establish supportive linkages with the host-country government.

evident at present. As AIHRC has pointed out, the absence of a human rights strategy for the government as a whole serves to undermine the effectiveness of all efforts to enhance government performance in this sphere.

C5.9 Until such time as the government is able to collect revenues sufficient to fund its operations, none of the Project investments will be sustainable financially. However, given the fact that Afghanistan remains dependent on the international community for approximately 70-80 per cent of its revenues, this is also true for the position of the Ministry of Justice, other Ministries and provincial and district level government, the Afghan National Army and the police. Long-term international funding will be required to maintain all institutions, including the Units established and the facilities constructed or rehabilitated through the Project.

C6. The Project's Success in building effective programming partnerships which contributed substantially to results, as well as the prospect for longer-term impact:

The Project's most notable achievement in the building of strong, enduring and effective programming partnerships has been that established with the Ministry of Justice, where working relations and cooperation are very good. There is also now strong ownership for programming innovations. However, the partnership will require continuing work in broadening the base of ownership and engagement. A possible changing of the guard at the highest level could cause major difficulties. Cooperation with other UN agencies, including UNAMA rule of Law and Human Rights, UNICEF and UN Women, has been strong and of real practical value to the Project. Closer coordination, if possible, with the projects of other donors supporting PLA and the training of Justice Sector officials, as well as with government, at district level would have been of assistance in informing Project strategy in this sphere.

3D. Impact

D1. The Project has not had a direct and immediate impact on the quality of justice and human rights for citizens. However, it has contributed, to some degree, to improving the enabling environment for provision of justice and protection of human rights, particularly through investments in priority infrastructure.

D2. For the key capacity development investments made in the MOJ: namely the HRSU and the TU, there is the prospect of making a difference in the longer term, most obviously in the case of the HRSU.

4. Lessons Learned and Recommendations

4.1 Lessons Learned

4.1.1 The Project experienced many difficulties during implementation, and many weaknesses in Project strategy are apparent. Many of the problems that arose resulted from deficiencies in initial planning and organization. Among lessons to be learned from the experience are the following:

- The need for attention by the UNDP CO “at the front end” in ensuring that Project plans are adjusted to take into account the reduced budget compared with that anticipated;
- Similarly, the need for the CO to ensure that its projects are equipped with an appropriate strategy and methodology for implementation, based on the key objectives and approaches set out in Project plans, and to which Government partners and donors have agreed.
- The need for UNDP to provide quality assurance throughout both Project planning and implementation stages to ensure that key stakeholders, including Government partners and donors, may have confidence that all possible steps are being taken to optimize Project effectiveness and efficiency.
- Associated with the previous lesson is the need for UNDP CO to ensure that it has access to the necessary expertise and experience in its major programming sectors, as well as in Project management and reporting, in order to fulfill its responsibilities in terms of quality assurance.
- UNDP will lose credibility in the eyes of donors and other stakeholders where it does not ensure that its projects are capable of effective financial management and of providing accurate and up-to-date financial reporting.
- Major difficulties may arise where UNDP procurement mechanisms are not adjusted to take into account the particular challenges of operating in a national environment where corruption is a constant threat to the integrity of public contracts.
- UNDP Afghanistan lacks the professional and technical capacity to undertake infrastructure work directly, and should avoid making further commitments in this sphere unless and until it builds a substantial capability for taking on the requisite responsibilities.
- Both for the Project as a whole and the sub-projects and/or components within it, a key lesson of the Project (on the basis of both positive and negative experiences) is the virtue of a collegial approach to management and the benefits to be obtained from building a strong commitment to a shared endeavor. The ability and willingness of managers and staff members alike to work with others collegially and to share information is an item often listed in recruitment notices. Despite this, it is often treated as a given. The experience of JHRA suggests the benefit to UNDP projects of taking seriously this dimension of individual capacities and characteristics.

- Both for UNDP and for JHRA, the experience of the Project (again, both positive and negative), demonstrates the priority which must be given to investing in building and maintaining effective working relationships with both Government partners and donor representatives. At times during the Project, both felt taken for granted. Where donors are concerned, it is important to recognize that the key partners for UNDP are often not senior diplomatic representatives, but those who sit on project committees, whose views will often inform dialogue with headquarters on funding decisions and programming priorities.
- A project which is short-staffed on a persistent basis will seldom live up to expectations. Despite the many problems identified in the Evaluation, the members of the Project team all worked exceptionally hard and were often stretched to get things done on schedule. However, under these circumstances, some important issues are likely to be left aside or ignored. It is the responsibility of UNDP management to Government partners and to donors alike to ensure that its projects are properly staffed and adequately managed.
- Particularly given that all of the Project's outputs were framed in terms of capacity development, the Project was short of expertise in this sphere and in shaping, and advising on how best to achieve, results, as well as in framing results realistically. Similarly, at times, the Project would have benefited from additional, sustained inputs of external expertise in key substantive areas central to the two components. In a sphere of engagement (ROL and human rights) where there is limited expertise and experience in the country, advances will be unlikely to occur without strategic and carefully-judged inputs of relevant technical assistance and/or major investments in education and long-term training.
- The Project Document indicated that JHRA would operate on the basis of a "holistic" and integrated approach, building links across its components, so that Project inputs would reinforce one another. As noted above, this did not happen in practice. A lesson to be learned is that when a Project is not built and managed on the basis of a well-defined and realistic results framework, its approach to implementation is likely to be an ad hoc one. For UNDP the experience of JHRA points to the advisability of ensuring that its projects are built and managed on the foundation of a sound results framework. It is understood that, with the support of UNDP New York, JHRA is taking this approach in planning for its next phase.
- As to sustainability, the lesson of JHRA is that, whatever the preferred timetables of donors may be, realistic plans for achieving both capacity development and government integration objectives will unfold over a 5-10 year period and possibly longer.

4.2 Recommendations (Preliminary)

It is recommended that:

4.2.1 - UNDP Afghanistan strengthens its capacity to provide quality assurance in the approval of Project Documents, monitoring of project progress and the management of project budgets.

4.2.2 – UNDP Afghanistan ensures that Annual Reports contain detailed financial reports, enabling both UNDP Country Office (CO) and international donors to determine how much has been spent and on what, with clear explanations provided for any variance from projections set out in Annual Work Plans (AWPs)

4.2.3 – UNDP CO recognizes and acts on its responsibility (to the best of its ability) to ensure that projects are properly staffed and effectively managed.

4.2.4 - In view of the deficiencies of the Project as set out here, as well as the challenges to come, particular attention should also be given to ensuring that the Project has access to the services of recognized experts in capacity development/institutional analysis and monitoring and evaluation, as well as in specific areas of justice and human rights (It is understood that these gaps have already been recognized by the new CTA).

4.2.5 – in the next phase of the Project, JHRA and the UNDP CO ensure that all members of staff, national and international, have detailed and relevant terms of reference (TORs), with clear expectations set for performance. Given the changing dynamics of public life in Afghanistan, it will be essential to review the TORs on an annual basis.

4.2.6 – As a priority, with the support of JHRA management and possibly external facilitation, and in consultation with the Ministry of Justice and other stakeholders, **HRSU** and the **MOJ TU** prepare low-key, practical strategies to inform AWP and the terms of reference for sub-units and individual members of staff (In the case of the TU, it is understood that the AWP cannot anticipate the actual assignments which will be given). ***It is further recommended that*** the strategies be developed in collegial fashion and that their development be used as a focus for a stocktaking of what each Unit has accomplished and an appraisal of how it can move forward in incremental fashion, step-by-step, in working towards the ultimate objectives set for it.

4.2.7 One of the limitations of the effectiveness of the HRSU, and a barrier to further progress, is the weakness of mechanisms to provide leadership in human rights and gender equality in other ministries and government institutions. Given its responsibilities, this gap is most problematic in the case of the Ministry of Foreign Affairs (MOFA). ***It is recommended that***, in consultation with the Ministry of Justice and the Ministry of Women’s Affairs, UNDP, UN Women, JHRA and other donors give consideration to providing support to strengthen the

human rights and gender directorates of other ministries, with priority consideration given to the human rights unit of MOFA.

4.2.8 Given the considerable challenges facing the HRSU as it builds capacity to take on its mandate within central government, ***it is recommended that*** the MOJ and JHRA exercise caution in contemplation of plans to extend HRSU assistance to provincial and district level at this stage.

4.2.9 – UNDP apply NIM principles in its support to the HRSU and Translation Unit at the Ministry of Justice only on a careful and incremental basis. ***It is also strongly recommended that*** JHRA and UNDP develop a realistic transition plan (to be reviewed and updated annually) for both Units to complete government financial and human resource integration to extend over a 5-10-year period. To seek to finalize the transition earlier will jeopardize the future of the Units as well as the capacity built.

4.2.10 – Given that NIM requires the designation of only one Ministry or Agency, normally part of the Executive, as the responsible partner for its projects, UNDP builds on an idea it has raised in reporting to donors on actions taken to respond to the MTE earlier this year, and establish a Project Advisory Board for the next phase of the JHRA. The Board would enable the other core institutions in the justice sector, the Supreme Court and the Attorney General’s Office, to have a formal role in Project governance structures, while also formalizing relations between such bodies and the JHRA. Alternatively, UNDP and UNAMA’s Rule of Law and Human Rights Units might establish a broader Rule of Law and Human Rights Sector Advisory Board (this recommendation might also be linked to the Next item).

4.2.11 – UNDP Afghanistan (with JHRA) and UNAMA Rule of Law, in cooperation with UNAMA Human Rights, assess on a broad consultative basis the feasibility of taking a more active and engaged approach to providing leadership in donor coordination and information-sharing. If this initiative is to be pursued, dedicated resources should be assigned, through the JHRA budget, to providing ongoing support to research, information-sharing, communication and dialogue.

4.2.12 – Given the need to assure donors of the credibility of its systems, as well as the possible vulnerability of its procurement and bid evaluation processes for managing ITBs, RFPs and RFQs, UNDP Afghanistan seek the assistance of UNDP New York in assessing the adequacy of current systems, bearing in mind local conditions, and drawing on best practices in UNDP and the UN network worldwide.

4.2.13 – In that there may have been vulnerability to abuse and fraud of the system in use at the UNDP CO for procurement in activities and sub-projects supported by the JHRA, and given the significant budget involved, UNDP New York be requested to conduct a comprehensive

management audit of the Project, including an appraisal of CO procurement records. *It must be emphasized that no wrong-doing or abuse of the system has been identified at this point, but the possibility is certainly there.*

4.2.14 – Given that UNDP Afghanistan lacks the in-house capacity, experience and know-how to manage infrastructure projects, it cease undertaking such activities.

4.2.15 - It is understood that both UNDP and some international donors object to paying the UN OPS GMS fees for providing construction services. However, given the pressing need for investments in further justice sector infrastructure in Afghanistan, ***it is recommended that*** UNDP and other donors make an assessment of OPS in relation to other options. Since UNOPS is required to be self-supporting, it is suggested that the fees charged by the organization may not be unreasonable, given its proven record and the costs of other options.

4.2.16 – Given the low levels of general government capacities, and the high level of expectations for the new Units established by the JHRA Project, UNDP and JHRA work closely with donors and Government alike in establishing a shared and realistic understanding of the extended time period necessary for the achievement of desired capacity development results.

4.2.17 – In support of the JHRA’s future capacity development objectives, it give careful consideration to the feasibility of establishing institutional twinning relationships, linking departments, divisions or units of GOA Ministries and/or other Agencies and State Institutions with counterparts elsewhere. Alternatively, twinning relationships may involve high-profile non-government organizations or university centres in donor or “third” countries, which possess the relevant experience and expertise, and which can also facilitate appropriate linkages with the host-country government. Such twinning relationships may be of particular interest to donors, which may be interested in taking on financial responsibility for supporting particular linkages.

4.2.18 – In that the Teams engaged in both the Mid-Term and the End-of-Project Evaluations have commented on the insufficient time allocated for completion of the work, ***it is recommended that*** UNDP Afghanistan reconsider its approach to determining the level of effort for evaluations of substantial projects.

N.B.: It is beyond the scope of the Evaluation to make recommendations, beyond those above, on the approach to the design of the next phase of JHRA. This is particularly the case since planning is already well advanced. However, once the Evaluation Report is accepted, the International Consultant is willing to provide input to future plans, if requested, and where such advice may be helpful.

Appendix 1: The Process for Subcontracts, ITBs, RFQs and RFPs

A. Subcontracts: Invitations to Bid (ITBs), Requests for Quotations (RFQs), and Requests for Proposals (RFPs):

Interviews with the Program team revealed that most of the JHRA contracts for its sub-projects are **solicited** and awarded on the basis of a competitive process, through sub-projects' ITBs and RFPs are issued, with notices placed on the UN and ACBAR websites. However it was also reported that, in most cases, the RFQs are released on a Limited Competition basis: that is, the RFQs are distributed to selected companies through Limited Time Agreements (LTAs), rather than through announcements on the websites.

The sub-contracts are awarded by the UNDP CO's CAP Office (Contract, Assets and Procurement Office) under the JHRA District Level Component DLC for construction activities (ITBs and RFQs), and Public Legal Awareness (RFPs for Training, etc.) – on the basis of the following steps:

Construction projects (ITBs):

- The government at the central level requests facilities (construction or rehabilitation and furnishing) for specified provinces/districts.
- The initial assessment is done by the Project Engineering Officer. However in some insecure areas like Nangarhar and Kunar, the Supreme Court Engineer has completed this initial assessment.
- The Project Engineering Officer works on Designing, Architectural and Technical Drawings, Quantity/Cost Estimation, Technical Specification and Preparation of the ITB and Tender documents.
- Tender documents are submitted to UNDP Country Office Procurement Unit.
- The Procurement Unit reviews the ITB documents and provides feedback to the Project. Once any necessary adjustments are made, it announces the ITB and calls for Bids. Once received, Bid documents submitted are delivered to the Evaluation Committee.
- The Evaluation Committee - consisting of the Project Manager (or equivalent), Project Engineer, and representatives of the UNDP CO Procurement and Contract Units - works on the Preliminary Evaluation, Technical Evaluation, Arithmetical check and cost comparison, Preparation of the CAP form, and Provision of CAP required documents. The completed documentation is then submitted to CAP (Contract, Assets and Procurement), a unit in the UNDP Country Office.

Procurement of Furnishing etc... (RFQs):

- The requests from the central level government for district court and justice facilities also include details of furnishing requirements.
- An RFQ is prepared, based on the needs assessment prepared by the Engineering Officer. It is reviewed by the Project Manager (or equivalent), and is then submitted to the UNDP CO Procurement unit.
- The Project team reported that most of the RFQs are issued to only selected companies on the basis of Limited Time Agreements (LTAs), to save time in the procurement of furnishings.
- If the RFQ is not processed through an LTA, then the Project Procurement Focal Point in UNDP CO is responsible for releasing it on relevant sites.
- The Evaluation team selects the lowest priced quotation, and if the cost reaches \$300,000 or above, then the CAP is responsible for any further procedures required.
- For costs from \$30,000 to \$300,000, UNDP CO requests a Purchase Order (PO) in the system and approval from the relevant person: e.g. for a PO costing <\$30,000 is approved by the Finance Department in UNDP CO; for amounts above that, the PO must be approved by the Deputy Country Director.

PLA/Training etc... (RFPs):

- The project team prepares RFPs based on the Project Document, with terms of reference included.
- The RFP is submitted to the UNDP CO Procurement Unit, where it is reviewed and amended, if required.
- The UNDP CO Procurement Unit announces the RFP on websites (UN and ACBAR); the notice is also circulated to some relevant NGOs well-known to UNDP.
- The Procurement Unit receives the proposals. It then establishes a committee to evaluate proposals, consisting of representatives of the Project, along with UNDP CO Programme and Procurement representatives, to open the proposals from NGOs.
- The Evaluation Committee selects an eligible NGO, or NGOs, based on, first, the technical proposal, and then the financial proposal, and reports the decision to the CAP.
- The CAP invites representatives of the Project, UNDP CO Programme, procurement and Finance to review the proposal of the selected NGO. If the CAP certifies the qualification of the NGO, they approve the proposal up to the cost of \$300,000. If the cost is higher, they approve it and send it to UNDP senior management for further approval.
- Upon the approval of the selection decision, the Procurement Unit is asked to prepare the project contract for signature.

Appendix 2: Financial Expenditure Analysis

A. Financial Analysis:

The Financial overview of the project was conducted by the National Consultant in cooperation with the Project Finance Officer, who also generated a record of the financial disbursements (General Ledger) from the Accounting system. This record outlined all the financial disbursements throughout the project life. The data was then sorted out on different years (2009 – 2012) in different sheets, for the following 4 Outputs of the project, which includes 1 internal output:

Output 1: The capacity of national justice institutions to effectively deliver justice and uphold human rights is strengthened.

Output 2: Capacity of the Government of Afghanistan (GoA) to fulfil its international human rights obligations in a coordinated manner is strengthened.

Output 3: Capacity of district level justice sectors to effectively deliver justice and uphold human rights is strengthened.

Output 4 (*Internal*): Sound Project Management.

- 2009:

No records were found for an Annual Work Plan for this year. However, the following provides a record of disbursements in this year:

	Budgeted	Expenditure	Variance	% Remaining
Output 1		\$ 154,979.39		
Output 2				
Output 3		\$ 645,924.08		
Output 4		\$ 83,342.50		
<hr/>				
Total		\$ 884,245.97		

- 2010:

According to the AWP, a total of \$7,223,929.00 (included 7% GMS fee) was budgeted for this year; from which only \$4,433,692.26 were spent, resulting in 38.62% of the planned budget remaining unspent. According to Project progress reports, the reason for this “under-spend” was, the slow progress in the recruitment of qualified translators for MoJ (due to lack of applicants per the MOJ proposed criteria). On the other hand the costs for the construction activities were over-estimated, and fewer projects were than planned

were underway. It should also be recalled that Project activities were largely on hold, for security reasons, in the early months of the year.

	Budgeted	Expenditure	Variance	% Remaining
Output 1	\$ 873,448.00	\$ 666,593.13	\$ 206,854.87	23.68
Output 2	\$ 1,070,175.00	\$ 814,808.49	\$ 255,366.51	23.86
Output 3	\$ 3,614,971.00	\$ 1,831,578.75	\$ 1,783,392.25	49.33
Output 4	\$ 1,665,335.00	\$ 1,120,711.89	\$ 544,623.11	32.70
Total				
	\$ 7,223,929.00	\$ 4,433,692.26	\$ 2,790,236.74	38.62%

- 2011:

In this year, according to the AWP a total of \$5,621,961.00 (included 7% GMS fees) was budgeted, of which, according to the financial records, only \$3,447,795.84 was spent, resulting in 38.67% of the projected budget remaining unspent. According to Project progress reports, and through comparing actual costs to those set out in the AWP, it appears to be the case that the main reasons for this “under-spend” were: (i) the over-estimation of costs for MoJ TU, as a result of recruitment challenges; and, (ii) the delay in activities and corresponding payments under DLC Infrastructure and PLA activities.

	Budgeted	Expenditure	Variance	% Remaining
Output 1	\$ 200,097.00	\$ 5,750.61	\$ 194,346.39	97.13
Output 2	\$1,132,832.00	\$ 954,245.29	\$ 178,586.71	15.76
Output 3	\$3,342,258.00	\$1,821,640.79	\$1,520,617.21	45.50
Output 4	\$ 946,774.00	\$ 666,159.15	\$ 280,614.85	29.64
Total				
	\$5,621,961.00	\$3,447,795.84	\$2,174,165.16	38.67%

- 2012:

According to the AWP a total of \$2,463,599.00 (included 7% GMS fee) for the two quarters of the year 2012, from which, according to the financial records available, \$2,069,495.51 was disbursed. With this, 16% of the intended costs for the two quarters of 2012 remained unspent. The reason for this lesser “under-spend”, as compared to the previous years, is the over-estimation of costs for MoJ TU and HRSU; and lesser disbursements than intended in the DLC construction projects. The reason for the lesser amount spent under DLC was primarily because most construction activities were halted due to the unusually cold winter season, with heavy snowfall, especially during the 1st quarter. As a result, the construction companies could not deliver the expected work.

	Budgeted	Expenditure	Variance	% Remaining
Output 1	\$ 114,918.00	\$ 77,816.31	\$ 37,101.69	32.29
Output 2	\$ 595,188.00	\$ 473,061.47	\$122,126.53	20.52
Output 3	\$1,328,365.00	\$1,175,423.00	\$152,942.00	11.51
Output 4	\$ 425,128.00	\$ 343,194.73	\$ 81,933.27	19.27
Total				
	\$2,463,599.00	\$2,069,495.51	\$394,103.49	16.00%

Appendix 3: List of Interviews and Meetings

Note: For most of the time of the field mission, the National Consultant focused on a separate schedule, concentrating on the process for the construction program supported by the Project, as well as broader issues in staffing, finance, procurement and expenditure tracking.

1. July 7, Saturday: International Consultant arrives at Kabul via Istanbul.

2. July 8, Sunday

a) Initial briefing meeting with JHRA team;

b) Introductory meeting with Jan-Jilles Van der Hoeven, Senior Deputy Country Director, UNDP.

3. July 9, Monday

a) Meetings at Ministry of Justice (MOJ):

- Dr. Abdul Rauf Herawi, Director of Taqnin (Legislative Drafting Department);
- Mr. Mansoori, Advisor to Minister;
- Mr. Assad Wahadat, Director of Legal Aid Department;
- Mr. Azimi, Head, Public Legal Awareness Unit;
- Dr. Professor Shah Wali Ataye, Director of Policy, Planning and Foreign Affairs.

b) Planning and discussion with National Consultant.

c) Marije Van Kempen, Justice & Security Analyst, BCPR, UNDP New York (on mission in Kabul).

4. July 10, Tuesday

a) Meeting with Human Resource Support Unit (HRSU)

All professional staff members participated in the meeting, along with the Head of the Unit, Mr. Hassan Ali Faiz. The JHRA HRSU Component Manager and Justice and Human Rights Specialist, Ms. Shahriniso Najnetdinova, joined the meeting later.

b) Briefing on Evaluation Design and Work Plan to donor and Stakeholder Meeting at UNDP Country Office (CO).

5. July 11, Wednesday

a) NATO rule of Law Programme, Field Support Unit Afghanistan: Colonel Ben F. Klappe, Chief of Staff; Lieutenant Colonel John R. Stark, US Army; Captain Tyler C. Jost, US Army.

b) UN Women: Sebghatullah Ebrahimi, Deputy Programme Manager; Juma Paiman, Programme Officer.

6. July 12, Thursday

a) Meeting with DLC PLA Providers: Dr. Riaz Ahmed, Director of OSDA; Mrs. Aziza Mohamud, Director, Humanitarian Assistance Muska (HAM); Mrs. Parveen ?, FMG.

b) Update and review discussion with National Consultant.

c) Embassy of Canada, Department of Foreign Affairs and International Trade (DFAIT), Emily Burns and Jim Stark.

7. July 13, Friday

Ms. Sharhiniso Najnetdinova, JHRA, HRSU Component Manager and Justice and Human Rights Specialist (at Green Village)

8. July 14, Saturday

- a) Travel to Jalalabad with Ms. Julie van Dassen, Regional Justice and Human Rights Specialist, Zubair Qani, JHRA M&E Officer, and National Consultant.
- b) Ali Afgher Afghani, Deputy Director, Appeals Court, Nangarhar Province.
- c) Meeting at Department of Women's Affairs, Nangarhar Province: Mrs. Al-Haj Anisa "Imrani", Director; Mrs. Mahtab Malik Zia, Specialist; Mrs. Mah Jan, General Manager.
- d) Meeting with NATO Rule of Law Field Support team, Nangarhar: Major Carrie Fletcher; Major Marshall Anderson; and, Sergeants Nate Rasch and Mike Smart.

9. July 15, Sunday

- a) Meeting in Jalalabad with beneficiaries of PLA and Justice training organized by OSDA and FMG (Feroogh Media Group): Mawlawee Subanullah; Malik Mohammad Naseem; defence lawyer Saniullah; Mr. Amrullah of Provincial Legal Aid Board (Government); Mr. Maroof, CDC member for Batikot District; Mrs. Sabira, Member of Legal Department, Department of Legal Affairs; Mr. Haseebullah, Attorney General's Department, trainer.
- b) Chief Justice of Court of Appeal, Nangarhar Province, Fazed Hadi Farzal.

10. July 16, Monday

- a) Professor Dr. Rafullah Bidar, Programme Manager, Jalalabad Region, AIHRC.
- b) Return travel to Kabul.
- c) Dr. Sima Samar, Chairperson, AIHRC.

July 17, Tuesday

- a) Meetings with HRSU:
 - Legal Review Unit;
 - Monitoring & Evaluation Unit;
 - Education and Training Unit;

- Internal Issues Unit (HR, IT and Finance);
- Hassan Ali Faiz, Head of HRSU.

b) Meetings with MOJ Translation Unit:

- Hashmat Sediquee, Head of Unit;
- Group meeting with the 5 staff members of the Unit.

July 18, Wednesday

a) Human Rights Division, UNAMA: Abduk Ahrar Ramizpoor, Human Rights Officer; and, Najeeb Rahman Manalai, Human Rights Officer.

b) Update and review meeting with National Consultant

July 19, Thursday

a) A. Wakil Aminy, Deputy Attorney General.

b) UNICEF: Ms. Micaela Pasini, Head of Child Protection; and, Najibullah Hameem, Child Protection Specialist.

c) Ms. Julie van Dessen, Regional Justice & Human Rights Specialist, JHRA;

d) Dr. Doel Mukerjee, CTA, JHRA.

July 20, Friday

Ms. Pia Lignell, Deputy Country Director, Swiss Agency for Development and Cooperation (SDC).

July 21, Saturday

a) Meeting at Camp Gibson with Afghanistan Justice Sector Support Programme (JSSP), US Department of State, INL Contractor, PAE: Ms. Tara Stratton Neal, justice Advisor and Section Lead, MOJ Assistance Section; and, Rick Parker, Justice Advisor to MOJ.

b) Work on interim draft report.

July 22, Sunday

- a) Ms. Sameena Bhatia, Public Administration and Justice Programmes, World Bank.
- b) Minister of Justice, Habibullah Ghaleb.
- c) Mr. Mansouri, Advisor, MOJ.
- d) Abdul Basir Oria, OIC, ROL, UNDP Afghanistan

July 23, Monday

- a) Mrs. Saida Sadat and team, Training Department, Ministry of Women's Affairs.
- b) Professor Dr. Mohammad Qasim Hashimzai, Senior Advisor (and former Deputy Minister, MOJ.
- c) Ms. Stephanie McPhail, Head, Rule of Law Unit, UNAMA.

July 24 & 25, Tuesday and Wednesday

Report writing

July 26, Thursday

- a) Presentation of Draft (Interim) Report to Donor and Stakeholder Meeting at UNDP;
- b) Debriefing and discussion with Jan Jilles van der Hoern, Senior Deputy Country Director-Programme, UNDP Afghanistan

July 27, Friday

No meetings

July 28, Saturday

- a) Making adjustments to Draft (Interim) Report and submission to JHRA and UNDP.

b) Dr. Doel Mukerjee, CTA, JHRA.

July 29, Sunday

Depart from Kabul for Istanbul.

August 17, Friday

Telephone interview with: Ms. Zoe Leffler, Attaché, Justice, Rule of Law and Policing, EU Delegation to Afghanistan, European Commission, Brussels. (N.B. : Most members of the delegation have been relocated to Brussels).

Appendix 4: List of Documents Consulted

1. JHRA Project Documents

- JHRA Project Document, 26 June 2009-30 June 2012, approved 19 July, 2009;
- JHRA Annual Reports, 2010 and 2011;
- JHRA Quarterly Reports, Quarters 1, 2 and 3, 2011 and 1st Quarter 2012;
No documents for 2009 are available, and no quarterly reports were produced for 2010. The Annual Report for 2009 is listed in both the 2010 Annual Report and the Mid-Term Evaluation, but could not be located.
- JHRA Update Note to Donors on Actions Taken in Response to Recommendations of the Mid-Term Evaluation, 15 March, 2012.

HRSU Documents:

- HRSU Action Plan for 2009-2012;
- Draft National Action Plan on Implementation of UPR, CRC and ICESCR Recommendations, 2012-2016;
- HRSU Assessment of Gender Equality in the Ministries and State Organizations, April/May 2011;
- List of Workshops conducted by Education Sub-Unit in 2011.

Translation Unit:

List of Documents Translated at the Translation Unit of the Taqin Department, UNDP/JHRA MOJ (not dated).

2. Other Project-Related Documents

Afghanistan National Development Strategy, National Justice Sector Strategy, 2008

Independent/External Mid-Term Evaluation of JHRA, by Ms. Fainula Rodriguez and Ms. Hangama Anwari, August 2011.

National Priority Program 5: Afghanistan's Law and Justice for All Program, Second Draft, November 2011.

National Program Priority 6: Human Rights and Civic Responsibilities, October 2011.

UNDP Afghanistan Country Action Plan, CPAP 2011-2013.

3. Reference Documents Consulted

Stephen Carter and Kate Clark, *No Shortcut to Stability: Justice, Politics and Insurgency in Afghanistan*, Chatham House, December 2010.

Freedom House: *Afghanistan 2012*.

International Crisis Group, *Reforming Afghanistan's Broken Judiciary*, Asia Report #195, November 17, 2010.

International Crisis Group, *Aid and Conflict in Afghanistan*, Asia Report #210, August 4, 2011.

NATO Rule of Law Field Support Mission, Rule of Law Field Force-Afghanistan, *Rule of Law Field Support Officer Desk Book*, June 2012.

Ahmed Rashid, *Descent into Chaos: The US and the Disaster in Pakistan, Afghanistan and Central Asia*. New York: Penguin, 2008.

J. Alexander Their, Ed.: *The Future of Afghanistan*. Washington, DC: US Institute of Peace, 2008.

United States Department of Defense, *Report on Progress Towards Security and Stability in Afghanistan*, April 2012.